

ORIGINAL

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS MEETING
OPEN SESSION

Saturday, April 16, 1994

9:10 a.m.

Legal Services Corporation
750 First Street, N.E., 11th Floor
THE BOARD ROOM
Washington, D.C. 20002

BOARD MEMBERS PRESENT:

Douglas S. Eakeley, Chairperson
Hulett "Buckey" Askew
LaVeeda Morgan Battle
John G. Brooks
F. Wm. McCalpin
Nancy Hardin Rogers
Maria Luisa Mercado
Thomas F. Smegal, Jr.
Ernestine P. Watlington
Edna Fairbanks-Williams

STAFF PRESENT:

Alexander D. Forger, President
Patricia D. Batie, Secretary
David Richardson, Treasurer and Comptroller
Victor Fortuno, General Counsel
Edouard Quatrevaux, Inspector General

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C O N T E N T S

	PAGE
Approval of Agenda	4
Approval of Minutes of March 11, 1994 Meeting	4
Chairman's Report	5
President's Report	8
Members' Reports	12
Presentation on the Provision of Legal Services to People in Institutions	15
Presentation on Fiscal Year 1995 Appropriations Process	51
Consider and Act on Operations and Regulations Committee Report	66
Consider and Act on Provision for the Delivery of Legal Services Committee Report	89
Welcoming Remarks by Representatives of the American Bar Association Board of Governors	102
Consider and Act on Audit and Appropriations Committee Report	115
Consider and Act on Presidential Search Committee Report	131
Public Comment	136
Consider and Act on Other Business	137

MOTIONS: 4, 67, 101, 114, 123, 125, 133, 141

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P R O C E E D I N G S

(9:10 a.m.)

CHAIRPERSON EAKELEY: All right. I'd like to call to order the Board of Directors, April 16. Did everyone receive the agenda? Are there any corrections or changes to make? Actually, I have one.

We are receiving a visit from ABA president Bill Ide and ABA president-elect George Bushnell and presidential nominee Roberta Ramo, and we're not sure when they're going to be here, but I took the liberty of suggesting to them that when they get here, we'll make room for them and greet them and thank them for a wonderful reception and dinner last night at the Supreme Court.

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

Is the agenda satisfactory? Can we get it approved.

M O T I O N

MS. BATTLE: So moved.

MS. WATLINGTON: Second.

CHAIRPERSON EAKELEY: All those in favor.

(A chorus of ayes.)

A P P R O V A L O F M I N U T E S O F M A R C H 1 1 , 1 9 9 4 M E E T I N G

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1 CHAIRPERSON EAKELEY: The minutes of our March 11
2 meeting are attached to your Board materials. Are there any
3 corrections or changes to be made to the minutes?

4 (No response.)

5 CHAIRPERSON EAKELEY: All those in favor of
6 approving the minutes as submitted.

7 (A chorus of ayes.)

8 CHAIRPERSON EAKELEY: Opposed?

9 (No response.)

10 CHAIRPERSON EAKELEY: The ayes have it.

11 CHAIRMAN'S REPORT

12 CHAIRPERSON EAKELEY: I don't have much to report.
13 Earlier this month or late last month we received word that
14 the initial allocation of funds that were appropriated by the
15 Congress for earthquake relief did not include funds for
16 legal services, which we had requested and been encouraged to
17 request.

18 Martha Bergmark and I met with Chris Edley, the
19 deputy director of OMB, or associate director of OMB. That
20 led to the submission of some follow-up materials, which, in
21 turn, led to a decision, we were informed last week, that
22 funds would be appropriated. The \$500,000 we had requested

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1 had been approved by OMB.

2 So that should be speeding on its way some time
3 soon, Alex, I think.

4 MR. FORGER: Yes. Though I would add, I've been in
5 conversation with the California folks, who requested
6 \$568,000, as late as last night, trying to stretch \$500,000
7 into \$568,000.

8 CHAIRPERSON EAKELEY: You can do it. And once you
9 do, let us know how you've done it and then we will take a
10 page from the playbook.

11 Alex and I met last week with Paul Drollet for some
12 time to discuss the reauthorization issues. We then went to
13 the Old Executive Office Building and had a very stimulating
14 meeting with Chris Edley and Milan Ververe from the White
15 House and Peter Edelman, to discuss directions and support
16 and coordination with the administration and Legal Services.

17 Nothing was really concluded. It was more of an
18 exploratory meeting. But we came away feeling very
19 stimulated, as well as supported by the administration.
20 Deputy Attorney General Jamie Gorlick has been sort of
21 suggested as our point person with the Justice Department to
22 coordinate matters.

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1 You'll recall Associate Attorney General Web
2 Hubbell had testified on behalf of the administration in
3 support of reauthorization. He left a week ago Friday, and
4 Jamie Gorlick is, I'm pleased to say, stepping up to that
5 very important job of being, as it were, our legal services
6 coordinator at the Justice Department.

7 We've also received an enthusiastic response with
8 respect to our suggestion that we have a 20th anniversary
9 celebration of the Legal Services Corporation Act. The
10 suggestion was that it not necessarily be held in July but
11 really held at a time when it could truly be a celebration
12 involving clients and constituents and supporters from around
13 the country in a way that would affirm the national
14 commitment to equal justice.

15 So I don't have a date for it, but we've been given
16 the encouragement to try and think through and put something
17 together that would be appropriate for our 20th anniversary.
18 And my thought was, since he's not here, and also since he's
19 been undertasked, I think, by us today, to ask John Broderick
20 to lead the charge here and apply his political skills to
21 this political event, in the best sense of the term
22 "political". And that's my report. Alex?

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PRESIDENT'S REPORT

1
2 MR. FORGER: Well, I say I got to the White House a
3 couple of weeks ago hunting for Easter eggs with my
4 grandchildren.

5 CHAIRPERSON EAKELEY: This was in response to my
6 suggestion to the President that he put Alex on his
7 invitation list.

8 MR. FORGER: I didn't find any eggs, but the kids
9 did, and it was -- it's a wonderful event for old, as well as
10 the young.

11 I have a date with -- I know the Board is anxious
12 to hear this -- I have a date with Attorney General Reno -- I
13 mean, a meeting.

14 (Laughter.)

15 MR. FORGER: But that's May 16, so if that holds
16 forth, we'll seek to get our chairman in town to just have
17 that meeting, as we've heard her several times talking,
18 addressing the issue of poverty and legal representation and
19 I think it would be a good opportunity to make certain that
20 she is fully supportive as we get to the scene in Congress.

21 The reason for the delay, I guess, is the crime
22 bill and the activity. That's taking precedence over all

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1 else.

2 We have a couple of new members to our transition
3 team. Anh Tu is back there helping. John Tull. Come on up,
4 Anh, so folks can recognize you.

5 CHAIRPERSON EAKELEY: You can come up further.

6 MR. FORGER: She was at PAG for a while. She's
7 been much involved in the legal services group. And Karen,
8 Karen Crosby is going to help us communicate.

9 MS. CROSBY: Good morning.

10 MR. FORGER: We look forward to crisp, clear,
11 unambiguous henceforth, all communications.

12 MS. CROSBY: I'm leaving now.

13 (Laughter.)

14 MR. FORGER: In that vein, for benefit of Board, we
15 have another resolution to enhance the communications between
16 staff and Board, and with Ada's good prodding and her funny
17 pictures on faxes and things, we will try to get a weekly
18 report out to you all that says, you know, what damage we've
19 committed in the preceding five or six days.

20 So that's to supplement our effort to catch you by
21 phone and make certain that you're aware of things as they
22 occur.

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1 Roberta Ramo, who will be with us later, asked
2 Senator Domenici to entertain me for a half hour in his
3 office, which I did earlier this week, which you did earlier
4 this week, and he's the ranking member on the minority side
5 of the Senate Appropriations.

6 One doesn't come away from meetings with the
7 minority group filled with enthusiasm that they are anxious
8 to support our level of \$500 million, but --

9 CHAIRPERSON EAKELEY: You're talking about the
10 Republican minority group?

11 MR. FORGER: Yes, not a racial minority. They all
12 should be as enthusiastic as that. But the minority party is
13 -- he said he's supportive of Legal Services and its mission,
14 but not necessarily to 500. I mean, there's a limit to the
15 amount of justice we can dispense.

16 So we have -- I was down in Georgia last weekend
17 with our distinguished member from the State of Georgia, with
18 many from the legal services community, and Phyllis Holmen,
19 who's out here, will be talking to us later.

20 Everywhere I go, encountering legal service
21 people -- it's a great experience. Wonderful group. That's
22 all I have to say.

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1 CHAIRPERSON EAKELEY: Anyone have any questions of
2 Alex?

3 MS. ASKEW: Let me make a comment. Alex may not
4 have told you but he was the Law Day speaker at the
5 University of Georgia Law School, and the dean took it as an
6 opportunity to invite the legal services and public interest
7 community from around Georgia to come to Athens for that.
8 And we had a wonderful turn-out of people and Alex did a
9 wonderful job.

10 And part of it was the dean's goal was to get that
11 law school more engaged with the legal services community in
12 a number of ways. He would like to expand the clinical
13 programs, and I think this was his beginning effort at doing
14 that, and Alex did a wonderful job of pushing that issue and
15 pushing the faculty of the law school to think more openly
16 about their responsibility and what they could do to
17 contribute to this whole effort.

18 And it turned out to be a very, very nice day, and
19 I think the legal services people really appreciated Alex's
20 presence there and what happened that so. So it was a very
21 nice event.

22 CHAIRPERSON EAKELEY: Thank you.

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MEMBERS' REPORTS

1
2 MS. BATTLE: Mr. Chairman, before we go on, we have
3 a section that says "Members' Reports," and I just wanted to
4 mention one thing.

5 I had been asked by Bill Ide to participate in one
6 of his summits on racial justice -- racial bias in the
7 justice system, and did that. And the staff did an excellent
8 job of pulling together all of the diversity training that
9 has been done by all the programs across the country, and I
10 had the opportunity to participate in a panel on different
11 models that are used by various different groups on diversity
12 training.

13 But one of the key things about participating in
14 that summit was that it was jointly put on by the ABA and all
15 of the other minority bars. So the presidents of all the
16 other minority bars were there and I was able to corner them
17 and get them to also join in supporting legal services.

18 And already Paulette has told me, and she's the
19 president of the National Bar Association, that they have
20 entered a resolution, along with the ABA, to support us in
21 our efforts for reauthorization.

22 CHAIRPERSON EAKELEY: Are there opportunities for

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1 follow-up convening of --

2 MS. BATTLE: Well, that particular group has
3 already, based on the design of that meeting, they are going
4 to be doing some follow-up work. I pledged to make follow-up
5 with each of the presidents so that as they meet throughout
6 this year, before they get to their annual meeting and with
7 their executive committees, they can enter resolutions and
8 also press their respective caucuses, the Hispanic Caucus,
9 the Congressional Black Caucus, with support from their
10 organizations, as well. So that's already in progress.

11 But it was a wonderful opportunity and I
12 appreciated Bill's invitation to do that and I thought we did
13 get high visibility by being there. It was remarkable the
14 number of people in that room who at some point had touched
15 legal services, as well, in their own careers.

16 CHAIRPERSON EAKELEY: I'm sorry. In my haste to
17 get as much through as we can before we start losing members,
18 I cut off the members' reports part of the preliminaries.

19 Edna or Ernestine, do you want to give us an update
20 on where we've been since we last talked about client
21 training and organization and participation?

22 MS. WATLINGTON: I also wanted to report, as

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1 LaVeeda did, about the regional council of Alabama that I was
2 at and the training that we did in economic development.
3 There was a very good write-up in the paper that I have to
4 give to the Board. It was a well-attended meetings. There
5 were clients from all over the state. It was their state
6 meeting and regional meeting.

7 It was just a very, very good opportunity to meet
8 with them and to have the give-and-take on what the Legal
9 Services Corporation does and how we fit in with the economic
10 development and training.

11 In fact, they even -- one of the city council
12 persons gave me a key to the city and also --

13 CHAIRPERSON EAKELEY: Have you used it yet?

14 MS. WATLINGTON: No, I don't think it gets me
15 anywhere.

16 MS. BATTLE: A lot of places in Gadston, I
17 guarantee you.

18 MS. WATLINGTON: And, as I say, it was very, very
19 good and they want some follow-up. We have met with James
20 Head in development and we'll be following through on that.
21 And Edna can say her part on that. We're very excited about
22 trying to get something together here to present to the Board

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1 for an initiative.

2 MS. FAIRBANKS-WILLIAMS: I think James is planning
3 on having a conference of us and other people, PAG and
4 whatever, when he gets it together.

5 CHAIRPERSON EAKELEY: Okay. Anything else? John?
6 Nancy? Buckey? Bill?

7 (No response.)

8 PRESENTATION ON THE PROVISION OF LEGAL SERVICES
9 TO PEOPLE IN INSTITUTIONS

10 CHAIRPERSON EAKELEY: Why don't we go to the
11 presentation on the provision of legal services to people in
12 institutions. Pat Arthur from Evergreen Legal Services and
13 Phyllis Holmen.

14 MS. ARTHUR: We've added a member to our panel.

15 CHAIRPERSON EAKELEY: More than welcome.

16 MS. ARTHUR: Ira Burnim.

17 CHAIRPERSON EAKELEY: Good morning.

18 MS. ARTHUR: Mr. Chairman and members of the Board,
19 my name is Pat Arthur, from the other Washington, the great
20 Evergreen Legal Services, who has the good fortune of having
21 Ada as our great leader.

22 I'm the project director of the institutional legal

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1 services project of Evergreen Legal Services, and I've been
2 with legal services as an attorney since 1979. And for most
3 of those 15 years I have exclusively represented people in
4 institutions. With me today is Phyllis Holmen and Ira
5 Burnim.

6 We want to thank you for not only the opportunity
7 to talk with you about representing people in institutions,
8 but more importantly, we want to thank you for including in
9 your 1995 congressional budget request a \$2 million line item
10 for the purpose of beginning representing people in
11 institutions.

12 Although this line item is large enough only to
13 develop a few demonstration projects, it represents an
14 important first step towards the inclusion of all poor
15 people, regardless of their status, in the legal services
16 goal of equal justice for all.

17 As I'm sure you're aware, because we've inundated
18 you with paper, legal services funding and distribution
19 formulas have never included people who are in institutions.
20 The funding formulas that have been used to count the census,
21 for the census count, to develop the field line, has never
22 included people in institutions, and there has never been a

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1 separate line item for representation of these people.

2 Therefore, people who are confined in mental
3 hospitals, nursing homes, facilities for the developmentally
4 disabled and in our nation's juvenile and adult correctional
5 facilities, have never been included in legal services
6 funding.

7 On behalf of our clients and those of us who
8 represent them, we want to thank you for your initiative in
9 beginning to change this funding inequity.

10 What I would like to do this morning is to share
11 with you a few stories about some of the people in
12 institutions whose lives have been affected by legal
13 services. Since we are unable to bring our clients to you,
14 because they are confined, we decided to make a videotape of
15 them and their stories.

16 We made this videotape expressly for the purpose of
17 showing it to the Board today, and the process of making it
18 itself is really a tribute to the crying need of lawyers and
19 advocates in legal services to have the stories of their
20 clients who are institutionalized heard.

21 Just a little over three weeks ago, I sent out a
22 fax to advocates around the country who represent people in

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1 institutions, and I asked them to send me copies of any
2 videotapes or film footage that they had, still photos, about
3 cases that they have handled recently for people in
4 institutions for the purpose of making this videotape today.

5 Colleagues from around the country sent back boxes
6 of material for their clients' stories to be told.

7 This videotape, then, is about our clients who are
8 confined. The images that you are going to see, while
9 sometimes difficult to watch, are from actual legal services
10 cases. Even though parts of the video are disturbing, we do
11 not intend to shock you merely for the sake of shocking you.
12 Rather, we have attempted to truly portray what actually
13 happens to people in institutions and the role legal services
14 can play to achieve justice and restore dignity to these all
15 too often forgotten people.

16 I should say, in closing, that the video is not
17 totally depressing. It has a hopeful ending. And it is our
18 hope that it will give you a clearer understanding of the
19 critical legal needs of poor people in institutions, as well
20 as the gravity of our collective responsibility to help these
21 clients, no matter how difficult or unpopular the task.

22 (A videotape was shown.)

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1 MS. ARTHUR: Thanks for looking at our clients.

2 CHAIRPERSON EAKELEY: That was excellent.

3 MS. ARTHUR: Thank you.

4 MS. MERCADO: What kind of assistance do you get
5 from state entities, like the attorney general's office?
6 Have you worked in any kind of partnerships with the local
7 legal services programs and other public entities?

8 MS. ARTHUR: I think that that is a question that
9 leads perfectly into what Phyllis was going to talk about,
10 which is how legal services programs around the country
11 manage to do this work, even though these people have not
12 been counted in our funding formulas. And I think Phyllis
13 would be able to answer that in her presentation.

14 MS. HOLMEN: Let me answer that question directly,
15 to start with, since it's on your mind. I smiled when you
16 asked me that because within the last month we have gotten
17 two letters from the attorney general's office in Georgia,
18 one telling us we may not represent children in private
19 psychiatric institutions unless we have the consent of their
20 guardians, and, in the case of children who are in the
21 custody of the state, they're never going to give us their
22 consent; and another letter telling us that we may not

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1 represent children in youth detention facilities unless,
2 similarly, we have the consent of their guardians, and many
3 of those children, as well, are in the custody of the state.

4 And so far from being a help, the attorney
5 general's office in Georgia is doing everything it can to
6 keep us from representing clients. We're in active
7 litigation in DeKalb County, Georgia at this point trying to
8 get access to one of our clients in a private psychiatric
9 hospital. They call it a long-term residential treatment
10 center and they say it's not a hospital and therefore the
11 Georgia Mental Health Code Bill of Rights doesn't apply.

12 But in other things, they call it a hospital. We
13 think it's a hospital. It looks like a hospital. They have
14 doctors there. They give treatment there.

15 But it points up one of the threshold issues in
16 this whole field of institutional advocacy, and that is
17 access to your clients. How do you even get into the
18 institutions to see them? And we've done all kinds of
19 different things.

20 There's so much to say about this. I've put
21 together some notes and I'm going to try to race through some
22 things. Please interrupt me if I'm talking too fast or going

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1 over too much or if you have questions or if I say anything
2 confusing. And let me see how much I can get out.

3 My program, Georgia Legal Services, has been doing
4 this work on behalf of institutionalized people for almost 20
5 years, almost the whole life of our program. We represent
6 people in institutions for the mentally disabled, in
7 correctional facilities and in nursing homes and personal
8 care homes.

9 We've done that in a variety of ways. We've gotten
10 -- at one point we got a grant from the Edna McConnell Clark
11 Foundation for our corrections work. At one point we had --
12 well, we currently have a contract with the Georgia
13 Protection and Advocacy Agency, which helps to support our
14 mental health advocacy.

15 At one point early in our program's history we had
16 a little money from the American Bar Association for a mental
17 disability project. That's kind of how we got into that
18 business. We do contract with the state for ombudsmen, to
19 provide ombudsmen services in nursing homes and personal care
20 homes.

21 None of those contracts fully support what we do,
22 so we use legal services dollars to work for these clients

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1 because we feel they are clients entitled to our services,
2 just as anyone else who is poor and eligible under our
3 priority system are.

4 We are proud of what we have been able to do for
5 these clients, but there's so much more to be done. Every
6 time we think we've gotten something accomplished, the
7 attorney general's office sends us another letter. Something
8 else comes up.

9 I can't go away from our funding discussion without
10 saying that two years ago, the Corporation did give us a
11 meritorious grant to represent children in mental
12 institutions. We have been representing children who are
13 wards of the state in state psychiatric hospitals for about
14 15 years in connection with a lawsuit that went up to the
15 Supreme Court of Georgia, Parham versus J.L. and J.R.

16 When that case started, children were put in mental
17 hospitals in Georgia and forgotten. J.L. and J.R. were two
18 children who had been in Central State Hospital in Georgia
19 for six and seven years, abandoned, essentially abandoned by
20 their parents.

21 The result of that case is that we now, by state
22 regulation, represent children in mental hospitals who are

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1 wards of the state in proceedings, periodic proceedings to
2 determine their need for institutionalization. And the
3 length of stay has gone down from six and seven years to, in
4 most cases, about 30 to 40 days.

5 The problem we have now, of course, is that there
6 are not enough alternative places for these children. And we
7 are finding that what the state is doing is taking children
8 out of state mental hospitals and putting them in these
9 private hospitals, and the state says, as I have mentioned
10 earlier, we don't represent those children, they say. We
11 think the consent decree reads differently, but until we can
12 get that resolved, we're fighting over whether we can even
13 get in the door to see those children. So they're hiding our
14 clients from us.

15 But those children have needs for special education
16 advocacy. They have needs for advocacy related to foster
17 care services, reunification with their families, alternative
18 placements. They have needs for advocacy with respect to
19 health care services.

20 Recently we were able to negotiate an agreement
21 with the Medicaid agency in Georgia which would cover those
22 children by Medicaid, which had not been the case prior to

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1 about eight months ago, so that now they can get glasses and
2 they can get other services covered by Medicaid, while
3 they're "temporarily" in these institutions.

4 On another issue relating to children, recently we
5 took a tour of a youth development center, they're
6 euphemistically called, where they put the kids who are
7 delinquent, down in Macon, Georgia. We had periodically
8 received complaints about what was going on in that facility
9 and other of the YDCs around Georgia.

10 But as a matter of whether we could take on another
11 class action lawsuit, we were just really kind of -- couldn't
12 find a way to do that. But in any case, we were invited to
13 take a tour of the facility, went with an assistant attorney
14 general and went with an official from the Department of
15 Children and Youth Services.

16 During the tour we found that the dormitory area
17 itself was not too bad. It had little private cubicles for
18 the children. They were not allowed to have anything up on
19 the walls. They're not allowed to wear T-shirts that have
20 any kind of logos on them. That's, you know, too much
21 incitement, I guess.

22 But the problem really came when they all of a

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1 sudden realized that, in fact, they did have a "detention"
2 facility in that facility, which consisted of 13 cells in the
3 basement of the institution.

4 The lawyers went down there and found the cells
5 approximately eight feet by eight feet. Many of them had two
6 and three children in them. They hadn't been painted in
7 years. Many of them had broken light bulbs because the
8 children would climb on each other's backs, take the light
9 bulbs out and smash the bulbs. There was no natural light in
10 these cells, so many of them were pitch dark.

11 They said that they did not use these cells for
12 punishment but rather for control, if children were out of
13 control. But then they said, "Well, maybe, yeah, sometimes
14 we do use them for punishment."

15 They said that there has not been anybody with any
16 mental health professional training on that staff for six
17 years. They said that 10 percent of the children had been
18 identified with special education needs in this youth
19 detention center, where the national statistics usually say
20 it's something like, more like 80 or 85 percent if, frankly,
21 not all of them have special education needs.

22 Seventy-five to 80 percent of the children in that

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1 institution are black. So we have not -- we don't have the
2 resources to take on that lawsuit, but it's a crying need.

3 About a month later, we went back on a tour. These
4 two lawyers went back on a tour and the detention cells had
5 been painted. The light fixtures had been fixed so that they
6 were now plastic and not breakable. There was only one child
7 in each of about three of the cells. So some things had
8 changed.

9 They said they were changing the policy so that
10 they were no longer going to use them for punishment. They
11 said they were talking to the local mental hospital to see
12 about getting some additional mental health resources there.

13 So we were able to accomplish some things, I think,
14 but without any more leverage, without any more resources,
15 there's no way that we can really be sure that they will not
16 not paint it for another 15 years.

17 And then we got this letter from the attorney
18 general's office saying, "Well, in the future, if you want to
19 talk to any of those children, you'd better have the consent
20 of their parent or guardian. And then you can only talk to
21 that one child."

22 So that's where we're at on that.

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1 On adult mental health, developmental disability, I
2 have personally represented a client like the one you saw in
3 the film, a woman who was institutionalized at the age of 10
4 who was developmentally disabled, was institutionalized for
5 25 years, and we finally got her out in the context of a
6 procedural due process challenge to continuing -- the lack of
7 continuing reviews about whether people need to be in
8 institutions.

9 She now lives in an apartment in Dalton, Georgia.
10 She, too, has had a part-time job. She goes to the K-Mart
11 and buys tapes. She likes heavy metal music. But she's
12 doing very well.

13 As I said, we have some money, through the
14 protection and advocacy program in Georgia. We have
15 challenged relief procedures for persons who were acquitted
16 of crimes, found not guilty of crimes by reason of insanity.
17 That's probably the worst thing that you can do to a criminal
18 defendant because they get put in mental hospitals and may
19 never get out.

20 So we have challenged those release procedures and
21 there are now rights to hearings and standards, which are not
22 necessarily always complied with, but at least the procedures

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1 are there.

2 We are currently in the midst of litigation
3 challenging the state's policies about forced use of
4 psychotropic medications in state hospitals. There's lots of
5 individual problems related to commitment, release, so on and
6 so forth.

7 Let me just say a word about corrections facilities
8 and what we do there. There were two bits in the tape from
9 our program, one having to do with the woman that you saw --
10 it was difficult to see, but she was being put into a
11 straitjacket, had been stripped and was being put into a
12 straitjacket.

13 We represent the women in Georgia's correctional
14 facilities and have gotten a court order which has found
15 sexual abuse and sexual harassment in correction facilities
16 to be a violation of the Eighth Amendment. But it's still
17 going on.

18 Recently an inmate turned up pregnant. She wanted
19 an abortion and some of the staff gave her quinine to attempt
20 to induce abortion. It didn't work, so they're still trying
21 to see what they can do about helping her get an abortion.

22 Interestingly, Medicaid does not cover abortions in

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1 the State of Georgia, but if you're in prison, I guess
2 they'll help you get one.

3 We started working on corrections issues in the
4 mid-1970s when a federal judge asked us to join the NAACP
5 Legal Defense Funds in a conditions case challenging
6 Reidsville State Prison, the largest state prison in Georgia.
7 And that prison and the prison system in Georgia has come
8 light years in the last 20 years.

9 There used to be facilities like those in the movie
10 "Brubaker," if any of you have seen that, the worst that you
11 can imagine. And now I don't know if you'd call them model
12 prisons, if there is such a thing, but they're much closer to
13 that, and we continue to represent that class.

14 We cover 154 counties in Georgia. There are jails
15 in every one of those counties, and we have sued a lot of
16 those jails. The issues in institutions like that range from
17 discipline procedures, overcrowding, classification, staffing
18 levels, food service, programming, including educational
19 programs, transitional services.

20 We had an issue with respect to one jail where they
21 claimed they were classifying prisoners based on their taste
22 in music, so that all the prisoners who liked country music

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1 would be on one floor and all the prisoners who liked rap
2 would be on another floor. Well, that was sort of thinly
3 veiled, and we got that ended.

4 They are now no longer stripping women in Georgia
5 but they are now stripping men, in the name of mental health
6 treatment and controlling people who they say have gone out
7 of control. No reputable psychiatrist will argue that that's
8 an appropriate way. Even the psychiatrists on their staff
9 don't approve of that, but it happens anyway.

10 The mothers in prison project, which you saw
11 mentioned on the tape, we started about a year ago in the
12 context of representing the women in correction facilities
13 because we started getting the feeling that the state was
14 kind of taking it out on our clients and getting very
15 aggressive about custody actions with respect to terminating
16 their parental rights.

17 Many women, we have found, when they go into
18 prison, they're so embarrassed and ashamed that they don't
19 want to contact their children because they just don't want
20 them to know that their mother is in prison. They don't
21 think about or don't have the time to make good arrangements
22 for what's going to happen to their children while they're in

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1 prison.

2 And so we got a small grant from the Yale Public
3 Interest Foundation, \$11,000, which enabled us to hire a
4 part-time paralegal who was working with our family law
5 specialist and developed several brochures about the rights
6 and responsibilities of parents.

7 We gave women calendars and told them, "Write down
8 when you write letters to your children. Send them whatever
9 you can make them in the shop in the prison. Do anything you
10 can do to maintain contact with your children because if you
11 don't, they will take them from you." And the evidence is
12 that if mothers maintain contact with their children, the
13 chances of recidivism are much, much, much, much less. It
14 just makes common sense.

15 We met women in prison who did not know where their
16 children were. Some of what we have done has just been to
17 help them find out where those children were.

18 There's, I think, much more that I could say. All
19 of this stuff has racial overtones. It all has class
20 overtones. It all has gender overtones. These individuals
21 are, probably together with migrant workers and perhaps
22 Native American, the most oppressed group of people in our

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1 society. And I think this very is very, very, very
2 important.

3 We'll continue to do it. We're very grateful for
4 what you are trying to do to assist us financially and for
5 what you've done in the past to assist us financially.

6 I can answer any questions.

7 CHAIRPERSON EAKELEY: Edna.

8 MS. FAIRBANKS-WILLIAMS: We have had a program in
9 Vermont to close down a facility for the, I would say,
10 developmentally disabled and adult and children that have
11 been in the facility for a long time, into the community.

12 When you have these type of community homes, are
13 you finding a lot of resistance from the public, to having
14 these people?

15 MS. HOLMEN: There is always some resistance and
16 there's always a question about, is it better to go to the
17 community first and say, "This is what we're doing," and be
18 very open about it, and try to calm everybody's fears, or
19 just go in and take a legal position that under the Fair
20 Housing Act you're entitled to be there, and zoning laws to
21 the contrary are unlawful.

22 But there always is some resistance.

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1 MS. FAIRBANKS-WILLIAMS: Another problem that we're
2 having when people are in the community is the problem of
3 medication. Some of them were overmedicated when they were
4 incarcerated or however they were detained, and then, when
5 they're outside, they don't take their medication properly.
6 Have you established any way to do guardianship or anything,
7 as far as medications are concerned?

8 MS. HOLMEN: Our position is that we generally
9 don't like to do guardianships for people because we like
10 them to be able to -- our belief is that people should
11 maintain their personal integrity to the greatest extent
12 possible and that guardianship is not necessarily in their
13 best interest, not something that we want to get involved in
14 doing.

15 With respect to whether an individual takes
16 medications, there are a lot of reasons why somebody would
17 choose not to take a medication. They are not without side
18 effects. And our system of liberty and justice says that you
19 have the right not to if you don't want to.

20 MS. FAIRBANKS-WILLIAMS: But then, what recently
21 came to my attention was a complaint of this person being a
22 public nuisance, and they wanted them committed again to the

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1 insane asylum in Waterbury and so on, because they hadn't
2 taken their medication properly.

3 MS. HOLMEN: We always counsel people that it's in
4 their interest, if they want to avoid getting into trouble
5 like that, to continue seeking treatment and cooperating with
6 what makes them feel good. Do you want to say something?

7 MS. ARTHUR: I just think one of the keys of
8 representing people in institutions is the kind of networking
9 that we do with field attorneys. And it's important for
10 people representing folks in institutions to coordinate our
11 work with attorneys in the field to make sure the kind of
12 resources that these people need when they get out of the
13 institutions exist for them, and that that's a very important
14 but developing function of legal services attorneys, to
15 cooperate in that way with the field staff.

16 I'd like to give Ira an opportunity to make his
17 comments.

18 CHAIRPERSON EAKELEY: One more question. We're
19 running on a tight time schedule.

20 MS. MERCADO: I think she mentioned it in a general
21 sense, of networking not only with field attorneys but with
22 other organizations and entities because for people that you

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1 want to put in the community who have mental health problems
2 or disability problems, they can have home health care,
3 visiting nurses, or whatever that can come and help them and
4 make sure that they've taken their medication, and even come
5 help them do the very minute -- preparing a meal or whatever.

6 MS. FAIRBANKS-WILLIAMS: But if they're on Medicaid
7 and can afford it, but if they're not, they don't get that
8 service.

9 MS. MERCADO: Right. And then you just have to go
10 through other sources and other civic organizations to do
11 that.

12 I mean, obviously there will be some people that'll
13 fall through the cracks, but there has to be a concerted
14 coalition of different groups of people in that community
15 that will try to assist, I mean, aside from just the lawyers
16 and the staff in the program.

17 MS. ARTHUR: I meant to say exactly that.

18 CHAIRPERSON EAKELEY: Ira?

19 MR. BURNIM: I think the issue you raised is one of
20 the most difficult in mental health advocacy because of
21 competing concerns of maintaining people's autonomy, yet also
22 knowing that if a certain process continues, they're going to

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1 inevitably end up back in an institution, which is obviously
2 not a way of maintaining someone's autonomy. And we struggle
3 with that often in our work.

4 I'm the legal director of the Judge Bazelon Center
5 for Mental Health Law, formerly the Mental Health Law
6 Project, and I think also formerly, before my day, a legal
7 services back-up center. And in fact, I began my own
8 practice of law as a Reggie in the prison and juvenile
9 litigation units of the Legal Assistance Foundation of
10 Chicago.

11 I've been asked to talk from a general or
12 philosophical perspective about this work and I'll try to do
13 that. You've seen the clients. You've seen their problems.
14 It's a very compelling story, and I'd like to put it in some
15 perspective, if I can.

16 Emphasizing three propositions, which I think are
17 at the heart of the case for legal services making and
18 increasing its commitment to the representation of
19 individuals in institutions.

20 The first is that there's an extraordinary number
21 of people in institutions. The census figures are something
22 plus 3 million. That means that one out of every 90 people

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1 in the United States is in an institution.

2 And if you focus on the population of poor
3 individuals, the figure is probably something like one in
4 every 25 or 30 poor people is in an institution. And then,
5 if you exclude children, who make up the disproportionate
6 part of poor people, and look only at poor adults, the
7 figure, I think, is really astounding, how many people are
8 confined by the state in an institution.

9 The second proposition that I want to emphasize is
10 that not only are there many people, poor people, in
11 institutions, but they have extraordinary legal
12 representation needs.

13 First, they have needs just arising out of the fact
14 of their confinement. They're physically removed and often
15 practically cut off from their natural support systems --
16 their families, their friends, their neighbors -- essentially
17 those people who are their natural network of advocates. And
18 for that reason, they find it very difficult to have their
19 interests protected and promoted.

20 I don't think any of us fully appreciate how much,
21 just in our neighbors, our friends, our family are important
22 to kind of us navigating life. And these folks are

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1 physically removed from their communities, and particularly
2 if their family is poor and the institution is remote, if it
3 has limited opportunities for phone communication or
4 visiting, these folks are really in a very desperate
5 situation in terms of having the natural assistance that
6 comes with just being a member of society.

7 The loss of freedom is not only a devastating
8 deprivation in itself, but it renders the individual in
9 institution really dependent on others for even their most
10 basic needs -- their need for safety, their need for just
11 basic care and another important need -- their need for
12 dignity.

13 Dignity is really one of our most compelling needs,
14 but it's the need that's really the most difficult to meet in
15 an institution. People are devalued; they're labeled;
16 they're stigmatized. They are, after all, someone who is in
17 an institution. Their life is very regimented. In the words
18 of Justice Thurgood Marshall, "The individual is separated
19 from much of what makes for human freedom and fulfillment --
20 the ability to form bonds and to take part in the community."

21 Finally, that confinement and isolation that these
22 individuals face render them very, very vulnerable. Not only

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1 research on institutions, but really what we know about the
2 whole course of human history teaches us that it's a very
3 risky business to place one individual at the mercy of
4 another, especially if the individual in the subordinate role
5 is a stigmatized person, someone called a detainee, someone
6 called crazy.

7 And individuals in institutions are, therefore, not
8 surprisingly mistreated in really unimaginable ways. I think
9 the tape today demonstrated that. They're subject to abuse.
10 They're subject to neglect. They're subject to very
11 Draconian punishments, subject to inhumane and hazardous
12 conduct, which is considered therapy or justified in the name
13 of therapy.

14 Now, these problems of which I've spoken are, I
15 think, special in some ways to people who are in
16 institutions. But people in institutions, as Phyllis
17 mentioned, have a range of problems that are also really the
18 bread and butter of legal services practice. They relate to
19 housing. Probably the lack of housing is among the principal
20 reasons for entry into a facility for someone with a mental
21 disability, and often the principal reason that someone
22 remains in a facility -- their lack of community housing.

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1 They have problems that relate to domestic and
2 family law matters, abuse within the family, custody,
3 guardianship, divorce. They have problems that relate to
4 income and health benefit programs such as the gentleman in
5 the nursing home in Chicago.

6 And, as I suggested, it's often these very problems
7 that land these individuals in an institution in the first
8 place or that prevent their discharge. They keep them there.
9 Some family problem, and the family's pressing to keep the
10 person in an institution. There's no place to live. Income
11 programs have been cut off. There's no income for this
12 person when they get into the community. They're really very
13 much -- their lives are very much dependent on the usual
14 problems that poor people have.

15 In fact, a very significant part of our time at the
16 Bazelon Center is devoted to housing, income and health
17 programs and family law programs. I'd say probably half our
18 staff time is devoted to those issues, at what was once the
19 Mental Health Law Project.

20 Not only because these individuals in institutions
21 are poor people with the usual sort of legal services
22 problems -- housing, domestic and benefit problems -- but for

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1 other reasons, as well, these individuals are not really a
2 very sharply distinct group from the income-eligible clients
3 who are on the outside.

4 The truth is, and Phyllis suggested this, that
5 society's selection process for who gets into an institution
6 and who remains on the outside is really a pretty arbitrary
7 one, and it depends, to a great extent, on invidious factors
8 like race. Your chance of involuntarily being confined at a
9 psychiatric hospital is three times as great if you're a
10 black than if you're white.

11 And frankly, at least in my experience, there are a
12 number of other, noninvidious factors that affect whether you
13 end up in institutions, that altogether kind of add up to bad
14 luck, just being in the wrong place at the wrong time.

15 So the differences between the person on the street
16 and the detainee or, as Betty showed, a person with a mental
17 disability, really isn't as great, those differences, as we
18 might imagine.

19 Individuals in institutions are human beings and
20 many, many deserve to be full participants in society, to be
21 on the outside.

22 The third proposition that I want to emphasize is

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1 that despite the extraordinary legal needs, legal
2 representation needs of these individuals, they have very,
3 very limited access to lawyers. They're confined. They
4 can't travel to a lawyer's office. There are usually very
5 limited opportunities to use a telephone or even to send
6 mail.

7 And many individuals in institutions have limited
8 cognitive abilities. This is true not only of institutions
9 for persons with mental disability, but in our nursing homes,
10 a majority of the individuals have either a primary or
11 secondary diagnosis of mental illness or mental retardation.

12 The recent report by the Alliance for the Mentally
13 Ill indicated that one out of 14 residents of our jails was
14 seriously mentally ill.

15 If you are lucky enough to be able to identify and
16 communicate with a lawyer, you'd find that he was very
17 unlikely, he or she, to take your case. In the private
18 sector, there's no money in it. Lawyers often feel that
19 they're unfamiliar with the law and, I think even more
20 importantly, they're unfamiliar with the context, with the
21 issues. They just feel that this is something that they
22 can't deal with without a lot more training and experience,

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1 and often they're correct.

2 And it's hard to see your client and communicate
3 with them. You may have to travel to a very remote location.

4 In most areas of the country -- obviously not
5 Georgia -- if you turn to the public sector, you're unlikely
6 to find a lawyer in the nonprofit sector to take your case,
7 as well. The existing array of publicly funded lawyers who
8 are available to represent individuals in institutions is
9 simply woefully inadequate.

10 Programs do exist -- at law school clinics, the
11 ombudsman program. There are IOLTA programs that are
12 supported. Probably the most significant program, in terms
13 of dollars, is the Protection Advocacy Network. And the
14 report of the Section on Institutional Alternatives, which
15 you received, addresses some of the limitations of that
16 network in terms of its representation of people in
17 institutions.

18 But quite apart from that, we're not suggesting in
19 any way that the Board undertake activities to supplant the
20 action of other advocacy networks that now exist to serve
21 these individuals. What the section is asking is that
22 instead, the LSC make a commitment to work in partnership

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1 with these other groups.

2 There's now, as the Georgia story demonstrates, a
3 lot of collaboration with these other networks. I think in
4 at least one state the legal services program is, in fact, a
5 P&A. There are a lot of subcontracting relationships. And I
6 think it makes sense for LSC to seek to enhance and promote,
7 strengthen those collaborative relationships.

8 In my view, as someone who's someone outside the
9 LSC community, I think that the LSC community has two very
10 important things to offer these other networks. One is some
11 increased investment in direct representation of the
12 population of individuals in institutions. As we suggested,
13 there's a group of extreme needs and very limited access to
14 lawyers.

15 Secondly, I think the legal services community can
16 lend to others its considerable support capacity. This is an
17 asset that you have that is really one that other networks,
18 smaller, more fragmented networks, simply don't have, and of
19 which I know the P&As are presently taking some advantage of.

20 I think if the LSC community brought these assets
21 to bear, to the quest for equal justice for individuals in
22 institutions, that it would make an enormous difference, and

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1 I'm glad that you've begun the process of doing so. Thank
2 you.

3 CHAIRPERSON EAKELEY: Thank you very much. I've
4 been trying to remember the Dostoyevsky comment about the
5 quality -- something to the effect that the quality of a
6 civilization or culture is best tested by viewing how it
7 treats its prisoners.

8 We've obviously made a commitment to seek resources
9 to start funding or providing some supplemental funding for
10 the institutionalized. I'm intrigued at the Georgia attorney
11 general's position.

12 MS. HOLMEN: So am I.

13 CHAIRPERSON EAKELEY: We have a similar situation
14 developing in New Jersey because our governor -- we had a
15 public advocate, the Public Advocate's Department, which is a
16 cabinet-level position. We had a Developmentally Disabled
17 Office. There's an Office of Inmate Advocacy. The attorney
18 general of New Jersey had long ago said, "I have a conflict
19 of interest in representing the state institutions and the
20 individuals within it." Where does the attorney general go
21 in being both the ward of the individual and defender of the
22 institution?

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1 MS. HOLMEN: Well, a couple of the things that they
2 said in the brief in our case of the child in the psychiatric
3 facility is, number one, he doesn't have the capacity to
4 contract with a lawyer, notwithstanding the fact that in
5 Georgia, there's a theory that children can contract for
6 necessities, and in his situation, certainly I think legal
7 help is a necessity.

8 They have taken the position that the testimony of
9 our lawyer at the preliminary injunction hearing, that she
10 had been retained by this child, was not competent testimony.
11 And you know, they're just sort of saying, "Well, just tell
12 us what it is you want us to do and we'll work it out."

13 CHAIRPERSON EAKELEY: Other than resources, which
14 are always -- will always be inadequate, you mentioned the
15 lack of leverage. And I think Ira touched upon that a little
16 bit at the end of his statement, also, which suggested the
17 question of: How can the Legal Services Corporation find,
18 secure, apply leverage in ways that calls attention to the
19 needs and generates support for addressing those needs of the
20 institutionalized?

21 We're testifying next week before the House
22 Appropriations Committee. We're testifying May 5 before the

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1 Senate Appropriations Committee. We have flagged in our
2 testimony the fact that we seek funding for the
3 institutionalized. Those will be perhaps first opportunities
4 to add our voices to yours in making a case for recognition
5 of the need around the country.

6 I'm just sort of groping for a quick overview of
7 the needs of the institutionalized in a way that's -- maybe
8 the best thing is just to get a quick copy of the transcript
9 of the presentation for us, Pat, if that's possible, by next
10 week. I don't know.

11 MS. ARTHUR: We'll also leave a copy of the video
12 with you to review again. I think that the most important
13 role, leadership role that legal services can play in this
14 field is to A, bring attention to the fact that previously,
15 legal services budgets have not included these people, have
16 not counted them in the census that they use to come up with
17 funding formulas for these populations.

18 And I think that the whole notion that the services
19 that are out there are so fragmented and so minimal and they
20 need national leadership and they need the system that Ira
21 talks about to pull them together, to make them effective for
22 people in institutions. And that's the only way that these

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1 people will have effective representation.

2 I think the other point that is very important is
3 the independence of legal services. In some states
4 protection and advocacy that represents people who are
5 developmentally disabled and mentally ill in some states are
6 branches of the state government.

7 So, for example, in North Carolina, where you saw
8 the Thomas S. case, which was portrayed through Betty in the
9 video, that case would never have been handled but for legal
10 services by the protection and advocacy agency because they
11 do not sue the state in North Carolina.

12 MS. MERCADO: In Texas they have a staff counsel
13 for inmates that assists indigent inmates on civil problems,
14 but that does not include a civil rights violation if the
15 institution is creating brutality-type circumstances. It
16 actually assists them in guardianship or custody or other
17 kinds of civil litigation that they're responding to, but not
18 in the full sense of advocacy if the inmate themselves are
19 being oppressed within the institution, it does not.

20 CHAIRPERSON EAKELEY: Alex, we've talked about this
21 before and I don't mean to overtask an already-overtasked
22 transition team, but just as the need had been identified to

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1 have, as it were, a Native American desk, somebody who is
2 charged with keeping track of what's happening and how we
3 could do better doing that, notwithstanding the lack of
4 funds, could we get some greater staff commitment to studying
5 and understanding, helping us understand the problems of the
6 institutionalized and collect what's there in the field and
7 then disseminate it so that we can all become somewhat better
8 advocates for the disabled? Would that be --

9 MR. FORGER: I would certainly think so, and I know
10 De, maybe the delivery working group is also looking at --

11 CHAIRPERSON EAKELEY: There's a cluster doing that,
12 right, De? Okay.

13 MR. FORGER: So that's another avenue of support on
14 that.

15 MS. HOLMEN: May I add something? In terms of
16 leverage, one of the important things to be able to do is
17 legislative, as well as administrative advocacy. We have had
18 some luck in those arenas, but this year in Georgia a law was
19 passed that Governor Miller calls the "two strikes and you're
20 out bill," so we're leading the pack on that front.

21 There was a lot of debate about what it would do to
22 the inmate population.

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1 Also, they passed a law that is going to allow 13-
2 year-olds to be tried as adults, although I think they're
3 planning to put them in juvenile facilities. We don't know
4 what those facilities are going to look like or where they're
5 going to get them.

6 CHAIRPERSON EAKELEY: In the reauthorization
7 process for legal services, we are behind the Crime Control
8 Bill and in the appropriations process, we are right in there
9 with the Justice Department on 100,000 cops in the streets
10 and three strikes and you're out.

11 So it's that kind of time of year, unfortunately.
12 And indeed I think we're going to back into this ourselves on
13 the appropriations side.

14 MS. HOLMEN: Whether it's the right way to go about
15 controlling crime is not so much what my issue is but whether
16 the debate includes what it's going to do to the institutions
17 in the state.

18 The other thing that they're doing in Georgia to
19 get ready for the Olympics is building 2,000 more jail cells.

20 CHAIRPERSON EAKELEY: We're out of time, but a
21 quick last question?

22 MR. FORGER: They'll turn that into low-income

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1 housing later?

2 MS. HOLMEN: They'll call it low-income.

3 CHAIRPERSON EAKELEY: Thank you, all. This was
4 very good, very timely. We look forward to working with you
5 and I hope we'll have something to bring to the table next
6 fiscal year, something further to bring to the table next
7 fiscal year.

8 MS. ARTHUR: Thank you very much.

9 CHAIRPERSON EAKELEY: Actually, that's a perfect
10 intro for our next panel, Julie Clarke and Don Saunders on
11 fiscal year appropriations process.

12 PRESENTATION ON FISCAL YEAR 1995

13 APPROPRIATIONS PROCESS

14 MS. CLARKE: I'm Julie Clarke. I'm director of
15 congressional relations at NLADA and I'm joined by my cohort
16 Don Saunders, who works with PAG and NLADA.

17 And in the interest of time I thought we would
18 start with the budget process, which is almost finished, I
19 think, which Don will explain to you and then I'll talk a
20 little bit about appropriations and it should take no more
21 than five minutes.

22 MR. SAUNDERS: And you can start your clocks right

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1 now. Good morning.

2 Very briefly, I just thought I would outline to you
3 what the budget process is. Many people are often confusing,
4 at the federal level, the budget and appropriations process.

5 As you've been reading, the House and Senate have
6 both passed their budget resolutions. Basically, what the
7 budget resolution is is the congressional response to the
8 President's budget, which is put together by OMB and
9 delivered to the Congress.

10 It sets broad targets, both for spending and for
11 revenues. They are not binding targets but they do try to
12 bring into focus the entire picture for a fiscal year. It
13 deals with the revenue side, entitlement programs and it
14 relates to legal services. It deals with discretionary
15 domestic spending.

16 As you probably all remember, last August the
17 Clinton budget plan was passed by the Congress. It was a
18 five-year plan, which basically established broad budget
19 guidelines for the next five years. We're in the second year
20 of that plan as we speak.

21 The most relevant issue for legal services funding
22 in that process is the fact that there was imposed in that

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1 five-year plan a cap, a freeze, if you will, on discretionary
2 domestic spending. But the upshot of that is going to be
3 that not only for this year, but for the next three years
4 subsequent to this, we're going to have a very tight
5 situation with regard to available resources for
6 discretionary domestic spending.

7 If you take the figures as they current exist in
8 the budget resolution, there's going to have to be a \$27
9 billion reduction between now and the end of the agreement,
10 in current expenditures. That does not account for
11 inflation. It does not account for any new investments as
12 may be proposed by the administration or the Congress, and it
13 sets very, very tight ceilings.

14 So I think it's remarkable that in that context,
15 OMB and the administration showed such great support for
16 legal services that they asked for a 25 percent increase for
17 this fiscal year, because that money was very hard to find in
18 this budget context.

19 The FY '95 budget resolutions that passed both
20 bodies basically will be going to conference very soon.
21 There are only a few things to point out to you in this
22 regard. The House budget resolution did comment upon the

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1 legal services request from OMB and did reduce it from \$500
2 million to \$440 million. Again, this is a nonbinding kind of
3 comment --

4 CHAIRPERSON EAKELEY: But not as friendly as we
5 would have preferred.

6 MR. SAUNDERS: Certainly not as friendly as we
7 would have liked, and, to a certain extent, the President,
8 and Julie and I were meeting with a member of both our
9 subcommittee and the Budget Committee. He told us, as the
10 budget was being done, "We took a small hit but you'll be
11 real happy," so we were all speculating, "Well, maybe they
12 went down to 480," you know, and then we heard it was 440 and
13 that was a little bit more than a small hit.

14 CHAIRPERSON EAKELEY: Attitudinal problem here.

15 MR. SAUNDERS: The Senate, on the other hand,
16 passed primarily the President's recommendation. It didn't
17 comment on legal services, so the assumption is that that's
18 part of the overall package.

19 But particularly Mr. Simon and a few others were
20 very concerned again about the overall budget process. They
21 attached to the Senate Budget Resolution an additional
22 amendment which called for \$26 billion in further cuts,

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1 unspecified cuts, over the next few years. Mr. Gramm offered
2 an amendment, in the meantime, to cut legal services \$100
3 million, which failed on a straight party line vote.

4 So what you have, as we go into conference, is the
5 House coming in at 440, the Senate basically coming in at
6 probably 500, as it were, but looking for another \$26 billion
7 somewhere in cuts.

8 CHAIRPERSON EAKELEY: Don, can I interrupt you
9 there? Didn't the Senate specify that those cuts were to
10 come out of the President's investment program?

11 MR. SAUNDERS: I don't think that's the case.

12 CHAIRPERSON EAKELEY: There was some focus on what
13 has been called investments, and we are listed in the
14 President's budget as an investment. And I didn't know
15 whether that put us at greater risk than other programs going
16 into conference committee or not.

17 MR. SAUNDERS: Well, what often happens in the
18 Senate is they just make votes that they know that they
19 really don't want to come out that way, and then they go to
20 conference and let the House fix it and take care of
21 everything. And I think a number of the senators assumed
22 that was going to happen.

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1 However, there is growing in the House Mr. Kasich,
2 who is the ranking Republican member of the House Budget
3 Committee and also has the Republican budget, which zeros out
4 legal services, by the way, he is going to offer an amendment
5 instructing House conferees to comply with the Senate
6 additional cuts.

7 And as of last week, the whip count in the House
8 was pretty close, but House leaders feel like they have to go
9 forward with the budget resolution, and the next step on the
10 budget will be to go to conference, and we will have a vote
11 on whether or not to instruct the House conferees to accept
12 the Senate position.

13 One thing you need to understand, even though these
14 are not mandatory ceilings, as they divide up the money, we
15 are -- you know, there's oftentimes comparisons made to legal
16 services funding and B-1 bombers or Social Security and those
17 kinds of things.

18 We are in a very distinct pool of resources. There
19 are \$17.9 billion roughly which will be made available for
20 discretionary spending for the State Department, Justice
21 Department, Commerce and the other functions within our
22 committee. That is the world as far as we are concerned in

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1 what we're competing with. And, as I say, the discretionary
2 money is very difficult to come by right now.

3 So again, we're very encouraged in that context
4 that the administration has shown such strong support, and
5 that will certainly hold us well, but, as the chairman
6 indicated, it is our committee that will also have to fund
7 our crime initiatives, and they're going to be a very, very
8 high priority on domestic discretionary spending.

9 So it remains to be seen how those allocations will
10 take place.

11 CHAIRPERSON EAKELEY: Legal services is a crime
12 initiative, preventive.

13 MR. SAUNDERS: That's right. And Julie is now
14 going to take you from where we are in the budget process,
15 which is about to wind down, into the appropriations process.

16 MS. CLARKE: I think the Gramm initiative that Don
17 referred to is illustrative of the competition that we'll be
18 finding because you'll know, Mr. Chairman, about the Burn
19 grant formula, formula grant program in the Justice
20 Department, and that was zeroed out by the Clinton
21 administration.

22 It was the increase in legal services that Mr.

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1 Gramm wanted to take out to put back into law enforcement,
2 and we find that that is obviously a theme of the
3 appropriations committees, as in the State Justice Commerce
4 Appropriation Committee, because they're obviously very
5 worried about being called soft on crime, so they will find
6 money almost anywhere. And this is what Mr. Gramm was doing.

7 Fortunately, he did not do it on the Senate floor.
8 He did it only in the Senate Budget Committee. They found
9 the money for the Burn formula grant program out of the
10 government's furniture allowance. So it has now been put
11 back in, and legal services is not at risk.

12 CHAIRPERSON EAKELEY: This week.

13 MS. CLARKE: This week, absolutely. As you know,
14 Mr. Gramm sits on our subcommittee in the Senate and I'm sure
15 we'll see him again, talking to Senator Hollings or perhaps
16 accusing Senator Hollings of being soft on crime.

17 The appropriations process I think is much less
18 complex than the budget process, but obviously difficult.
19 The outcome is more important to us, as Don said. The
20 outcome in the budget process is not binding. It obviously
21 is for us in the appropriations process, and it takes
22 somewhat more time.

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1 Obviously you all know that the process has
2 started. Each of the 13 subcommittees schedules hearings for
3 the agencies under their jurisdiction. Those hearings have
4 been on-going for six to eight weeks in both the House and
5 the Senate and, as the chairman indicated, the Corporation
6 will testify on Thursday the 21st in the House and on May 5th
7 in the Senate. And the chairman and Ms. Mercado will be
8 giving that testimony.

9 The House will also receive public testimony, as
10 they have done in the past. Historically, witnesses included
11 the American Bar Association, PAG, NOLSW and the American
12 Association of Retired Persons. I do know that AARP is
13 testifying. That testimony, as I say, will be on April 28th.
14 There will be no public testimony in the Senate.

15 In the past 12 years, when there was not very much
16 support from former Legal Services boards for significant
17 increases for the Corporation, we have had public witnesses
18 or dissenting minority witnesses in the Senate, but we will
19 obviously not be having those this year.

20 CHAIRPERSON EAKELEY: Julie, I had a sidebar here,
21 but to what extent can we help coordinate and encourage
22 different interest groups to come forward to support our

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1 budget request?

2 MS. CLARKE: In the form of testimony before the --

3 CHAIRPERSON EAKELEY: Yes.

4 MS. CLARKE: The testimony in the House is usually
5 limited to about three or four minutes. I don't know if the
6 deadline has passed for public witnesses. We obviously can
7 attempt to do that. I don't know whether or not the schedule
8 is full.

9 I have been told by people on the Senate side that
10 there will be no public witnesses.

11 CHAIRPERSON EAKELEY: Well, even if it's written
12 submissions, lining up support groups like AARP and the
13 unions, I think that that --

14 MS. CLARKE: Oh, absolutely. They are all
15 testifying, on the House side, and they will submit testimony
16 on the Senate side. After the hearings are completed, the
17 subcommittee obviously schedules a mark-up in which it makes
18 the allocations to the agencies, obviously within its
19 jurisdiction.

20 That follows the decision by the full
21 Appropriations Committee on how much money each of the 13
22 subcommittees is going to be allocated. It's called our

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1 602(b) allocation, and legal services is in something called
2 the 750 function, neither of which you need to know, but
3 should you ever hear --

4 CHAIRPERSON EAKELEY: But thank you for telling us.

5 MS. CLARKE: And the appropriations bill obviously
6 usually originate in the House and then they proceed with the
7 Senate. If the House is taking too long, the Senate does it
8 own bill, and that has been the case in the last couple of
9 years.

10 Once the mark-up is completed, the bill is ready to
11 go to the floor. That's obviously at the chairman's
12 discretion. We usually have one day of debate, at most, on
13 Commerce Justice State, and there are usually significant
14 disagreements. There are usually different allocations
15 between the two houses, so that they then need to go to
16 conference and determine what their differences are and
17 reconcile those.

18 Once they go to conference, they then come back to
19 the floor and if there are any disagreements, then they can
20 send it back to conference. That rarely happens.

21 The conferees are usually all of the members of the
22 subcommittees. You won't find that obviously when there are

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1 committees of large size, but in our case, on the
2 appropriations subcommittees, all of the members are
3 conferees.

4 The decisions in the past have always been made by
5 the chairmen and the ranking members of the two committees.
6 The decisions are usually made by the time they go into
7 conference, although sometimes they will meet with their
8 committees before they have their formal conference.

9 And once the conference is completed, the floor
10 action is completed, the bill is passed, it goes to the
11 President's desk for his signature, all of which should be
12 done by the 30th of September.

13 Most of the time that's not the case. As you know,
14 we have continuing resolutions. We have all-night sessions
15 on the 30th of September.

16 This year, I believe, there will be a strong push
17 to finish by the end of the fiscal year because this an
18 election year and they will want to recess by probably the
19 7th of October.

20 So we have between April 16th and September 30th
21 obviously to work on this appropriation.

22 CHAIRPERSON EAKELEY: A lot of work.

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1 MS. CLARKE: A lot of work.

2 CHAIRPERSON EAKELEY: What can we do, individual
3 Board members, to disarm, neutralize, win over our foes and
4 enable our friends and allies?

5 MS. CLARKE: I think the most important thing you
6 can do is to take advantage of your meetings here in
7 Washington, to meet with either members of your congressional
8 delegation or, as Ms. Mercado and the president did a couple
9 of days ago, with the Hispanic Caucus and hopefully the Black
10 Caucus next week. Do so at home. If you have acquaintances
11 who have some kind of access to congressional delegations,
12 whether it be fundraisers or whatever it may be, it's
13 obviously important to use those contacts.

14 The local contacts are very, very important, but
15 obviously you all are here in Washington a good deal of the
16 time, and any alliances that you may have contacts with would
17 be very helpful, as well as your individual congressional
18 delegations.

19 As you know, it's very important to keep the
20 administration's eye on the prize, very important. And I
21 know that you've had some meetings to that end.

22 Other agencies -- Justice Department, Health and

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1 Human Services, Transportation --

2 MS. MERCADO: Education also.

3 MS. CLARKE: Education. It needs to be well
4 coordinated and a significant, concerted effort.

5 CHAIRPERSON EAKELEY: I wish we had Maria Luisa
6 full-time here. Then we'd double our budget prospects in
7 very short order.

8 MS. CLARKE: That's a great deal of energy there,
9 that's right.

10 MR. SAUNDERS: As you make these contacts around
11 appropriations, you have to keep in mind that unlike regular
12 legislation, a very few people make the key decisions. So if
13 you're talking to someone who's not on the subcommittee, of
14 course they'll support legal services when the vote comes
15 down. They really need to take a second step, which is
16 pretty difficult in some cases. They need to go to Senator
17 Hollings or they need to go to Mr. Rogers or Mr. Mollihan --

18 CHAIRPERSON EAKELEY: Who is the likely new chair
19 of our House subcommittee, not yet announced, perhaps not
20 made, but will be replacing Neal Smith, who has been a very
21 staunch supporter of legal services over the years.

22 MS. CLARKE: Last year there was a concerted effort

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1 to obviously get a 12.5 percent increase. It went beyond
2 just the people that make those primary decisions. And I
3 can, I guess, just caution you that the House thinks in
4 giving us a 12.5 percent increase last year that that was a
5 quantum leap for legal services.

6 So obviously it's going to be very challenging to
7 go to 25 percent.

8 CHAIRPERSON EAKELEY: Just a footnote on that, the
9 Senate came in at less than, and it took a major effort to
10 get the Senate to whatever the term is --

11 MS. CLARKE: Reconcile?

12 CHAIRPERSON EAKELEY: No, the Senate deferred to
13 the House, and that's how we got the 12.5 percent, and we
14 were going to be reduced to 348 and instead came out of
15 committee, after a personal phone call to the chair of the
16 Senate Appropriations Committee. I shouldn't have said that,
17 but anyway.

18 Any questions for Julie and Don?

19 (No response.)

20 CHAIRPERSON EAKELEY: Thank you very much. Also I
21 thank you for your constant guidance in these treacherous
22 shoals. We appreciate it.

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1 MS. CLARKE: You're welcome.

2 CHAIRPERSON EAKELEY: All right.

3 MR. FORGER: I might add, Mr. Chairman, that Julie
4 and Don have been so helpful to us in making contact on the
5 Hill. I think they're probably the best known pair on the
6 Hill, always access, and without which we wouldn't be able to
7 see these key people.

8 CHAIRPERSON EAKELEY: Also among the nicest, I
9 would think

10 MR. FORGER: No question.

11 CHAIRPERSON EAKELEY: All right, LaVeeda,
12 Operations and Regulations Committee Report.

13 CONSIDER AND ACT ON OPERATIONS AND REGULATIONS

14 COMMITTEE REPORT

15 MS. BATTLE: We've had a very lengthy meeting
16 yesterday but a very short report to give today. We met and
17 began the very difficult but worthy process of reviewing
18 regulations that were presented by the working group to us.
19 And what we decided to do, as part of our process in that
20 review, is to really take the time to go through each of the
21 proposals that we've gotten, and we're in the process of
22 doing that.

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1 MS. BATTLE: We've got copies of it. I'll just
2 pass it around to everybody. It's a marked-up copy but a
3 good copy. We always have Bill's very sharp pencil to help
4 us.

5 The second resolution we have is one which relates
6 specifically to a provision of the by-laws, which the by-laws
7 themselves require that before they are amended that they
8 must be published in the Federal Register for a period of 30
9 days, and we know that our meeting is going to be not quite
10 within 30 days, and we'd like to continue this process.

11 So the second resolution that we have relates to
12 constricting that time frame so that we'll do the notice, so
13 that we can begin the process of amending the by-laws and be
14 able to begin that process at our next meeting.

15 CHAIRPERSON EAKELEY: Do you want to put that in
16 the form of a motion?

17 MS. BATTLE: Yes, in the form of a motion.

18 MR. MCCALPIN: I second it.

19 CHAIRPERSON EAKELEY: I'm going to take them back
20 one at a time, but as long as they're being introduced, we
21 might as well --

22 MS. BATTLE: They're both in the packet, so

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1 everybody should have them.

2 CHAIRPERSON EAKELEY: Oh, everyone has them.

3 MS. BATTLE: The second mark-up, you can review it,
4 but essentially what I've said is what it provides.

5 MR. McCALPIN: It removes subsection D from section
6 45 of the by-laws.

7 CHAIRPERSON EAKELEY: And the second one is a
8 timing one.

9 MS. BATTLE: Yes, it's a timing one. And it also
10 has to do with, for example, once we get it out of the CFR,
11 the by-laws themselves say when you get ready to amend these
12 by-laws, you must publish it and you must go through this
13 procedure. And we're saying, "We need to first amend that
14 portion, contemporaneous with moving it out of the Code of
15 Federal Regulations."

16 So that's a real technical point but it's an
17 essential point to our cleaning up the by-laws.

18 CHAIRPERSON EAKELEY: Talk about Byzantine
19 procedures.

20 All right, has everyone had enough time to glance
21 at the two proposed resolutions? Let's start with the first
22 one, which is the, I guess, the shorter of the two, which

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1 takes the by-laws of the Corporation out of the Code of
2 Federal Regulations. We're not proposing to eliminate the
3 by-laws. We can't do that or we'd be out of a job ourselves,
4 but this is merely to change the procedural posture of the
5 by-laws so that they need not be treated as regulations and
6 thereby give us some greater flexibility.

7 Any questions or other comments? Tom?

8 MR. SMEGAL: There's no one here to speak against
9 it.

10 CHAIRPERSON EAKELEY: Well, if you'd like to
11 satisfy your --

12 MR. SMEGAL: No, I mean out there?

13 MS. BATTLE: No, there was no one in committee and
14 I don't think there's anyone out there, as well.

15 MR. SMEGAL: Thank you.

16 CHAIRPERSON EAKELEY: All those in favor.

17 (Chorus of ayes.)

18 CHAIRPERSON EAKELEY: All those opposed?

19 (No response.)

20 CHAIRPERSON EAKELEY: The ayes have it. The second
21 resolution basically amends the by-laws --

22 MS. BATTLE: To delete subsection D of 45 CFR

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1 1601.45.

2 CHAIRPERSON EAKELEY: Which requires a 30-day
3 notice for --

4 MS. BATTLE: Publication.

5 CHAIRPERSON EAKELEY: Publication of by-law
6 changes, even though they're now no longer regulations.

7 MS. FAIRBANKS-WILLIAMS: Run those numbers by
8 again.

9 MS. BATTLE: Okay, it's 45 CFR 1601.45(d).

10 CHAIRPERSON EAKELEY: You've to publish proposed
11 changes to the by-laws, Edna, more than 30 days before the
12 Board takes action at a meeting, and this is designed to give
13 more flexibility, again, to the amendment process.

14 MR. McCALPIN: I think it's worth noting that this
15 does not mean that there will not be notice of our by-law
16 amendments, that in fact, we will continue to have to publish
17 the fact of amendment and the general concept of amendment in
18 the notice of any meeting in which we propose to amend the
19 by-laws. And that notice, of course, will go to everybody
20 who gets notice of a meeting.

21 But it removes it from the strictures of the
22 publication in the Federal Register and so on.

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1 MS. BATTLE: And the other point is this. The way
2 that section D reads, it also did allow some flexibility if
3 it was not feasible to be able to publish within the 30-day
4 time frame, and part of this resolution indicates that
5 because our meeting is May 14, which is less than 30 days
6 from now, that we don't think it's feasible even in this
7 instance to use that 30-day time frame.

8 CHAIRPERSON EAKELEY: I think it's a good first
9 step to getting to the flexibility that we'd like and ought
10 to have.

11 MS. MERCADO: You're actually talking about almost
12 a 60-day notice before you would actually take action.

13 MS. BATTLE: Yes, that would delay everything 60
14 days.

15 CHAIRPERSON EAKELEY: Any other questions? Tom.

16 MR. SMEGAL: As I understand, this resolution has
17 sort of a global concept to it of eliminating the 30-day
18 notice. Then it has another context in the fact that our
19 next meeting isn't more than 30 days away. Do we really want
20 that in a resolution? Do we really need that last "whereas,"
21 for example?

22 MS. BATTLE: We were trying to give a rationale as

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1 to why it would not be feasible even as it relates to this
2 particular notice, to do the 30 days. The way that Section D
3 reads at present, you're supposed to, if feasible, publish it
4 30 days before there's any consideration. If we did that,
5 we'd be delayed 60 days because at present, our next meeting
6 is in less than 30 days.

7 MS. MERCADO: We're going to consider it at the
8 next meeting but we probably act until --

9 MR. SMEGAL: I understand all that, but I'm saying
10 why are we putting that in here?

11 CHAIRPERSON EAKELEY: Do you need it in the
12 "whereas" clause?

13 MR. MCCALPIN: Because it was suggested by general
14 counsel.

15 MS. BATTLE: So we follow what our lawyers tell us
16 to do.

17 MR. FORGER: Here he comes now.

18 CHAIRPERSON EAKELEY: That's okay, Victor.

19 MR. FORGER: Unless he wants to change his mind.

20 CHAIRPERSON EAKELEY: This is the format that the
21 committee suggested.

22 MR. SMEGAL: It seems like the forest is getting

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1 mixed in with the trees. There's something global about this
2 that seems to be appropriate, but to tie it into the fact
3 that we just happen to have a meeting coming up that's less
4 than 30 days away and compounding the nice, clean effect of
5 what we're trying to do here seems not --

6 MS. BATTLE: There are really two issues, and maybe
7 we could have done it with two separate resolutions. One
8 issue is removing Section D. The second issue is removing
9 Section D in an instance where we do the publication in less
10 than 30 days. And so that's --

11 MR. McCALPIN: We can't remove Section D in May
12 unless we do this.

13 CHAIRPERSON EAKELEY: That doesn't go to his
14 comment.

15 MR. BATTLE: Well, I guess what I hear Tom saying -
16 -

17 MR. SMEGAL: How can we give notice -- that
18 presently requires us to give 30 days notice, how can we do
19 that with this resolution?

20 MR. McCALPIN: When feasible.

21 MS. BATTLE: Because Section D itself says "when
22 feasible," and so we use that "when feasible" language to

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1 point out that it is not feasible in this instance to do it.

2 MR. SMEGAL: Well, I think it's much more cluttered
3 than it need be. I think the global objective is as good one
4 and I think we're just cluttering this up with a lot of stuff
5 that has nothing to do with what's going on here globally.

6 I mean, I think the purpose is well intended, but
7 the fact that we have a meeting 29 days later shouldn't be in
8 here. But I'll vote for it.

9 CHAIRPERSON EAKELEY: Why did Victor want to have
10 it in there?

11 MS. BATTLE: Because, as I said, I think we're
12 talking about two separate issues. One issue is the removal
13 of Section D, which we can do, and we need to do it based on
14 the way that the by-laws are presently written and the fact
15 that they're in the Code of Federal Regulation, which
16 required that notice.

17 Then secondly, Section D itself has a requirement
18 of 30 days, if feasible, and we don't have 30 days, so we
19 simply wanted to give reasons why we wanted to --

20 CHAIRPERSON EAKELEY: It's just that one "whereas"
21 clause that bothers Tom.

22 MR. McCALPIN: It's the bottom "resolved." It's

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1 the bottom "resolved" that's his problem.

2 MS. BATTLE: No, it's the two paragraphs. It's the
3 last --

4 CHAIRPERSON EAKELEY: Will you indulge us on this
5 one?

6 MS. BATTLE: We could likely change it and put them
7 in two separate, one, the global issue of removing Section D
8 and another separate one that only speaks to the notice
9 requirement, and that would, I think it seems to me, clear up
10 the cluttering that you see in this particular resolution,
11 and I don't have a problem with that.

12 MR. McCALPIN: I understand he basically objects to
13 our doing the second one.

14 MR. BROOKS: May I suggest, having been through the
15 discussion yesterday, that we might defer the vote on the
16 specific language of the motion until the possibility of
17 redrafting the motion to satisfy --

18 CHAIRPERSON EAKELEY: Why don't we do this? We've
19 got a motion on the floor. It's seconded. We've had
20 discussion. There are objections. I don't think I want to
21 convert this session into a redrafting session after the
22 committee labored effectively to come up with a solution.

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1 Why don't we take a vote and if there's a way of
2 improving the resolution, we can adopt one at the next
3 meeting that, in effect, takes care of the concerns. How
4 would that be?

5 MS. BATTLE: Well, at the next meeting we will have
6 already done the notice.

7 MR. SMEGAL: At the next meeting we can remove the
8 last "whereas" and the first "resolved."

9 CHAIRPERSON EAKELEY: Right, we'll just clean up
10 our act in retrospect.

11 MR. SMEGAL: When somebody reads this 10 years from
12 now, as we've been doing with other things --

13 MS. BATTLE: Why don't we separate them? I think
14 that I understand Tom's point. I think they ought to be
15 separate resolutions.

16 MS. SMEGAL: Doug has a good solution. We can
17 amend this next month.

18 CHAIRPERSON EAKELEY: Moved, seconded. Any further
19 discussion?

20 (No response.)

21 CHAIRPERSON EAKELEY: All those in favor?

22 (Chorus of ayes.)

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1 CHAIRPERSON EAKELEY: Opposed?

2 (No response.)

3 CHAIRPERSON EAKELEY: We'll charge somebody with
4 tinkering or amending perhaps --

5 MS. BATTLE: General counsel.

6 CHAIRPERSON EAKELEY: LaVeeda, can I ask you on the
7 regulations, I was, as I mentioned yesterday, very impressed
8 with the amount and quality of the work that had gone into
9 the proposed changes and also not as appreciative as I should
10 have been of the layer upon layer of accretions over the
11 years that need to be carefully sifted to make sure that the
12 policy decisions implicit in each one are corrected
13 appropriately.

14 Having said that, and also just the committee spent
15 -- invested a great deal of time in the first regulation, my
16 sense also, from talking to you and others last night, was
17 that there's already underway a learning process, which is
18 going to mean that the more the committee gets into it, the -
19 - I don't know what -- it's not going to take two years.

20 MS. BATTLE: No, it's not going to take two years.
21 I was going to say this. One of the things about yesterday,
22 I think, that's significant that I might point out is that we

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1 did not start with the easiest regulations that there are to
2 review.

3 CHAIRPERSON EAKELEY: And you got the last draft
4 right at the last minute, so that that was a handicap.

5 MS. BATTLE: And what we did was we decided on a
6 process before we began going through the regulations which
7 was to allow for contemporaneous public comment as we went
8 through each section, so that we could hear concerns from
9 clients, concerns from the bar, concerns from other members
10 of the reg working group or from the field, as we looked at
11 each of the sections. And then we tried to reach a consensus
12 as to where we are.

13 We also decided that because of that and because of
14 the complexity of making changes as you go through that, that
15 we would not make a decision upon initially seeing a
16 particular reg on yesterday. We may, as we go through the
17 process, be able to do that, but that we'd get a clean copy
18 with all of the changes the next time, have adequate time to
19 review it so that we could adopt precisely the language that
20 we're comfortable with as a committee.

21 CHAIRPERSON EAKELEY: The reg working group had a
22 proposed timetable for when different groups of regulations

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1 would be reached and presented to the committee and then the
2 Board. Would it be fair to ask the committee, at its next
3 meeting, to consider a timetable for committee approval and
4 presentation to the Board, so that we can start anticipating
5 when we should be, as a Board, reaching certain regulations
6 for consideration?

7 MS. BATTLE: The way that I think it works, Doug,
8 before the full Board sees the regs, they go out for
9 publication, and you get -- for notice and publication, and
10 we get comments back. And then the final draft of the
11 proposed rule is considered by the full Board at that time.

12 CHAIRPERSON EAKELEY: Do we have a committee
13 timetable?

14 MS. BATTLE: Yeah.

15 CHAIRPERSON EAKELEY: Could we ask for a committee
16 timetable?

17 MS. BATTLE: What I think we're going to do, one
18 thing that we did decide is that we've got a certain process
19 which includes groups of regulations that we've been given to
20 consider. Yesterday we were given 1607, 1608, 1611 and 1621.

21 Now, even though for our next meeting, the working
22 group has two additional regs that they're going to give us,

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1 we're not going to hop over what we've got. We're going to
2 continue to consider them.

3 I think that the process will pick up and move
4 more quickly. I'm hesitant to give you, at this point, a
5 timetable until we have had a chance to look at where we are
6 and what it is that we've got to do. But as part of how
7 we're going to go about this process, we have agreed that as
8 we finish a group, we are going to go ahead and put that out
9 for notice and comment, so that this process will begin to
10 pick up over time.

11 CHAIRPERSON EAKELEY: Bill.

12 MR. McCALPIN: I'd like to add just one footnote to
13 what LaVeeda has said in terms of the process, and that is
14 that the process which this Board adopted two or three months
15 ago with respect to reform of the regulations is that while
16 the committee takes the action to approve a document for
17 publication in the Federal Register, before any formal Board
18 action, yet before the publication, the final draft is to be
19 circulated informally among members of the Board in case
20 there's any kind of a doomsday provision or something of that
21 sort.

22 The Board will not be called upon to act prior to

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1 publication, but it will have an opportunity, in effect, to
2 halt the publication if there's a serious problem.

3 CHAIRPERSON EAKELEY: Okay. I thought we were
4 going to see something before it went out, but it doesn't
5 need to be formally. I understand that.

6 I wasn't looking for a timetable today, but I guess
7 my question was more, would it be helpful to have target
8 dates by the next meeting so that expectations can --

9 MS. BATTLE: We will establish -- in fact, what we
10 may do at the next meeting is to spend some appreciable time
11 on targets and on projections, so that we can get a good feel
12 for where we are.

13 But I also want to say that one of the things that
14 we set out at the front end is that with all the work, three
15 or four or five years, that has gone into discussing and
16 coming up with what it is that we're getting as proposals, we
17 do want to take adequate time to review and deliberate over
18 what it is that we get as a product.

19 So I don't want -- and I expressed this to the
20 committee. I don't want the committee to feel rushed,
21 because we've got it, that we must quickly run through it,
22 without giving it the careful thought that --

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1 CHAIRPERSON EAKELEY: No, I understand that. Just
2 really targets that the committee feels comfortable with, I
3 think would help expectations merge, Board and field and
4 committee.

5 Alex, did you --

6 MR. FORGER: Yes. Having been introduced as
7 something called the regulations in recent months, the
8 process is one that when it gets to the Operations and
9 Regulations Committee, it's just the tip of the iceberg of
10 what has gone on prior to that. It's the working group of
11 the stakeholders have been involved with the review of the
12 regulations for many, many months, back to the field,
13 drafting sessions, further amendments and supplements.

14 Then it gets over to our side and the transition
15 team, along with our counsel, as well as the stakeholders, as
16 well as the inspector general, get together. And that is a
17 long process, just working through a single reg with the
18 varying points of view that are brought to bear on it.

19 And by the time we've finished all that, I doubt
20 there would be a doomsday issue, Bill, but there may be. And
21 then, if it goes to the committee that hasn't had the benefit
22 of six months of digesting all of this, it is a process, Mr.

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1 Chairman, that I think cannot be accelerated at the committee
2 level.

3 CHAIRPERSON EAKELEY: Don't misread me. I was
4 speaking for targets so that expectations can be --

5 MR. FORGER: All right. I would say before the end
6 of the century.

7 (Laughter.)

8 CHAIRPERSON EAKELEY: Targets can sometimes curb
9 natural impatience, as well as produce.

10 MR. FORGER: Well, I would not want the field to
11 think that the committee was being asked to accelerate its
12 process, which is a long, drawn-out process.

13 CHAIRPERSON EAKELEY: No, that wasn't my intention.

14 MR. FORGER: And moreover, even the regs that are
15 signed off on, today, if we gathered everybody together, we
16 could modify it.

17 MS. BATTLE: I think there's a natural tension, and
18 I want to speak to it, between the need for us to get this
19 process rolling, which I understand and I hear from Doug, and
20 to have some expectations as to how fast it's going to move,
21 and what we can expect over the next year, and the feeling
22 that I have, chairing this committee, that we have got to

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1 give careful thought, because these are long-term changes
2 that we're making.

3 Some of the regulations that we're reviewing now
4 have been in effect since 1981 and have not been touched.
5 And so I would venture to say that before we change that,
6 that we need to have the benefit of all of the input, which
7 is part of what Alex is talking about, understand the
8 history, understand all of those dynamics, and feel free to
9 deliberate before we make those changes.

10 CHAIRPERSON EAKELEY: Yes.

11 MS. BATTLE: Certainly we can look at some targets,
12 but I'm not going to be uncomfortable if we don't achieve
13 them. What I'm looking for is an ultimate work product that
14 comes out of this committee and goes out for comment which is
15 thoughtful and which is reflective, which takes into account
16 all of the various views and makes some real good judgments
17 independently, as a Board, on that. And if we do that, then
18 I'm comfortable with however long it takes.

19 CHAIRPERSON EAKELEY: Well, I'm asking the
20 committee to set the targets, not have targets imposed on the
21 committee.

22 On the other hand, you're going to get drafts and

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1 drafts and there will never be perfection in the eyes of the
2 community at large because perspectives are so different.

3 So we will never have a final end product as input
4 because there will always be a capacity to make further
5 amendments. And I think the timetables will hopefully --
6 there's nothing wrong with getting more drafts, even on the
7 eve of the next committee meeting, but at some point you've
8 got to take the best of the inputs and decide on those.

9 MS. BATTLE: Which is what we're doing.

10 CHAIRPERSON EAKELEY: And in the reflective and
11 carefully considered way that you're doing, and that's the
12 appropriate way to do it. But we've got to try and project a
13 process that has closure to it at some point.

14 And I don't know what the point is, and that is for
15 the committee, but anyway, Maria Luisa?

16 MS. MERCADO: Yes, I think that for me, the bottom
17 line question in reauthorization is that we need to know,
18 from the Hill, when it is that they anticipate that they're
19 going to be acting. I know that there are mark-ups going on
20 right now, that there is work being done on proposed
21 language. And I want to have the field, not somebody
22 contacting Legal Services and saying that we need by Friday

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1 your comments and your reauthorization proposals, but rather,
2 that we ought to have some sense of it.

3 And maybe this is where Don and Julie and other
4 staff here can get some realistic date, if you will, of when
5 it's going to come up on the Hill for discussion.

6 CHAIRPERSON EAKELEY: Two to three weeks in the
7 House, and LaVeeda and I really ought to go meet with Alex
8 and Jeff Blatner on the Senate side.

9 MS. MERCADO: Right, because --

10 CHAIRPERSON EAKELEY: Those are the timing on the
11 reauthorization.

12 MS. MERCADO: Because then that does have a lot to
13 do with whether the committee actually has time to deliberate
14 or get a lot of input from the field. Or it means the field
15 has to submit things in writing a lot faster.

16 CHAIRPERSON EAKELEY: We were talking about
17 regulations. If we think reauthorization is complicated,
18 regulatory reform is enormous. And that's really what we
19 were talking about timetables for here.

20 I think LaVeeda --

21 MS. MERCADO: Yeah, but some of those regulations
22 are going to be governed by what happens in reauthorization.

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1 CHAIRPERSON EAKELEY: Sure.

2 MS. MERCADO: So we're putting the cart --

3 MS. BATTLE: We're trying to take that into account
4 with regard to which regulations we address first. The ones
5 where we know there are issues that are to be debated in
6 reauthorization, we're not touching now because it's not
7 going to make sense to get the cart before the horse in that
8 sense.

9 But to the extent that there are some that there
10 are no issues, that no one's raising anything about, and they
11 have to do really with internal governance and how we
12 construct some areas that we need to address, those are the
13 ones that we're trying to take up first.

14 CHAIRPERSON EAKELEY: Alex?

15 MR. FORGER: For the benefit of those of us that
16 were not at the committee meeting all day because of other
17 committees, how far did you get yesterday?

18 MS. BATTLE: We completed our review of 1607 on
19 yesterday, which was the first regulation. We had four.
20 1607 was probably one of the most lengthy.

21 CHAIRPERSON EAKELEY: How many footnotes were there
22 explaining changes? Forty-seven?

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1 MS. BATTLE: Forty-seven.

2 CHAIRPERSON EAKELEY: So it's just an extraordinary
3 amount of work just in that one regulation. And community
4 interest was intense, too, so not to take anything away from
5 the hard work of the committee or the input.

6 MS. BATTLE: And quite frankly, it may have been
7 unrealistic to suggest that we could do four in one meeting
8 in the first place, but it's better for us to have a full
9 plate and then to cover as much as we can than not. And I
10 think that's going to be the situation from here on.

11 CHAIRPERSON EAKELEY: Okay, any other questions of
12 LaVeeda for Ops and Regs? Why don't we move on to the
13 Provisions Committee. Buckey?

14 CONSIDER AND ACT ON PROVISION FOR THE
15 DELIVERY OF LEGAL SERVICES COMMITTEE REPORT

16 MR. ASKEW: Thank you. This may be the reverse of
17 Operations and Regulations. We had a short meeting but --

18 CHAIRPERSON EAKELEY: You have a long report?

19 MR. ASKEW: Not a long report, but since most of
20 you couldn't make it to our meeting because of other
21 conflicts, I think I ought to fill you in on a few things
22 that happened there, because they are of import.

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1 We had a discussion of the memo that John Tull
2 prepared that was sent to you in your Board materials about
3 the reorganization of OPEAR and OPS. And I encourage you to
4 read that memo and think about the implications of it because
5 the changes that are being made are intended to implement the
6 Board's two resolutions that we adopted in December, in terms
7 of moving to a new method of monitoring, evaluation and
8 oversight of programs.

9 And we spent some time on that. We're moving to
10 simplify it as much as possible. We're moving to more of a
11 team-based approach to program oversight and program support
12 and away from a very diffused way of dealing with programs
13 and a lack of coordination within staff, in terms of program
14 relationships.

15 And interestingly and importantly, the decisions
16 that were made independently of what was going on with the
17 Cotton & Company report are supported by the Cotton & Company
18 recommendations after their audit of monitoring and
19 evaluation, so that was a very nice outcome that we didn't
20 predict or control, but it worked beautifully, so that was
21 very confirming.

22 The second item on our agenda was a briefing by the

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1 inspector general on the Cotton & Company report, which has
2 also been sent to you. I would encourage you to read it.
3 It's not as lengthy or intimidating as it may appear. And it
4 is, I think, a comprehensive, helpful review and a review
5 that's done in a way that we've never really done it before,
6 I think, of the whole monitoring and evaluation program
7 oversight area.

8 The recommendations that are being made by Cotton &
9 Company to the Corporation are consistent with the direction
10 in which we are heading anyway, so they are very helpful in
11 that regard.

12 The process, from here, is that a final draft of
13 that report will be sent to each Board member, probably
14 within the next 15 to 20 days, and after that is done, we
15 have 30 days, if we choose to use it as a Board, to respond
16 to it. Management has already offered its response and its
17 response basically is accepting of the report.

18 CHAIRPERSON EAKELEY: Buckey, did you discuss with
19 the inspector general the adequacy of the management response
20 of the Inspector General's Act and our Board's
21 responsibilities?

22 MR. ASKEW: Yes, we asked him to speak to that

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1 yesterday and he basically said he found the response
2 adequate. It was an affirmative response. It was short and
3 to the point, saying "We accept your recommendations, agree
4 with them and, in fact, we are moving -- we were already
5 moving to implement some of them without knowing that they
6 were coming, but we will be moving to implement them."

7 So that is acceptable to him, and he will be
8 sending that out to us again.

9 Once this 45- to 50-day period has run, he will
10 then be circulating the report to every legal services
11 program and to a list of organizations and persons who have
12 requested reports from the inspector general. So it will
13 receive wide circulation. And I think it's very helpful to
14 us in the directions we're moving in.

15 The next thing we discussed, we heard from Kathleen
16 Welch and Leslie Russell from our staff, Kathleen from NAPIL,
17 about the National Community Services Act. As you remember
18 from our last meeting, we did an RFP to all legal services
19 programs asking them to submit applications to us to be
20 included in a package application that would be made to the
21 new Corporation on Community Services for legal services
22 programs.

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1 We received 26 applications. After a thorough
2 review process, involving people from NAPIL, our staff and
3 from some legal services programs, 24 of those applications
4 have been basically accepted by us and will be packaged
5 together by the Corporation and submitted to the National
6 Community Services Act Corporation, if that's the right
7 title, for funding.

8 It would add 50 new participants in legal services
9 programs. It's a very diverse group of programs and a very
10 diverse group of proposals for what these people would do in
11 these programs, and it's a very encouraging response. And I
12 think they indicated to us they were quite pleased with the
13 nature of these applications, the response they got and under
14 the time frames that we had to work with, which were quite
15 short, program response to it was quite good.

16 So we'll be sending that as a package in the next
17 few weeks and we should know by the June meeting whether that
18 has been funded by the new corporation.

19 The last item we discussed was the law school
20 clinic program. The solicitation -- the deadline for
21 applications is Monday the 18th. So far, we have received
22 three applications, which may sound a little scary, but

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1 Leslie informed us that staff has received 180 telephone
2 calls. There are only 176 law schools in the country, so
3 somebody else may be applying. But they've received over 180
4 phone calls. They anticipate receiving something in the
5 neighborhood of 100 applications, which, if happens, would be
6 amazing. That's more than 50 percent of the law schools in
7 the country.

8 And they have also sent out a notice seeking
9 interest from people who might like to be peer reviewers in
10 this process -- law school clinicians, legal services program
11 people, and they've received 61 resumes from people who would
12 like to participate in a review process.

13 They intend to select a group of peer reviewers and
14 set up a peer review process using law school clinicians,
15 legal services people and staff of the Corporation to review
16 and make decisions or recommendations to the staff, to the
17 president, about those grants.

18 We may have decisions on that by the May meeting,
19 depending on how quickly this can work. If not, certainly by
20 the June meeting.

21 CHAIRPERSON EAKELEY: Bill?

22 MR. MCCALPIN: In connection with this last item

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1 that Buckey is talking about, I'd like to raise an issue of
2 propriety or ethics. I received a call this past week from a
3 group which plans to submit an application in the law school
4 clinic, and I was told it was going out today, so it's one of
5 those extra ones that will be received.

6 I was asked whether I would write a letter or
7 otherwise support that particular application. I said that I
8 had some reservations about the propriety of a Board member
9 going on record to support an application which was coming
10 for a decision within the staff of the Corporation, as I
11 understood it. But I said that I would raise that issue
12 here, to get guidance from the Board as to whether it would
13 be proper for a Board member to go on record as supporting
14 an application for action to be taken within the staff of the
15 Corporation.

16 CHAIRPERSON EAKELEY: And if you did that, you
17 would automatically disqualify yourself from acting as a
18 Board member in consideration of all of the other
19 applications that come in.

20 MR. McCALPIN: Well, we're not going to act on
21 them. It's not ever going to come before the Board. This is
22 a decision made at the staff level.

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1 CHAIRPERSON EAKELEY: Alex?

2 MR. FORGER: I would err on the side, Bill, of
3 disengaging and not -- it's bound to have some influence, I
4 would suppose, at the staff decision level. We're asking a
5 peer group to go through that process. My hunch is the Board
6 would be best off remaining neutral in those and acting with
7 respect to the staff.

8 We've set the policy decisions and what we're
9 seeking, and I think that would really get into a
10 circumstance that might appear to be unfair advantage for one
11 over another or an element of the Board being involved in the
12 staff responsibility.

13 MR. SMEGAL: I would caution Board members to do
14 that. It seems to me it may not be quite on point, but the
15 last board I served on had one of its members who was accused
16 of that by the then-inspector general, and a large
17 investigation went on of whether that board member had used
18 influence with respect to one of the funding entities, or
19 entities to be funded.

20 MR. McCALPIN: Well, I heed your suggestions and
21 advice and I'm glad that I decided to defer, so I will not
22 lend my name to it.

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1 MR. FORGER: You can say but for that, you would
2 have enthusiastically endorsed it.

3 MR. McCALPIN: I would have.

4 CHAIRPERSON EAKELEY: Okay. Any other questions of
5 Buckey?

6 MR. ASKEW: Let me mention one other thing. A
7 meeting was held -- as a part of this process, a meeting was
8 held of law school representatives, legal services program
9 representatives and staff of the Corporation, which was a
10 very affirmative meeting. And it was initially called to
11 discuss the law school clinic program, but I think it went
12 well beyond that and started talking about joint -- mutual
13 relationships between law schools and local legal services
14 programs and began talking about how programs can work more
15 closely with the law schools in the community.

16 Alex attended and I think probably intended to go
17 and sit in for a while and ended up staying for the entire
18 meeting. And I've heard from a law school dean who said it
19 was a very good, affirmative meeting and the beginning,
20 hopefully, of a lot of important discussions for the future
21 about how that community can be more a part of our community.

22

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1 And Alex's speech at Law Day at the University of
2 Georgia I think was consistent with that whole theme of
3 getting the law schools more actively involved with local
4 programs, with us, and moving toward meeting needs that
5 aren't now being met.

6 CHAIRPERSON EAKELEY: Buckey, was there any
7 discussion, either in this context or in the context of the
8 solicitation of proposals for the National Community Service
9 Act, about the potential represented by the Empowerment Zones
10 Act and funding there for legal services programs to get
11 involved in and participate in creating empowerment zones,
12 economic development, or the like?

13 MR. ASKEW: Not that I'm aware of.

14 CHAIRPERSON EAKELEY: Alex, again, maybe for James
15 Head, for it has been suggested that as with the National
16 Community Service Act, there is an opportunity for broader
17 reach involving legal services programs that moves us
18 precisely in the direction of economic opportunity and
19 community development and empowerment.

20 And I think that a little bit of creative dialogue
21 might help us identify where some of those opportunities
22 might be. I think it's a \$100 million program over a number

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1 of years. Communities have to apply for it. But I think
2 there's a role for legal services in it.

3 MR. ASKEW: Let me make one concluding remark. I
4 cautioned my committee members and the public at this meeting
5 that this was the last of our short meetings, that we have a
6 lot of business before the committee in the next few months
7 and that we'll be doing both business, in terms of our
8 committee's responsibilities, but also I called for
9 organizations or groups that were interested in speaking to
10 our committee, as we've had done in the past, to let me know
11 so we could do a schedule for the next two or three committee
12 meetings that would allow us to get our business done while
13 we continue to hear, as we did today, from the
14 institutionalized, and as we did in San Francisco from other
15 groups.

16 So we will be hearing, in the next two or three
17 meetings, from various groups in our community about painting
18 their picture of what they do while we go forward with the
19 reorganization of OPEAR and OPS and moving to the new
20 monitoring and evaluation procedure.

21 So I wanted to put that on the record here today
22 for people who weren't there yesterday, to let us know.

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1 CHAIRPERSON EAKELEY: Thank you. Any other
2 questions or comments? Tom, do we know when to expect our
3 ABA representatives?

4 MR. SMEGAL: I'm not sure. I talked to Roberta
5 this morning and she indicated she was coming along, but we
6 didn't talk about time. I assume it's before 12:00 because
7 there's something else going on over there --

8 CHAIRPERSON EAKELEY: Here's my dilemma. There are
9 some things that we need to take in executive session, but
10 we're losing Nancy at noon. She's got to go back home. And
11 I'm wondering whether or not Maria Luisa and Bill and the
12 inspector general would accommodate this -- and we're running
13 a little late, but could we change the agenda, move into
14 executive session now? And if Bill Ide and Roberta Ramo get
15 here, that -- the doubly awkward part of it is if we go into
16 executive session and they arrive, then we have to go back,
17 but I think, if we could include Nancy as part of the
18 discussion among ourselves, it would be preferable.

19 MS. MERCADO: I have no problem with that.

20 CHAIRPERSON EAKELEY: Ed, you're here. Then what
21 I'd like to do is have a motion for going into closed session
22 for the purposes that are set forth in the agenda, with the

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1 understanding that we may resume public session upon the
2 arrival of our guests. Otherwise, we will be back on the
3 record in public as soon as possible. My estimate would be
4 perhaps an hour.

5 I need a motion.

6 M O T I O N

7 MS. ROGERS: So moved.

8 MS. WATLINGTON: Second.

9 CHAIRPERSON EAKELEY: All those in favor of going
10 into executive session?

11 (A chorus of ayes.)

12 CHAIRPERSON EAKELEY: Opposed?

13 (No response.)

14 CHAIRPERSON EAKELEY: Okay. Why don't we take a
15 two-minute rest stop and then we will go executive.

16 (Whereupon, at 11:20 a.m., the meeting was
17 adjourned to executive session.)

18 * * * * *

19 (11:42 a.m.)

20
21 WELCOMING REMARKS BY REPRESENTATIVES

22 OF THE AMERICAN BAR ASSOCIATION BOARD OF GOVERNORS

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1 MR. BUSHNELL: I apologize for the fact that I have
2 a 12:00 appointment that is inviolate, that must be kept, and
3 therefore I can only say "hi, goodbye," and thank you for the
4 courtesies you extended in asking us to visit with you.

5 I know that Bill and I both want to be here with
6 you to pay our respects to this Board and to the Legal
7 Services Corporation, not only because of the long and
8 established relationship between the ABA and Legal Services,
9 but because of the work you're doing and the work that you
10 must be doing in the future.

11 I talked to Alex Forger last night and we talked
12 earlier about this subject. And very briefly, let me suggest
13 something to you for your thoughtful consideration.

14 Legal services, and here I'm speaking very
15 directly, has found itself in a position over the years where
16 it has no real advocate. As Alex noted last evening, you
17 have no PAC. You can't get to the Congress, except by
18 calling upon groups such as the American Bar Association to
19 lend our efforts to see that the support that's necessary,
20 vital support, continues, and hopefully increases some time
21 in the future. It's got to increase.

22 But I respectfully suggest to you that this Board

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1 itself has an advocacy role and you must take a leadership
2 position in this and not remain the beneficiaries of largesse
3 by way of representation.

4 What concerns me, and here this is overstatement,
5 but I do it for emphasis, is the risk that a plantation kind
6 of attitude will take over legal services efforts, which is
7 to say that the care and feeding of legal services has got to
8 be advocated publicly and vocally and strongly by this Board
9 itself. And you've got to tell us just exactly what you want
10 us to do, and other groups.

11 I'm calling for you to be activists and in your own
12 gentle way, to be revolutionaries because we haven't gotten
13 anyplace by being gentle and kind and beneficent, thus far.
14 Now it's time to take to the streets.

15 With that thought, I will excuse myself, with your
16 permission, and thank you again for the opportunity to be
17 with you. And please note my great respect and admiration
18 and commitment to this organization and to the concepts that
19 you represent and the work that you do. Thank you very
20 much.

21 CHAIRPERSON EAKELEY: George, thank you for being
22 here. Thank you for your call and thank you for gracing us.

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1 (Applause.)

2 CHAIRPERSON EAKELEY: I didn't get a chance to say
3 "welcome" before George started speaking, but we can at least
4 say "farewell and thank you, and a bientot."

5 Bill and Roberta Ramo, I think this has to be an
6 historic first to have the president, president-elect and
7 president-elect-elect of the American Bar Association break
8 out of a Board of Governors meeting and come to the offices
9 of the Legal Services Corporation to meet with us, and we are
10 deeply honored.

11 MR. IDE: Well, it's mutual, and I hope you
12 consider the mere fact of our presence to show the dedication
13 that this organization has to the cause that we all believe
14 in.

15 What I wanted to do was talk a little bit of
16 potential business for us, taking forward from George's
17 statement and concerns, some of the words we had last night,
18 to tell you that I think that we're going through an
19 interesting paradigm shift with our justice system, and I
20 view it as an opportunity.

21 I think back to the early days of legal services
22 and the back-up centers and those that felt that in certain

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1 areas there had to be impact litigation to try and change the
2 fundamental rules so that people with a client base could
3 have more fair and balanced rules, instead of trying, on a
4 micro basis, to litigate case by case, to try and change the
5 system so it was fair, and therefore you didn't have to
6 constantly bring people to court.

7 And what we're discovering at the American Bar is
8 that over the past three years, there is a paradigm shift.
9 Middle income America, low income America have much more in
10 common than they used to. In the civil area, the civil
11 system doesn't work for a lot more people than it didn't used
12 to. It's too slow, it's too expensive, and just not
13 accessible.

14 Our report has just come out about low and moderate
15 income, and 50 percent of the people that have problems just
16 aren't doing anything about them. And we're feeling the
17 pressure that we just can't sit back. We've got to make
18 changes.

19 You go to the area of the criminal justice system,
20 and random violence and crime are on everyone's agenda, from
21 someone that lives in public housing that has to put their
22 child in a bathtub because of bullets being sprayed through

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1 the project, to a suburban night in a rather affluent area
2 with security guards and moats around but nonetheless,
3 they're very cognizant of car-jacking and how violence can
4 reach anyone, anywhere, anytime.

5 And here, too, we're feeling tremendous pressures
6 that you lawyers, you must be part of the problem because
7 you're an officer of the court. And our answer is we've got
8 to be part of the solution.

9 Race and ethnic bias, another serious, serious
10 problem in this country that's been silent too long, that
11 just now and then comes up as eruptions, and we can no longer
12 tolerate that.

13 We have magnificent gathering with the African
14 American bar, the Asian bar, the Hispanic bar, where we all
15 join in others and join together, even American bar, join
16 together and have a two-day summit on race and ethnic bias,
17 just to bring home the seriousness of this problem to
18 America.

19 And we realize that we have to reach out to the
20 public, that the public or the clients, this justice system
21 in this country, this democracy belongs to the public, and we
22 must have a dialogue with the public and start working

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1 towards long-term workable solutions.

2 Quick-fix answers in the crime area won't work. We
3 know that. In the civil area, tinkering won't work. We're
4 going to have to make dramatic shifts.

5 And as we go through this process, and we're having
6 a conference May 1, 2 and 3 called the Just Solutions
7 Conference that'll be a culmination of a series of summits we
8 had this. And as we move forward next year with our goal of
9 going state by state and urging supreme courts and the
10 governors and the legislatures and the public in each state
11 to gather and form something we're calling a state justice
12 commission.

13 You had futures commissions, but this is meant to
14 be much more inclusive, where there is a reality to it to all
15 people, there's an ownership to it to the general public.
16 But we want to leap across the gridlock, status quoism,
17 special interests, and try and get to a workable vision for
18 all Americans.

19 I tell you all that because I think it is a
20 wonderful opportunity to get to some of the root cause
21 problems that many of your clients face every day. Many of
22 the people that should be your clients don't even get to you

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1 because of them.

2 And I think and believe very strongly that America
3 is ready to start working through some of the bigger issues.

4 So I know that you're joining us at the Just
5 Solutions Conference because Doug's one of our speakers. We
6 are still conceptual on the state justice commissions but it
7 is critical that you all be there.

8 And as I said at NLADA, legal services is a bit
9 different now. You are the establishment now. We've been on
10 the outside for a lot of years, but now you have the, in my
11 view, you have the opportunity to do some macro things, to
12 try and make the systems change.

13 And this is in no way in lieu of the wonderful
14 things you're doing day by day for clients, but we've
15 concluded we'll never win it lawyer by lawyer at the micro
16 level; we're going to have to change the systems. I think
17 that's where you probably are, too.

18 So we've had wonderful initial, with this new
19 group, workings together and with George and Roberta, who
20 I'll be passing on, first to George and George to Roberta,
21 I'm hoping that over the next three to five years we can
22 really, seriously try and make some dramatic changes in the

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1 justice system in this country because the pressures are
2 there from the public; the frustrations are there from the
3 public.

4 It's much broader than ever before. And we're
5 talking about fair and decent kinds of issues that I think
6 will have universal appeal.

7 So I know this is a friendly audience for something
8 like this, but I also know you can be pulled from a lot of
9 different ways, and I hope as you organize yourself, and
10 we've talked to the Department of Justice about this, too,
11 also, and find them very responsive -- Attorney General Reno,
12 I think, will spend time and resources on the state system.

13 But as you organize yourself, I hope you, with your
14 interface with the ABA, will consider a very formal working,
15 roll-up-your-sleeves relationship with us to keep us honest
16 on our perspective and help us understand and appreciate all
17 the issues that affect your client base.

18 And we just look forward to a working relationship
19 with you.

20 CHAIRPERSON EAKELEY: Well, thank you. You've done
21 so much to make us feel like we are a working partnership
22 already, and the reception and dinner was as much an active

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1 of friendship as partnership, but that was a lovely extra
2 touch last night, for which we also wanted to thank you.

3 There are a lot of challenges ahead of us, and
4 we're not going to advance unless we find a way of walking
5 together. We look forward to that.

6 Roberta, did you want to --

7 MS. RAMO: I'll be very brief because I was very
8 excited to hear last night that you're all coming to
9 Albuquerque, so I'll take you for the best enchiladas in the
10 entire city and we'll have a lot of time to talk there.

11 I thought, Doug, I have to tell you, when you
12 talked about this being an historic event, that you were
13 going to say it was the first time somebody that you guys had
14 turned down for a legal services job actually came back to
15 talk to you. But for the birth of my daughter, I would have
16 been a legal services lawyer instead of in private practice.

17 CHAIRPERSON EAKELEY: We didn't pregnant Reggies at
18 the time.

19 MS. RAMO: Apparently not, in spite of my best
20 efforts and Ken Pie's best efforts to convince you to the
21 contrary.

22 Two quick thoughts. First of all, just so you

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1 know, my own dedication to the Legal Services Corporation and
2 the ideals for which it stands runs very deep. The first job
3 I ever had out of law school was for the North Carolina Fund,
4 before the Legal Services Corporation existed, before OEO
5 existed, trying to figure out how in the world, without being
6 communist conspirators, we could get legal services to poor
7 people in North Carolina.

8 And it was an enlightening experience for me, a
9 formative document in my own life and one that I think we
10 need to recall when we're talking about true antidotes to
11 violence these days, as the Kerner Commission Report, which
12 tells us, but I think much of the American people have
13 forgotten, that if we don't have an opportunity for all
14 American citizens to be represented not in the giant problems
15 of the world but in solving the small, everyday problems that
16 people, and particularly people who are at the lower part of
17 our economic system have, then after a while, all of those
18 frustrations blow up and it's not possible for us to have
19 democracy.

20 So in my mind, what the Corporation and its lawyers
21 all around the country do really is make it possible for a
22 democracy as heterogeneous as ours is to survive.

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1 I disagree only with one small thing that George
2 said, and that is in degree. I think you have a fabulous
3 advocate, both in Alex Forger and in terms of your Board.
4 And I mention that in particular because I think sometimes
5 when groups are used to being beaten up, as many of you all
6 were for so many years, it takes a while to recover. And I
7 want to encourage you in the recovery mode to remember that
8 it's very important for us to talk to our friends, but it may
9 be more important for us to communicate with the people who
10 don't understand what we do.

11 And I think it's very important, especially because
12 you have in Alex someone who can do this, for you as a Board
13 really to be very thoughtful about talking to those people in
14 the Congress, and really around the country, who don't
15 understand why we have this need.

16 We're all very comfortable talking to the people
17 who support us. I don't want you to stop doing that, but I
18 want you to be very open to going to those people who really
19 have not understood, I think, what the relationship is and
20 explaining to them that at some level the antidotes to
21 violence are the kinds of programs that the Legal Services
22 Corporation promotes, both on a day to day basis with

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1 clients, and in the larger sense in terms of assistance that
2 we're all working so hard to make friendly for all Americans.

3 It really is a surprise for me to be here and a
4 wonderful honor and I'm grateful to all of you for spending
5 so much time doing really the work of justice.

6 CHAIRPERSON EAKELEY: Thank you very much. Tom.

7 MR. SMEGAL: I just want to footnote Bill Ide's
8 comments. This is not the first time he's appeared before
9 this Board. I recall a lesser and a darker day in South
10 Carolina when Bill was there representing the American Bar
11 Association and did not have the kind of welcome he's
12 receiving today.

13 Bill, it's good to be here in the same context at
14 this later date.

15 MR. IDE: It was very interesting. I was there.
16 Everybody on the Board disagreed with the American Bar except
17 for one, who was Tom Smegal.

18 CHAIRPERSON EAKELEY: Was that the meeting where
19 the suggestion was that this could be all left to paralegals?
20 That was the annual meeting in New Orleans, right?

21 MR. SMEGAL: Mid-winter. This was a different
22 context.

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1 CHAIRPERSON EAKELEY: Well, thank you again. Look
2 forward to seeing you at Just Solutions and to working with
3 both of you. And we'll be sure to respond to the call and
4 the challenge and a reminder that there's a larger community
5 out there.

6 MR. IDE: And we'll take the challenges back. We
7 know it's a two-way street. Look forward to working with
8 you.

9 (Applause.)

10 CHAIRPERSON EAKELEY: Shall we go back to where we
11 left off?

12 M O T I O N

13 MS. BATTLE: I so move that we resume our executive
14 session.

15 MS. WATLINGTON: Second.

16 CHAIRPERSON EAKELEY: All those in favor?

17 (Chorus of ayes.)

18 CHAIRPERSON EAKELEY: Okay.

19 (Whereupon, at 11:59 a.m., the meeting was
20 adjourned to executive session.)

21 * * * * *

22 (1:50 p.m.)

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1 CHAIRPERSON EAKELEY: I'd like just to report that
2 while we were in executive session, the Board decided that,
3 or it was the sense of the Board that we would devote
4 Thursday, May 12, while we're in Atlanta to a retreat, and
5 we've asked Mr. Forger to help us structure and find a
6 facilitator or facilitator for that meeting.

7 Onto item 10 of the agenda, which is consider and
8 act on Audit and Appropriations Committee Report.

9 CONSIDER AND ACT ON AUDIT AND APPROPRIATIONS

10 COMMITTEE REPORT

11 MS. MERCADO: Mr. Chairman, I have sent around
12 copies for everyone of the guidelines for adoption, review,
13 modification of the consolidated operating budget. Your
14 copies don't have the changes that were done. Most of the
15 changes were basically more in the clarification, not
16 necessarily changing the substance of the particular
17 guidelines.

18 However, I would like to highlight two areas where
19 there was a particular change. And I know that people have
20 flights. Do you want me to just do the two that actually
21 require a vote on?

22 CHAIRPERSON EAKELEY: Well, see if that'll do it

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1 and if it won't, then we'll do some more.

2 MS. MERCADO: The first item which we had to
3 decide, a question of making a decision as a committee on the
4 regulations, was whether or not the COB attachments that you
5 get as to the detail of the expenditures that the Board
6 approves would be the detail that outlines management
7 administration budget as one lump sum or breaks it down into
8 the different categories within M&A as to how the
9 expenditures should be done, and that this would be approved
10 by the Board rather than having the president do it on their
11 own measure.

12 And the committee decided that it would prefer the
13 more detailed provision of the attachment, with the Board
14 approval, of any COB proposals. And this is all dealing with
15 proposals for budgets that we would have to approve as a
16 Board.

17 MR. BROOKS: Which item is that, Maria?

18 MS. MERCADO: I'm sorry, that is on item number 1,
19 paragraph number 1.

20 CHAIRPERSON EAKELEY: It says the COB will include
21 the lines as set forth in attachment B?

22 MS. MERCADO: Mm-hmm. This is attachment B. What

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1 it had before was that it had attachment A, but then in the
2 recommendations to the committee it gave the possibilities of
3 attachment B or B-1, which we'll see there are more detailed
4 budget item or less detailed budget item.

5 If you'll look at attachment B, at the regulations,
6 and it doesn't have a page number so that I could tell you
7 where it is.

8 CHAIRPERSON EAKELEY: Three pages from the end.
9 That's the level of detail of the cash operating budget that
10 will be presented to the committee and the Board for approval
11 each year.

12 MS. MERCADO: Attachment B-1, which says page 2 of
13 2 at the top.

14 CHAIRPERSON EAKELEY: It's on the back.

15 MS. MERCADO: We're talking about page 2 of 2, that
16 dealt with the M&A. It only dealt with corporate management
17 and grant administration, the M&A line in the discretion that
18 the president will be allowed to have as to how the M&A line,
19 given a lump sum in this case, looking at a grant
20 appropriation of \$11,028,000, or that we would just present
21 it as a lump sum in that effect, or whether it would be
22 presented to the Board categorized with the different

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1 categories, which we have there, 1 through 10, in the
2 management administration.

3 And the committee preferred to have it broken out
4 as to have that M&A line -- how the funds were going to be
5 expended in the different categories, rather than just giving
6 us one lump sum and letting the discretion of the president
7 decide how those would be spent. And we preferred to have
8 that discretion.

9 And then the other major change deals with
10 paragraph 5, page 3, which basically says that if the
11 president recommends a COB reallocation in regards to the M&A
12 budget, the recommendation may be implemented after review
13 and approval by the A&C chair.

14 Now, what it read before was that it couldn't be
15 approved unless the full Board voted on it. And it gives
16 them a little bit more flexibility and ability to perform.
17 And there are, later on in the regulations, which is on
18 paragraph 8, page 5, the last sentence on it basically says
19 if any Board member may question an adjustment of this kind,
20 which is dealing with the in-between lines, in which case the
21 president will suspend the adjustment until a Board review is
22 conducted or the objection is withdrawn.

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1 So it allows the president to go ahead and act on a
2 particular reallocation with approval of the A&C chair but at
3 a Board meeting any Board member can call that into question
4 and that expenditure would stop at that point.

5 MR. McCALPIN: If I understand paragraph 5, it
6 means that the president could reallocate any line under 3-A
7 on page 2 of 2, whereas paragraph 8 relates only to line 10
8 on that page. Is that right?

9 MS. MERCADO: Primarily. Yes, it is.

10 MR. McCALPIN: So that the only reallocation that
11 would be reported to the Board is a reallocation in line 10.

12 CHAIRPERSON EAKELEY: Well, not quite, Bill,
13 because first, it's up to the chair of the Audit and
14 Appropriations Committee to decide whether or not she wants
15 to take a proposed reallocation to her committee, and then
16 for the committee, depending upon how significant the
17 reallocation is.

18 Secondly, there's a quarterly presentation review
19 and approval of the budget, which contemplates a review at
20 that time of all reallocation decisions. That's paragraph 6.

21 So this is designed to give the president
22 flexibility while continuing with the oversight of the Audit

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1 and Appropriations Committee, chair, committee and Board.

2 MS. MERCADO: You just said that paragraph 6
3 defines that. But you know, the COB reallocations are viewed
4 by the committee, are approved by the Board, for any kind of
5 reprogramming. And this deals --

6 MR. McCALPIN: Well, you don't have to reprogram
7 any reallocation within 3-A, do you?

8 MS. MERCADO: 3-A on the attachment?

9 MR. McCALPIN: Attachment B-1, page 2. If you
10 reallocate anything within that 3-A area, or 3-B, for that
11 matter, that does not require reprogramming, does it?

12 CHAIRPERSON EAKELEY: I don't know. Do you need
13 reprogramming authority for the management and administration
14 lines of the budget?

15 MR. RICHARDSON: You do if you substantially
16 curtail an existing activity or you want to start a new
17 activity, you do have to seek reprogramming authority. It is
18 notice.

19 MR. McCALPIN: If, under the Board initiative line,
20 we want to start a new activity, we have to reprogram that?

21 MR. RICHARDSON: Board initiative, no. If it's --
22 what we're speaking of is an activity that has been

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1 prohibited, and I should clarify there. If it's an activity
2 that we've gone to the Congress and they've said, "No, you
3 can't do that," and we're trying to institute that program
4 with the monies that we have by reallocating it, then we have
5 to go back with the reprogramming notice.

6 But the way it is set up, at the top of page 3 it
7 says, "An internal budgetary adjustment," and that would also
8 be a COB reallocation, "within a single line to initiate a
9 new activity or to curtail substantially an existing activity
10 as defined by congressional reprogramming provisions, the
11 adjustment would not take effect until approved by the Board
12 and the reprogramming notice submitted."

13 MR. McCALPIN: Do you consider the 10 lines of 3-A
14 as a single COB line in the terms of that paragraph?

15 MR. RICHARDSON: No, sir, I do not.

16 CHAIRPERSON EAKELEY: Any other questions? Any
17 other --

18 MS. MERCADO: No, those were really the only two
19 areas in which the committee actually had to make a decision,
20 because the rest of the changes were really more clarifying,
21 grammatical, didn't necessarily deal with changing the
22 substance. So those are the only two areas that dealt with

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1 changing the substance and that we're bringing to the Board
2 for approval.

3 CHAIRPERSON EAKELEY: I should note that Tom Smegal
4 was on a prior Board approving a prior version of these
5 guidelines and was among those voting for this
6 recommendation, which I think is a very nice job and sort of
7 balances between the competing needs of the Board to maintain
8 oversight over policy decisions implicit in budget
9 allocations and the need to have flexibility in management in
10 order to adjust to changing needs in the Corporation
11 operationally.

12 MS. MERCADO: Because one of the other changes
13 which we didn't approve was that the president would have
14 sole discretion to do those, and we didn't approve that. So
15 that at any time, again, it's in the discretion of the chair
16 to bring it to the full committee for full discussion if it's
17 not approved.

18 CHAIRPERSON EAKELEY: Do we have a motion to
19 approve the deadlines as approved by the committee?

20 M O T I O N

21 MS. MERCADO: I would so move, Mr. Chairman.

22 MS. WATLINGTON: Second.

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1 CHAIRPERSON EAKELEY: Any further comment?

2 (No response.)

3 CHAIRPERSON EAKELEY: All those in favor?

4 (Chorus of ayes.)

5 CHAIRPERSON EAKELEY: All those opposed?

6 (No response.)

7 CHAIRPERSON EAKELEY: Thank you, Maria Luisa.

8 MS. MERCADO: Mr. Chairman, just very quickly I
9 just want to bring to your attention that we did have two
10 representatives from the Grant/Thornton present to us on the
11 audit, and all of you should have received two copies of the
12 audit -- a proposed draft and then the final draft that was
13 sent to you in your mailings.

14 The first thing that I would say is that based on
15 their analysis and the language, because I don't want to
16 misstate it, is that the audit firm noted no matters
17 involving the internal control structure and its operations
18 that they considered to be a material weakness as defined
19 above, as far as putting the Corporation into risk or
20 irregularities with anything to deal with its financial
21 structure.

22 They did deal with the deficit, which is, according

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1 to the auditors, and let me first state that this is the
2 first time that Grant/Thornton or any independent public
3 accountant has done a government auditing standard review for
4 this Corporation, and they did do that, and that was in
5 conjunction with the OIG's recommendation and oversight, as
6 well.

7 We did ask for the differences in what was required
8 and basically it was just more verification of the financial
9 integrity and checks and balances of the Corporation.

10 They did include in our bottom line, which is our
11 statements of revenues, expenses and fund balances, that our
12 deficit basically amounted to \$4,365,703, but since we had a
13 beginning balance of the \$2 million to start with, our
14 cumulative deficit is \$2,162,073.

15 And the reason that is incorporated into the audit
16 for this year is because it is at this year that it became
17 very evident that there was going to be a deficit in not
18 being able to lease out the building in the former
19 headquarters that we had on Virginia Avenue, that they didn't
20 include it in their audit in 1992 because it still wasn't
21 sure. There was still a possibility that GSA was going to be
22 coming in, and now it became very evident that they weren't

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1 and that that was an income loss, and it has to be noted this
2 year and included this year. And we are having a two-year
3 term in which to incur that loss.

4 And so that means some modifications in our
5 expenditures for M&A. It doesn't affect the field programs
6 in any way or the support programs.

7 M O T I O N

8 MS. MERCADO: And you know, unless people had
9 particular questions on the audit, I think I would just
10 mainly submit for your review and approval, noted that the
11 audit was presented and accepted by the Audit and
12 Appropriations Committee, and I would like now to move that
13 the Board accept the audit as presented, unless it had any
14 particular questions.

15 CHAIRPERSON EAKELEY: Is there a second to the
16 motion?

17 MS. BATTLE: I second it.

18 CHAIRPERSON EAKELEY: Any questions or comments?

19 MS. FAIRBANKS-WILLIAMS: Yes, I had one. You ran
20 through that rather quickly. You said that in two years we
21 had the deficit. Since they didn't take the deficit last
22 year, does that mean we take all the deficit this year?

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1 CHAIRPERSON EAKELEY: No, remember -- I'm sorry,
2 Maria Luisa.

3 MS. MERCADO: It's in two years.

4 MS. FAIRBANKS-WILLIAMS: So it's this year and next
5 year?

6 MS. MERCADO: Yes.

7 CHAIRPERSON EAKELEY: That's the management plan
8 that Alex had proposed that would pay off the deficit over a
9 two-year period, taking into consideration this lease deficit
10 that's been accrued. But basically they accepted that
11 proposal.

12 MS. MERCADO: Because if you will recall, that if
13 we were to take the deficit loss totally in that one year,
14 that by necessity it would mean that there would have to be
15 some lay-offs of people. If you recall from one of the very
16 first meetings, one of the things that we didn't want to do
17 is that we didn't want to have this deficit account for you
18 people being terminated in the process.

19 As it is, we're very tight in the staff that we
20 have and we've heard all the discussions of the tremendous
21 amount of work the transition team is doing, yet they're very
22 short-staffed. A lot of the staff and a lot of the positions

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1 are working on it.

2 And the only way we could do that and keep the
3 integrity of the Corporation and keep the functions of the
4 day to day management of the Corporation was to do it in a
5 two-year term. And since the audit firm went ahead and
6 accepted that as an acceptable way of dealing with the
7 deficit, then the Board, in fact, approved that policy, I
8 think, two meetings before.

9 MR. FORGER: And we did impose a salary freeze as
10 part of that.

11 MS. FAIRBANKS-WILLIAMS: But the question I was
12 asking, now that you've gone through everything, do you think
13 you can do it in the two-year period, or do you have to go a
14 third year?

15 MS. MERCADO: Unless we get less funding, we should
16 be able to do it in the two-year period.

17 CHAIRPERSON EAKELEY: We're operating at or just
18 under the revised budget that has that two-year budget
19 deficit work-out in it.

20 MS. MERCADO: In fact, one of the other factors
21 that I was going to mention to you is that on the average, by
22 this time of the year, we've expended about 42, 43 percent of

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1 the budget, and right now we're under 40.5 percent, so we're
2 a little under on expenditures so far this year.

3 So I do think that there shouldn't be any problems
4 with us meeting that deficit in the balance.

5 MR. McCALPIN: Following up on that just a little
6 bit, we heard something this morning about the appropriation
7 process. Suppose we get less than 500. Would that modify
8 your projection of being able to do it in the following year?

9 MS. MERCADO: No, because we did the projection
10 based, assuming that we had the same amount of money, we had
11 the \$400 million. We didn't project getting the higher
12 amount of funds. Am I right, Mr. Comptroller over there?

13 CHAIRPERSON EAKELEY: In short, the audit was a
14 clean one. There were no exceptions, even though it was
15 undertaken or added an additional step to meet government
16 auditing standards. There was a letter to management, it's
17 called, that had three recommendations that were either
18 already complied with by management or in the process of
19 being adjusted.

20 So under the circumstances, it really was a clean
21 bill of financial health, notwithstanding the deficit.

22 MS. MERCADO: And Mr. Chairman, just again, because

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1 I know that we have very limited time, we would want to go
2 ahead and fit the audit into the record so if anyone chose to
3 look at it or review it, it's there for their purposes.

4 CHAIRPERSON EAKELEY: All right. Any other
5 questions or comments?

6 (No response.)

7 CHAIRPERSON EAKELEY: It's been moved and seconded
8 that we accept the audit of the financial books and records
9 of the Corporation for the 1993 fiscal year. All those in
10 favor?

11 (Chorus of ayes.)

12 CHAIRPERSON EAKELEY: Opposed?

13 (No response.)

14 CHAIRPERSON EAKELEY: The ayes have it.

15 MS. MERCADO: And Mr. Chairman, just one more item
16 on our committee, and you have this in your Board of
17 Directors multi-meeting Board book, which is dealing with our
18 quarterly report as far as the budget and expenses through
19 February 28 of 1994.

20 Again, I did mention a little while ago that we
21 were under the normal percentage of expenditures that we
22 have. And the report is from page 34 to page 43.

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1 CHAIRPERSON EAKELEY: It's under the Audit and
2 Appropriations tab, for those who have tabs.

3 MS. MERCADO: If you look at attachment A, deals
4 with the statement of funds available and fund balance. And
5 I will say that this whole report is based on an accrual
6 method, which was one of the methods that was recommended by
7 Grant/Thornton that we ought to do, so that we don't get into
8 a deficit mode by our own dealing in cash balances.

9 And then the attachment B just summarizes the
10 consolidated operating budget. And then C is just more of a
11 comprehensive worksheet and comparisons of expenses and
12 resources and grant recovers.

13 And then attachment D is the M&A expenses by
14 office, and attachment E is the comparison of the M&A budget
15 and actual expenses summarized by budget category.

16 MR. MCCALPIN: Did we get it? I thought attachment
17 C is the last one that I have.

18 MS. MERCADO: You have D and E. You don't have D
19 and E?

20 MR. FORGER: On the reverse side of C.

21 MR. MCCALPIN: Oh, here's D back here.

22 MS. MERCADO: Yours just got copied wrong.

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1 CHAIRPERSON EAKELEY: Maria Luisa, this is not an
2 action item but a report item? You've received it and
3 reviewed it and we're on target?

4 MS. MERCADO: Just a report. We received it and
5 reviewed it and the committee has asked questions of our
6 comptroller and everything seems to be in order. And unless
7 any of the other Board members have any questions, it's just
8 for your review.

9 CHAIRPERSON EAKELEY: All right, thank you very
10 much. Bill, Presidential Search Committee report?

11 CONSIDER AND ACT ON

12 PRESIDENTIAL SEARCH COMMITTEE REPORT

13 MR. McCALPIN: At the San Francisco meeting last
14 month, I reported on the status and the progress of the
15 search effort up until that point. Prior to our meeting on
16 Thursday of this week, we had received an additional 42
17 applications for the position, and at our meeting on Thursday
18 we received two additional, so that there's a total of 44
19 additional applications since the San Francisco meeting.

20 Nearly all of the applications we have received to
21 date are from eligible persons, although a very small handful
22 have been received from persons who were not lawyers and

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1 therefore were not eligible for consideration under the
2 statute.

3 Each of the lawyers applying has something in his
4 or her background to recommend that individual for the
5 position, and certainly for those who have sent their own
6 resumes, there has been an expression of interest. And in
7 addition, for a number of those who were nominated by other
8 persons, third parties, our contacts have elicited
9 significant interest in the position.

10 I would have to say to you that many of the
11 applications which we have received are of high quality and
12 deserve serious consideration, which we initiated at our
13 meeting on Thursday.

14 In the course of our meeting, we came to a
15 consideration and maybe a reconsideration of the fact that
16 our basic obligation is to secure the very best possible
17 talent that we can to consider for the office of president of
18 the Corporation, without any restriction, barrier or anything
19 else in the way.

20 So as a result of that, the Search Committee, sui
21 generis, spontaneously revisited the earlier conclusion that
22 members of the transition team would either be ineligible or

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1 CHAIRPERSON EAKELEY: Any discussion? Questions?

2 (No response.)

3 CHAIRPERSON EAKELEY: Hearing none, all those in
4 favor?

5 (Chorus of ayes.)

6 CHAIRPERSON EAKELEY: Opposed?

7 (No response.)

8 MR. BROOKS: Just one small question. Is there any
9 deadline, formal or informal?

10 MR. McCALPIN: No.

11 MR. BROOKS: First come, first served, I assume.

12 MR. McCALPIN: We have always said that we
13 established earlier a deadline of February 25 only for the
14 purpose of causing people not to delay inordinately. In view
15 of what I'm about to say, I think that we are not going to
16 meet that problem.

17 What I'm about to say is that we concluded, based
18 on the exhaustive though not by any means complete review of
19 what we had before us on Thursday, that it would not be
20 possible to conduct interviews at the May meeting of this
21 Board, as we had originally hoped to do. Instead, there will
22 be a further consideration of resumes, applications and

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1 nominations that we have before us at that time.

2 But it behooves anybody who would respond to the
3 spirit of the resolution we have just passed to respond
4 promptly. If anybody feels that there has been any barrier
5 or intimidation, respond promptly because we do intend to
6 make a final review of everything which is before us when we
7 meet in May, and at that time reach a conclusion as to those
8 persons who will be interviewed thereafter, probably in
9 conjunction with the June meeting.

10 So that there is that delay in the process, of one
11 month, that I wanted to report.

12 CHAIRPERSON EAKELEY: The delay is not due to any
13 lack of diligence and effort on the part of the committee.
14 The committee is extremely hard-working, met for six and a
15 half hours on Thursday, and that's in addition to the untold
16 hours that Bill has put in. But it's a process that needs,
17 like the regulations review and many others, to have as much
18 time as it takes to do it properly.

19 MR. McCALPIN: That's right. And quite frankly,
20 we had so many well qualified applicants and resumes before
21 us, and even in six and a half hours on Thursday, we couldn't
22 complete the task.

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1 CHAIRPERSON EAKELEY: All right. Any questions of
2 Bill or of his report?

3 (No response.)

4 PUBLIC COMMENT

5 CHAIRPERSON EAKELEY: I think we've already
6 received from the inspector general in executive session what
7 he intended to impart, so we're now at the public comment
8 part of our agenda, and I understand that we have several
9 clients from the NLADA board and PAG steering committee here.

10 I apologize for keeping folks out in the corridor
11 while we were doing some of our executive session work, but
12 we're delighted to have you with us. Rosie, would you like
13 to introduce our guests?

14 MS. NEWSOME: First I would like to introduce
15 Rosita Stanley, whom you all know, on your committee.
16 Lucille from Oklahoma City. Lillian Bullard from Michigan.
17 Mrs. Grady from Pennsylvania. Mr. Ward from Pennsylvania.
18 And Mr. Gene Kalanui from Cheyenne -- Casper.

19 I would just like to say these are our clients and
20 they're all here for meetings, and they are hard-working
21 clients, and these are some of the ones that I'll be speaking
22 to you about.

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1 CHAIRPERSON EAKELEY: Great.

2 MS. NEWSOME: Thank you very much for coming and
3 for all of the work you've done to advance the cause of equal
4 justice.

5 CONSIDER AND ACT ON OTHER BUSINESS

6 CHAIRPERSON EAKELEY: Any other public comments or
7 new business? I've got one new business item that is
8 scheduled, May 12, Atlanta, 9:00 or 10:00 for retreat. We'll
9 try and do it at 9:00. Let's do it at 9:00.

10 Friday the --

11 MR. MCCALPIN: This will not be an open session.

12 CHAIRPERSON EAKELEY: This will be a Board retreat
13 only.

14 MS. MERCADO: And no decisions are going to be made
15 about anything.

16 CHAIRPERSON EAKELEY: No decisions. It's worse
17 than executive session.

18 The Friday, I propose that committees meet
19 simultaneously starting at 9:00, and how about going from
20 9:00 until 3:00? Would that give Ops and Regs and Provisions
21 and Audit and Appropriations enough time to deal with -- my
22 thought would be to have committees 9:00 to 3:00, start the

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1 Board meeting, go from 3:00 to 6:00, take another couple of
2 hours on Saturday morning for the Board to conclude its
3 meeting, and then go straight into presidential search,
4 hopefully at 10:30 or so that morning.

5 MR. McCALPIN: Well, my only concern about that is
6 that we all find that when it gets to be mid-afternoon,
7 people get itchy to get to airplanes and that sort of thing,
8 and I'm just a little bit afraid that if we don't get started
9 on the search until 10:00, we'll begin to lose people before
10 we really finish what we're doing.

11 Personally, I would prefer, if we have to extend
12 the Board meeting, to do it Friday night rather than Saturday
13 morning, after dinner.

14 MS. BATTLE: I agree. I think that when we start a
15 Board meeting with the kind of critical issues that we have
16 to discuss, that we need to take it to completion, and if we
17 have to go late Friday, I'd rather do that, even if it means
18 starting search at 10:00 instead of 9:00 the next morning,
19 but without a meeting preceding the Search Committee.

20 MR. McCALPIN: If we have a Board meeting on
21 Saturday morning it's going to last beyond the time we've
22 allowed it.

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1 CHAIRPERSON EAKELEY: The only problem with the
2 Friday night Board meeting is that we lose an opportunity to
3 gather with local legal services programs, organized bar and
4 clients and have the kind of interaction that we found so
5 wonderful when we were in San Francisco.

6 MR. McCALPIN: Can you shorten the 9:00 to 3:00
7 period?

8 CHAIRPERSON EAKELEY: Well, that's up to the
9 committee chairs.

10 MR. ASKEW: Well, I don't need five hours. I need
11 three hours.

12 MS. BATTLE: If we shorten our agenda.

13 MR. McCALPIN: Well, we decided we're only going to
14 do 1607 and --

15 MS. BATTLE: If we shorten our agenda, we can
16 shorten the time.

17 CHAIRPERSON EAKELEY: 2:00 to 6:00?

18 MS. ASKEW: We're being invited to a reception
19 Friday night.

20 CHAIRPERSON EAKELEY: Let's try that, if that's
21 okay. I know that it doesn't address the other concern that
22 Buckley raised before, but we're going to be there working for

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1 three days solid and I think that some people would
2 appreciate the opportunity to get home Saturday night if they
3 can, while taking whatever time the Presidential Search
4 Committee requires.

5 Maybe since we're all going to be there we could
6 start a little earlier on Saturday than 9:00, maybe 8:30.
7 I'll let you work that out with Pat.

8 MS. WATLINGTON: Are those fares still cheaper if
9 you have to stay over?

10 CHAIRPERSON EAKELEY: I don't know. I don't know.
11 It depends on the carrier and where you're coming from.
12 There are some government rates that apply and they're better
13 than the weekend.

14 All right, any other new business? Old business?

15 (No response.)

16 CHAIRPERSON EAKELEY: Motion to adjourn?

17 MS. MERCADO: Do we want to encourage people to
18 contact their supporters when we go out for appropriations?

19 CHAIRPERSON EAKELEY: Absolutely.

20 M O T I O N

21 CHAIRPERSON EAKELEY: All right, motion to adjourn?

22 MR. ASKEW: So moved.

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MS. BATTLE: Second.

CHAIRPERSON EAKELEY: All those in favor?

(Chorus of ayes.)

CHAIRPERSON EAKELEY: Thank you all very much.

Safe trip home.

(Whereupon, at 2:25 p.m., the meeting of the Board
of Directors was adjourned.)

* * * * *