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LEGAL SERVICES CORPORATION

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MEETING OF THE BOARD OF DIRECTORS

- - -

MARVIN CENTER

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GEORGE WASHINGTON UNIVERSITY

- - -

October 19, 1978

9:00 o'clock a.m.

Morning Session

The meeting convened, pursuant to notice, Honorable  
Hillary Rodham, presiding.

BOARD MEMBERS PRESENT:

- |                            |                    |
|----------------------------|--------------------|
| HILLARY RODHAM             | ROBERT J. KUTAK    |
| ROGER C. CRAMTON           | GLEE S. SMITH, JR. |
| J. MELVILLE BROUGHTON, JR. | GLEN C. STOPHEL    |
| STEVEN L. ENGELBERG        | RICHARD TRUDELL    |
| CECILIA D. ESQUER          | JOSEPHINE WORTHY   |
| REVIUS O. ORTIQUE, JR.     |                    |

STAFF PRESENT:

- THOMAS EHRLICH, President
- E. CLINTON BANBERGER, JR., Executive Vice-President
- STEVE WALTERS, Assistant General Counsel
- FRANCES HENNIGAN, Finance Chief

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P R O C E E D I N G S

1  
2 CHAIRMAN RODHAM: Let's get the meeting started. We  
3 are having some problems with the microphones, so if everyone  
4 will speak up loudly and those in the back of the room, if  
5 you will take your seats please, I think we can start with  
6 the first item on the agenda, and that is the adoption of  
7 the agenda.

8 MR. ORTIQUE: At least two of the people who are  
9 committee chairman may have to leave at the end of the day.  
10 If that be true, I would suggest because it appears to me that  
11 we are going to have to discuss the budget a great deal, I  
12 would suggest that we get those reports. From what I have  
13 read, they seem to be very brief reports, particularly that  
14 of the Personnel Committee.

15 I would hate for that chairman of that committee to  
16 remain all day and not have a chance to make his report.

17 CHAIRMAN RODHAM: We have spoken with the chairmen  
18 in question, and they have very graciously agreed that the  
19 reports by the Personnel Committee and the Appropriations and  
20 Audit Committee are so important that they would want to be  
21 here, and if we are unable to read their reports before they  
22 have to leave, one of their committee members would make the  
23 report for them.

24 I appreciate your mentioning that because that is  
25 one of the reasons that we hope to work as long as possible

1 today. Any other questions on the agenda?

2 MR. TRUDELL: The purpose of having the meeting here  
3 in Washington was to have it in conjunction or because NLADA  
4 was having their annual convention, and at the San Diego  
5 meeting in May, I think we should allow some time on the agenda  
6 for participation from the audience. The fact that so many  
7 people have come to Washington, D. C., for those to come not  
8 only to be exposed to the discussion of the budget and I was  
9 wondering if there should be some time set aside to allow for  
10 dialogue.

11 CHAIRMAN RODHAM: I would assume that as we spoke  
12 about the matter, those persons of the public and other  
13 interested parties that wish to comment would comment at that  
14 time and any subject that is not directly related to one that  
15 is on the agenda, would be taken up under other business at  
16 the end.

17 So I think as I told a few members of the public  
18 this morning, I think their being able to comment on the matter  
19 that is currently under discussion is certainly reason for us  
20 as we go to make a decision.

21 I hope everyone in the audience understands that you  
22 are most welcome. We have a microphone set up in the middle  
23 aisle, and you are welcome to comment on matters as they are  
24 taken up on the agenda.

25 All those in favor of adopting the proceeding, please

1 signify by saying aye.

2 (Chorus of ayes.)

3 CHAIRMAN RODHAM: Opposed?

4 (No response.)

5 (Whereupon, the pending motion  
6 was passed.)

7 CHAIRMAN RODHAM: The next item is the approval of  
8 the Minutes of the July 6-7 Meeting. One thing that I am  
9 unprepared to do is to be as punctilious and careful as the  
10 former chairman as far as punctuation and spelling which he  
11 always brought to our attention in the minutes. I have Roger,  
12 you have done it!

13 The only thing I would point out is that on page 4,  
14 in reference to Mr. Esquer, should be changed to reflect the  
15 sex. Are there any other changes?

16 MR. KUTAK: I recall that Tom Ehrlich is a member  
17 of the Board, ex-officio, but a member of the Board, and I  
18 wonder if on page 1, it should not reflect other than also  
19 present, that our president is a member of the board and I  
20 wonder if he should not be included in the category of  
21 directors.

22 MR. EHRLICH: Is that my option or are you insisting  
23 upon it? Thank you very much, I appreciate it.

24 CHAIRMAN RODHAM: Any other additions or corrections  
25 to the Minutes?

1 MR. CRAMTON: The word proceedings in the second  
2 full paragraph on page 6 is spelled wrong.

3 CHAIRMAN RODHAM: Ms. Esquer also mentioned that last  
4 night. I will give you both due credit. Also on page 10, the  
5 date July 13th should read July 14th. Any other additions or  
6 corrections to the Minutes or advice about spelling and  
7 punctuation? If not, are the minutes approved as corrected?

8 MR. SMITH: So moved.

9 MR. ENGELBERG: Second.

10 CHAIRMAN RODHAM: All those in favor?

11 (Chorus of ayes.)

12 CHAIRMAN RODHAM: Those opposed?

13 (No response.)

14 CHAIRMAN RODHAM: It is unanimous.

15 (Whereupon, the pending motion  
16 was passed.)

17 CHAIRMAN RODHAM: The first report that we will take  
18 up is a report by the committee on Provision of Legal Services.  
19 We will be talking first about the paper on "Support: Policies  
20 and Options for 1979 and Beyond," and then a study mandated  
21 by Section 1007(h) of the Legal Services Corporation Act and  
22 then we will take up the Legal Services Institute Proposal,  
23 and finally, we will discuss the Reginald Heber Smith Program.

24 Mr. Ortique.

25 MR. ORTIQUE: Thank you.

PAPER ON "SUPPORT: POLICIES AND OPTIONS  
FOR 1979 and BEYOND"

1  
2  
3 MR. ORTIQUE: I would like to first call on Alan  
4 Houseman and whomever else he wants to bring up to this table.  
5 At the meeting of our committee with reference to the first  
6 item, Alan Houseman and Judy Riggs and members of the staff  
7 discussed the development of the report entitled, paper on  
8 "Support: Policies and Options for 1979 and Beyond."

9 After discussion of that paper, the committee  
10 suggested to the staff that they ought to prepare an outline  
11 of their proposals for discussion at this October meeting.  
12 The committee had a feeling that we should have more discussion  
13 on the proposal outlined to us and that ample opportunity be  
14 given to the Clients Council and to the field program to  
15 prepare and submit written comments on the staff paper which  
16 can be outlined to us at this time. Alan.

17 MS. RIGGS: Let me start. The support paper which  
18 you all have is the result of work that really began last  
19 spring by the staff under the direction of Clint Bamberger,  
20 and extensive activity through the community on these issues.

21 Clint broght together last spring the responsible  
22 people in field services, program support and the research  
23 institute as well as people in the executive office to begin  
24 to look at the overall activity that came under the heading of  
25 support and to begin to plan for the future in a coordinated  
way.

1 At about the same time as you will recall, the  
2 corporation received a report from Brian Paddock and John  
3 Douglas on the question of individual Washington representation  
4 for the services' clients which raised many issues that  
5 directly related to support and particularly, the activities  
6 of the National Support Center, the need for national support  
7 in the areas that were not now being covered by support  
8 services.

9 The staff discussions around support let pretty  
10 quickly to a realization that what we really needed to do  
11 was to put some things down on paper, some ideas, some options  
12 and to begin to explore those as broadly as we could within  
13 the legal services community.

14 Alan and I were asked by the staff to put together  
15 the thick background discussion document you recall receiving  
16 in about June on support options which tried to outline in as  
17 much detail as possible what was going on now in national  
18 support and technical assistance, and to try to set out some  
19 options for the future.

20 Working with PAG and the National Clients Council,  
21 we put together a process which we hoped would lead to some  
22 meaningful discussions and considerations about the legal  
23 services community as a whole. We developed an ad hoc group.  
24 We had about 40 people from the legal services community  
25 and included clients, staff attorneys, management attorneys,

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1 directors of small and large programs and people from all  
2 states and many local board members.

3 We had one large meeting of that group for two days  
4 to consider the background paper, the issues that were raised  
5 there and then three subgroup meetings centered around the  
6 issues of national support and state support and training,  
7 which included national training advisory committee as well.

8 Further discussions within the staff centered around  
9 a definition of a draft and a policy paper which they considered  
10 at another meeting of the people in the field, and finally  
11 the support document dated September 14th which you have, in  
12 which we have the suggestion of the committee outlined in  
13 part one of the meeting book which you have before you today.

14 To summarize very briefly, the best way to character-  
15 ize where we are going is to talk about 1979 as a year of  
16 planning and transition during which the capacities to carry  
17 out support activities are increased in local programs at  
18 the state level and through national programs, rather than  
19 increasing the delivery of support activities by the corpora-  
20 tion itself.

21 Training is the first topic in the support document  
22 and basically in 1979 the Office of Program Support is under-  
23 taking the first year of a plan which will lead away from  
24 national event models as the principal mode and more toward  
25 development of state and local training capacities in state

1 and local programs.

2           The Office of Program Support over time will become  
3 more to the developer of training materials, modules, tech-  
4 nical assistance and helping programs and developing their  
5 own capacities to deliver the training programs. We antici-  
6 pate that some programs will more quickly make the transition  
7 than others and in some places, there still will be the need  
8 for some national or regional events to train trainers or  
9 run more substantive strategy training events for experienced  
10 attorneys and those kinds of things.

11           But the basic delivery of skills and training will  
12 over time be shifted to state programs. That is really the  
13 thrust of the training and staff position on training.

14           A position which has been developed with the  
15 assistance and active involvement of the advisory committee --

16           MR. ORTIQUE: Before you move on Ms. Riggs, have  
17 you received any reaction from the field programs or from  
18 the Clients Council to what you have proposed in that area,  
19 the staff proposal in that area?

20           MS. RIGGS: I hesitate to fully characterize the  
21 views because we haven't received the views of everyone. The  
22 staff position was developed by the national advisory committee  
23 and they worked with the staff, and it generally has the  
24 full support of those groups.

25           There is concern, however, that the corporation this

1 year will be undertaking in a much more specific way, training  
2 and that responsibility has been assigned to paralegal train-  
3 ing development unit in the Office of Legal Support, and there  
4 is an attorney who will be developing plans in that area.

5 MR. ORTIQUE: What I am concerned about is that  
6 Board policy has been in the past that the training was primar-  
7 ily the responsibility at the national level. Is that not  
8 true?

9 MS. RIGGS: Yes, I believe that is true.

10 MR. ORTIQUE: And now the Staff has urged that the  
11 training is going to be shifted to the state level. We have  
12 had all sorts of reasons and suggestions, but what I am  
13 concerned about is that that is going to have to be a policy  
14 to be adopted by this Board.

15 MR. BAMBERGER: I think this is still national  
16 responsibility. It is still a division of the function.  
17 Historically, it certainly was possible for the national  
18 organization to do all of the training, to produce material,  
19 to train the trainers and given the size of the legal services  
20 community, the staff, the people that want the training, that  
21 is much more difficult.

22 Secondly, as programs have grown in size, it is  
23 certainly more efficacious to provide a training capacity  
24 within the programs themselves and some programs have, in  
25 fact, hired persons who are responsible for training.

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1           It will still be the national responsibility in  
2           consultation with programs in the client community through  
3           need surveys and other methods to determine what kind of  
4           training ought to be delivered, and as Judy has said, it  
5           would be the responsibility of the Office of Program Support  
6           to produce the training materials. We would train the trainers  
7           to provide as much assistance as possible for the programs.

8           MR. ORTIQUE: I certainly don't want to be mis-  
9           understood and I don't want to belabor it. I have no problem  
10          with what we have done in the past. What I am concerned about  
11          is that the program is going to have to make some decisions  
12          now.

13          Now it is no secret when a program in Georgia  
14          decides -- in the state of Georgia -- that they have their  
15          own training program and it is developing materials and it  
16          is doing a lot of things that other states or other programs  
17          might feel that they just can't do except at the expense of  
18          delivering legal services to the client.

19          I think that the staff has to keep this Board informed  
20          on the progress that certain areas are making as opposed to  
21          no progress being made in other areas and what effect it has  
22          on the delivery of legal services because I think you are going  
23          to get all day from Board people that we are concerned about  
24          delivery as opposed to development of larger and larger staffs.

25          Certainly, I am not saying that we don't need larger

1       staffs, but merely the fact that delivery has been the number  
2       one objective of legal services in the past, and that is what  
3       we are concerned about. Now I don't want us to belabor the  
4       point. We are making progress in that direction and you will  
5       keep us informed.

6                 But I certainly wanted to express what I feel are  
7       great concerns in terms of any shift in philosophy or any  
8       message going out to the field saying, look for training  
9       programs because you can be cut loose.

10                MR. HOUSEMAN: I think Judy indicated at the  
11       beginning that this is a transitional period, and also a  
12       period of experimentation and development of this approach.  
13       And there were some people within this community who thought  
14       that we could shift within a year essentially to state,  
15       multiple training. A number on the community and a number  
16       on the staff thought that that would not be possible in that  
17       period of time and it would take at least three years to  
18       as we envision now to set things up, and I think this  
19       transition period would give the time for the development of  
20       careful plans by people responsible for training in the  
21       state and local programs.

22                I agree with you that it appears that the shift  
23       is not in the interest of quality training. It should be  
24       slower. I also agree and the staff agrees that there may be  
25       a need for a continuation in the National Clients Training

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1 Administration in a variety of areas, but that gradual shift  
2 seems to be the most effective way.

3 MR. ORTIQUE: Would the staff be in a position to  
4 urge some additional comment from the field. I am thinking  
5 about those programs and in the south and southwest, that in  
6 my view just can't afford at this time unless there is some  
7 major increase in their budget to develop a strong training  
8 program, where perhaps in the northeast or the midwest, they  
9 may be ready to gear up and may be able to do that sort of  
10 thing.

11 I would like to have discussion of that at the  
12 meeting in November if it could possibly be arranged.

13 MS. RIGGS: One of the things that I think is  
14 important to recognize is that while the staff sees the  
15 responsibility of training shifting over the next three years  
16 to state and local programs, the resources and training will  
17 be continued to be budgeted as a separate item.

18 It is not as if we are expecting programs to pick  
19 up this extra responsibility from the ones they have had in  
20 the past. One of the things is that the National Advisory  
21 Committee has articulated itself clearly, more clearly than  
22 this morning, is that what is ultimately happening is that  
23 instead of having legal services or attorney or paralegal  
24 or client train at an event once a year for three days, the  
25 training is something that is built in in an ongoing way to the

1 program and becomes part of the total environmental program.

2 So you are continuing to be trained in the program  
3 as you work.

4 MR. TRUDELL: It sounds good, and I think it looks  
5 good on paper, but I think you try to rationalize that with  
6 the fact that you are concerned about turnover, and if you  
7 try to build in some kind of training capacity as was pointed  
8 out, that you are primarily concerned with the delivery of  
9 services and not bogging down at a program, but with the  
10 responsibilities.

11 Therefore, it should be said that the Board should  
12 be kept apprised of the development of this task.

13 But the reshaping of the Office of Program Support,  
14 if you look at it from even the delivery factor of training,  
15 requires money, and I think later in the day as we get into  
16 the budget program, we begin to find problems in terms of  
17 receiving a large increase.

18 I think when you shift the training responsibility,  
19 it should be done for a number of reasons and one begins to  
20 deal with a whole host of considerations and like I say, it is  
21 a three year process and I feel that we should be kept  
22 informed on a regular basis.

23 MR. ORTIQUE: Just to further outline so there will  
24 be no further misunderstanding, I think the concern that Dick  
25 is expressing and that I am expressing as well, and I am sure

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1 other members of the Board share is that even though the money  
2 is going to be extra money, let's say in quotes, there are a  
3 number of programs out there that would feel that any extra  
4 money should go to staff development so as to eliminate burn-  
5 outs or increase delivery because they have been so short of  
6 these monies in the past where some of the other programs  
7 might feel that it is very possible that we can spend this  
8 money on training and we prefer doing our own training anyway.

9 I think you understand what we are getting at.  
10 We have some problems in reference to the 1007 (h) study  
11 issue and Congress has mandated that we will report to them  
12 on certain specific items that they have enumerated, and I  
13 think we have expanded that just a little bit.

14 CHAIRMAN RODHAM: There may be some questions from  
15 other Board members concerning other aspects of the proposal  
16 such as the national support centers and the state support  
17 centers. Could we give them an opportunity to perhaps briefly  
18 describe the changes in the national support and state  
19 support and technical assistance and if any Board member has  
20 any questions, we could get those out on the table, too.

21 MR. ORTIQUE: Of course.

22 MS. RIGGS: The major shift from the past is as  
23 you will recall the background paper and discussion document  
24 discussed in detail a variety of functions that either are or  
25 might be undertaken by the national support centers falling

1 into four general areas.

2 They are basically in the field of support to legal  
3 services program staff, including the response from individual  
4 requests. A second area is actual representation of clients,  
5 usually as co-counsel for local programs. A third area is  
6 national policy representation and support and fourth, the  
7 developing of strategies and communications networks and  
8 coordinating representation throughout the areas for which  
9 the national support centers are responsible.

10 But the staff proposes again that with specific  
11 support or recommendation of the ad hoc working group, is that  
12 the support centers begin to develop work plans that address  
13 with some specificity these four areas, particular and  
14 relative needs in those areas are particular substantive areas  
15 in which the support services are working and a plan for  
16 carrying out those activities with resources now available or  
17 with resources that may become available in the future, that  
18 those work plans be developed while responsibility for the  
19 work plans and approval of the work plans be with the Board.

20 Support centers have their work plans developed in  
21 consultation and with participation of local program staff  
22 and clients, as well as the center's own board and staff, but  
23 with input from legal services workers and clients around the  
24 country.

25 Those work plans would then be the basis of

1 corporation decisions on funding for support centers in the  
2 next year.

3 In addition, and as part of the overall support  
4 activities, the corporation will through the research  
5 institute will look at the need for support in new areas or  
6 areas that are not now covered by support centers, for  
7 example, rural areas.

8 We recognize that the corporation will be extremely  
9 reluctant and conscious about funding a totally new support  
10 center but they, in fact, look toward the funding of some  
11 support activities in these areas either by expanding activity  
12 in the existing support center or by finding some other pro-  
13 gram.

14 In 1979, we would ask support centers to address  
15 particularly two needs that have been articulated most  
16 clearly by the ad hoc working group and by the Next Steps  
17 report on the development of manuals and materials that are  
18 needed by local legal service workers and the need for  
19 national policy representation and support linked to the  
20 rest of the work of the support system.

21 MR. ENGELBERG: Can you tell me what the staff's  
22 feeling is about Washington advocacy type support and how  
23 this will be handled in the next year or two in light of  
24 the initial objections of the past?

25 MS. RIGGS: The Paddock-Douglas Report recommended

1 opening a Washington office or Washington counsel who would  
2 work generally on representation of a wide range of issues in  
3 Washington. The staff has rejected that approach, the  
4 principal reason being that it was our judgment after a lot  
5 of consideration and consultation that in fact Washington  
6 representation or national policy representation was only one  
7 part of the work that needed to be done around specific issues  
8 and it was important to link that directly to other activity  
9 going on around the area.

10           The experience over the past year indicate that  
11 they are ready for national support centers now and they  
12 have the staff permanently located in Washington, for example,  
13 the National Student Law Center has had some for quite some  
14 time and they made the decision that resources were needed for  
15 that in the past year; housing and health, et cetera, have  
16 all opened the Washington offices as well. Housing and health  
17 were once issues confined to the welfare centers, but now  
18 national centers are becoming involved in these and other  
19 issues as well.

20           The Migrant New Action Program, of course, if  
21 located totally in Washington and it is our judgment that in  
22 looking at that activity and in the judgment of the people  
23 who have worked with those programs, and they have found that  
24 those models worked well, that the work of the program done  
25 in Washington is closely related and grows out of the need for

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1 work around specific legislative or administrative issues.

2 That is the approach that we see for the future. An  
3 that does raise the problems of gaps. There obviously are  
4 areas that are not now covered by national support centers  
5 where there may be a need for more representation, but there  
6 also may be a need for other types of support as well.

7 It is important to understand that a very essential  
8 part of the work of a support center in Washington is the  
9 support to local programs, improving the capacity for the  
10 local legal services attorney or paralegal in the local  
11 office to make a judgment, for example, what is the best  
12 approach for that clients' program? Is it through litigation  
13 or maybe a legislative or administrative change that would be  
14 possible.

15 Some of the support centers in Washington have  
16 established effective networks with local program staffs so  
17 that the work done in Washington is work that has grown out  
18 of planning by a large number of legal services people and  
19 involves legal services' attorneys and clients from the  
20 programs, as well.

21 MR. ENGELBERG: Another related question. How  
22 does the corporation or does it support in any way through  
23 technical assistance or whatever, efforts by local programs  
24 to do lobbying at state and local levels? My understanding  
25 is that there are a number of programs that do that. But is

1 there a training function for that or how does that operate?

2 MR. HOUSEMAN: Yes. First of all, we find some  
3 units on a state or local level that do legislative and  
4 administrative work and some are tied up with programs that  
5 exist in the state. So there is training that has been  
6 conducted in the past regarding legislative and administrative  
7 representation on a state and local level.

8 There is also a section of the Clearinghouse which  
9 discusses state and local legislation and provides a clearing-  
10 house exchange. So that there are, I think, those kinds of  
11 efforts going on, not in every state, but in most every state,  
12 there is some activity either through a special office of  
13 something like that focussing on legislative and administrative  
14 representation at the state and local level. At the local  
15 level, it is the primary responsibility of the program and  
16 its jurisdiction.

17 But there has been serious work around that and it  
18 is my understanding that it has been accomplished through  
19 team training.

20 MR. ENGELBERG: Did the support centers take the  
21 position on the Paddock-Douglas report or was there any con-  
22 census by the support centers on a unified Washington office?

23 MR. HOUSEMAN: I am sure that they will take a firm  
24 position. There were several working papers and they generally  
25 had the agreement of most of the support centers which

1 essentially opposed the creation of such an office and we  
2 thought of an approach roughly along the lines we have taken  
3 here.

4 There were differences within each group, but I  
5 think an accurate characterization would be that they generally  
6 oppose the establishment of the office of Washington counsel,  
7 and they would favor increased activity in their own already  
8 established offices and they would prefer to go that way.

9 There was also some discussion by several people  
10 in the support centers about combining offices and working  
11 more closely together. That is an ongoing process. That  
12 may or may not happen in the next several years.

13 But the general reaction was somewhat along the lines  
14 of the recommendation of the staff.

15 MS. RIGGS: And somewhat more significant than that,  
16 was that this was the topic of extended discussion by the ad  
17 hoc group that came together in Washington on two occasions,  
18 and included many more people than just national support  
19 centers, and there was really a divided sense in that group  
20 about the reports of consolidated offices and no discussion  
21 in terms of priority or funding.

22 There was a strong sense from that group and a  
23 specific resolution with the public people dissenting and the  
24 national policy representation support was an essential need  
25 that should be undertaken by support centers.

1           The general reason given by those opposing national  
2 policy representation was either because it was currently  
3 being met by somebody else and the particular substantive  
4 issues just did not lend themselves to legislative and  
5 administrative resolution at the national level.

6           CHAIRMAN RODHAM: Do you want to briefly describe  
7 the state support functions.

8           MS. ESQUER: I just wanted to generally make the  
9 same observations that I made at the committee meeting, and  
10 that is one, to congratulate Alan and Judy on the series of  
11 discussion papers that they have presented because I think  
12 that they have really brought out the issues that are involved  
13 in this change in policy, and second, to support very strongly  
14 the statement that one of the things involved here will be  
15 increased accountability in the local programs and in the  
16 field, increased responsiveness by the support centers.

17           But I feel that the discussion papers have brought  
18 forth the issues, and I think the revised version is something  
19 that seems like an average area of compromise and I just support  
20 the efforts that are being made in this area.

21           MR. ORTIQUE: One thing that I really didn't want  
22 to get into, but I have to mention now that it seems to me  
23 that our accountability to Congress will come into question  
24 at some point, and it may not be too long in terms of what all  
25 of this means, not only budget, but for getting across certain

1 ideas or philosophy and so forth, and then we had better be  
2 mindful at some juncture that we are going to make some  
3 responses in this area, particularly if we start hearing from  
4 some governors who say they have gone far afield of what we  
5 think of as usual legal service activities, and they now are  
6 doing things that we just don't think are appropriate.

7 I am sure that there still must be some governors  
8 out there like that. I would urge us to be ready to respond  
9 when that time comes.

10 MS. RIGGS: That is very important and it is important  
11 in training as well. And administrative and legislative  
12 representation is representation that takes place within the  
13 particular framework and it is directly related to the repre-  
14 sentation.

15 MR. STOPHEL: I think that is an important point.

16 MR. CRAMTON: Do you have an idea of the amounts  
17 spent in Washington now?

18 MR. HOUSEMAN: The support centers are just now  
19 submitting their work plans for fiscal '79 and the contracts  
20 went out in January and their work plans are due in November,  
21 and those work plans will, I think, provide a basis to make  
22 both the judgment about the current activity and past activity  
23 or future activity with more specificity than I could probably  
24 give.

25 It is clear that we have a significant amount of

1 activity by some centers today, particularly those that have  
2 Washington operations and a number of other centers have done  
3 some fairly effective representation in Washington. It is  
4 hard to hazard a guess or anything else, but some of the  
5 centers have undertaken a significant amount, certainly not  
6 a majority or anything like that, but the centers that have  
7 Washington operations are spending a considerable amount of  
8 their time in federal administration and representation.

9 MR. CRAMTON: One more question for the Chairman  
10 of the Committee on Provision of Legal Services. Has the  
11 Committee received the paper indicating the cost estimates  
12 and the manner in which this would be performed?

13 MR. ORTIQUE: The Committee received it, yes, but  
14 we have not given serious thought to the implication that  
15 that is an ongoing situation that must be covered, as I say,  
16 I felt that it was a little premature for us to get into that  
17 detail in view of the fact that the Committee has not dealt  
18 in my view in a fashion and we have to be prepared to deal  
19 with it in the immediate future.

20 I would suspect that at the New Orleans meeting as  
21 well as at subsequent meetings, we will see further develop-  
22 ments, but there are all kinds of implications and ramifica-  
23 tions that we have to be prepared to meet head on in the not  
24 too distant future.

25 MR. CRAMTON: I agree with you, but sometimes we

1 seem to be making fundamental changes by kind of a passport  
2 report system which then assembles the thinking or the  
3 absorption of the various interested people and they come up  
4 with a compromise or some kind of a proposal and then it is  
5 sort of aired for discussion. In the meantime, decisions are  
6 made and they become really a part of the corporation policy  
7 decisions.

8 We have to struggle with the policy issues themselves  
9 and then make a recommendation to the Board as to whether  
10 their action is desirable or not.

11 MR. TRUDELL: What you are saying is that the  
12 Board should not entertain or come forward with any  
13 recomenations because we haven't had enough time to discuss  
14 it to come forward with a recommendation.

15 MR. CRAMTON: It certainly is always advisable  
16 to ventillate things and I just don't think that we have  
17 had enough time or discussion on these matters.

18 MR. EHRLICH: I might just say that the area that  
19 we are now talking about is one part, the key part, the  
20 central part in terms of the corporation's activities. The  
21 wide range of interrelated efforts seem to us and still seems  
22 to me, most important to focus on the broad, basic directions  
23 and I think we have the materials necessary and I would  
24 hope that the thinking would continue.

25 You have talked about the broad policy directions,

1 but we still need to focus on how they are implemented. It  
2 is very hard to deal with single interaction and the different  
3 responses from the various groups, and we have to be sure  
4 that we are following the policy guidelines of the Board.

5 CHAIRMAN RODHAM: I find the charts very useful  
6 and I hope that the staff continues to prepare such charts  
7 to demonstrate very clearly the change in current policy  
8 and also the budget implications. I think that can be very  
9 useful and provide the type of information that we need.

10 We want to go ahead now and finish the report  
11 on support, so any questions in the remaining areas can be  
12 raised.

13 MR. HOUSEMAN: The state support essentially this  
14 year, we are suggesting a planning process to go on each  
15 day to involve all the local programs in that state, to try  
16 to address a number of the functions outlined in the documents  
17 with regard to state support.

18 The Director of Field Services feels that he is  
19 going to establish a committee to assist him in the develop-  
20 ment of policy and there will be some planning money made  
21 available for this and this is the beginning of a fairly  
22 extensive planning policy within the area of state support  
23 which hopefully by next year will lead not only to the  
24 development of concrete planning but the funding of increased  
25 activity and state support.

1           This approach of accepting the funding question is  
 2 generally accepted by the field. I should make one thing  
 3 clear and that is that the staff position is not that there  
 4 is any one particular instruction that is the most effective  
 5 that should be mandated, required or even suggested to the  
 6 states and local programs.

7           But what evolves at the state and local level must  
 8 be peculiarly addressed to the problems and the programs and  
 9 the personnel in that state.

10           And while there are a number of models that exist  
 11 that the states can chose, the staff does not believe that any  
 12 one in particular goes for all states. Therefore, it will be  
 13 the planning process for the Regional offices to attempt to  
 14 develop throughout this year effective state support mechanisms  
 15 within each state, and that would essentially be the direction  
 16 we are heading in state support with regard to technical  
 17 assistance.

18           The technical assistance money is now in the Office  
 19 of Field Service, and the technical assistance will be provided  
 20 through the regional offices upon request. There is an  
 21 effort in the papers to assure effective technical assistance  
 22 to programs needed; at least for the time being, the staff and  
 23 director of field services have rejected funding of major  
 24 technical assistance activities by the corporation through an  
 25 outside entity.

1           That policy is, of course, subject to reevaluation  
2 as time goes on. That is technical assistance and state  
3 support.

4           CHAIRMAN RODHAM: Any questions from the Board on  
5 those two areas?

6           MR. CRAMTON: I have one more question and this  
7 has to do with the chart on support on page 19. It proposes  
8 an increase in training from one million dollars approximately  
9 in fiscal of '75 to nearly seven million in fiscal year '79.

10           The increase I think is larger than the increase  
11 in the number of people. I would also add that once you  
12 develop good program material that it could be used and I  
13 just wonder if that is the kind of progression that we need.

14           MR. HOUSEMAN: The chart, of course, has been made  
15 to highlight as much as possible the kinds of shifts. The  
16 fiscal '75 figure was essentially the national training  
17 program and other training activities did go on in '75.  
18 For example, the Management Assistance Program did some  
19 training as well and that is not reflected in that number.

20           That is one factual point about those figures.  
21 In terms of the shift, I think the figures of '78-'79 also  
22 reflects management which was not being done in '75, and  
23 which task force reports have strongly encouraged management  
24 and training. Also that figure represents client training.  
25 And that is huge amount of training that was not done in '75,

1 and is only begun being done in '78, and expanded in '79.

2 MR. CRAMTON: My concern is only that in being sure  
3 that the increased dollars are beneficial, that this is the  
4 best way to spend the dollars. I would be a little happier  
5 if the local programs were allocated parts of the budget for  
6 the training that they thought they perhaps needed.

7 I am always fearful when decisions are made that  
8 imply not that training is necessary, but that they need it  
9 in a particular form which is provided from "on high," and  
10 that is the way the money is spent, and they do not have much  
11 option locally as to whether they get it or how they get it  
12 or what they get.

13 MR. HOUSEMAN: But there are two things. The  
14 training that is being developed now is being developed  
15 through an advisory committee and based on fairly extensive  
16 needs assessment. Secondly, training money does reflect  
17 the fact that it is to be used for state and local training.  
18 Some part of that money does go back to state and local  
19 programs and encourages state and local programs to have on-  
20 going training.

21 What I think is evolving this year is a careful  
22 mixing and careful looking at a fairly comprehensive but  
23 accountable plan to train that will address itself to the needs  
24 of state and local programs, and I think we are moving away  
25 fairly strongly from the notion that training is dictated from

1 Washington.

2 I think what is happening, particularly in the last  
3 six months, is an evolution where training is going to be  
4 more responsive to the needs of state and local programs  
5 based on the input and evaluation and the assessments that are  
6 going on right now.

7 MR. CRAMTON: That is the way I read the policy  
8 change now, too.

9 CHAIRMAN RODHAM: Mr. Ortique, do you want to go  
10 on?

11 MR. ORTIQUE: Yes.

12 STUDY MANDATED BY SECTION 1007(h) OF THE  
13 LEGAL SERVICES CORPORATION ACT

14 MR. HOUSEMAN: I think there are three issues which  
15 I would like to raise. The first is the study of progress  
16 for an extension until the March Board meeting. Last week,  
17 John Dooley and Kennie Lewis and I met to discuss the  
18 progress we were making on the 1007(h) study.

19 We had a fairly realistic assessment of the work.  
20 We decided at that time that we could not make a study that  
21 could buy time for full consideration of the final report at the  
22 December Board meeting, and that we would do much better if  
23 the final report, the draft report, was given consideration  
24 by the Board was delayed until March.

25 The primary reason for that decision, not the only

1 reason, but the primary reason was because of data selection  
2 and analysis problems. The memorandum which was sent to each  
3 of you from Tom and myself attempted to outline as best as we  
4 could in a short memorandum the state of these data selection  
5 and analysis problems.

6 We are proceeding with extensive staff involvement  
7 at this point in attempting to reflect data and to complete  
8 the analysis. We are using not only myself, John Dooley, full  
9 time, Kennie Lewis and three research assistants virtually  
10 full time plus others on my staff and other consultants that  
11 we pick up periodically to meet the technical needs that we  
12 have.

13 It is our judgment that we can complete the data  
14 analysis and data collection sometime in December and it is  
15 our judgment that we can have or be prepared for a thorough  
16 discussion of an extensive and long report to be considered  
17 both by the committee and by the Board at its March meeting.

18 It is our judgment as well that it would be best to  
19 focus our energies at this juncture both in completing the  
20 analysis of the data and secondly, in extensive discussion of  
21 the issues that are posed by the 1007(h) report.

22 As you know we prepared an issues paper which is  
23 merely that, highlighting some of the issues, not all of the  
24 issues, but within the 1007(h) study. That paper has been  
25 circulated among the staff and several more or planned, and

1 that has been circulated to the working groups that we have  
2 set up around each of these areas.

3 And the issues raised there are significant and will  
4 require a significant discussion, a substantial amount of  
5 discussion within the field, within the staff, and within the  
6 working groups in order to reach the best possible judgments  
7 we can.

8 So both for data collection and analysis and the  
9 need for careful consideration, the issue raised by 1007(h)  
10 leads to the conclusion that we have reached.

11 There were, of course, three alternatives. One,  
12 stop what we are doing now, write up a report, stop the data  
13 collection and consider it at the December Board meeting and  
14 submit it to the Congress.

15 The second alternative would be submit a report to  
16 Congress. The third would be what we are proposing.

17 We rejected the first alternative because it would  
18 not provide the kind of thorough analysis that is necessary  
19 in order to make informed policy decisions.

20 The second approach, the interim report, was rejected  
21 for two reasons. One, to proceed along an interim report  
22 basis would require us to spend valuable time now in drafting  
23 an interim report, time which we think is better spent on the  
24 data collection and analysis and discussion of the issues.  
25 Simply, the quality of that report could not be very good and

1 we would essentially have to stop now, write an interim report  
2 and then proceed with data collection and analysis.

3 We have, before considering any of these three  
4 alternatives, we talked with the government relations office,  
5 Judy Riggs and members of the senior staff with regard to the  
6 possible Congressional reaction. It was the judgment of them  
7 and they can go into that in greater detail, that there would  
8 not be any particular difficulties with Congress. There  
9 would be an effort to contact the key subcommittee chairmen  
10 to let them know the status of this. It was their judgment  
11 that it would not pose any problems to proceed along the lines  
12 that we are suggesting which would result in an extensive  
13 discussion both from the staff and the Board and also a draft  
14 report for the discussion of the Board in March.

15 That is our proposal to you. It is our judgment  
16 that there will be no problem in completing the report within  
17 that time frame. There will be plenty of time for the kind  
18 of study that is necessary.

19 MR. ORTIQUE: Madame Chairman, I would just like  
20 to say that we were given essentially this report at our  
21 committee meeting, and members of the committee recognized  
22 that we were going to be in this position at this Board meet-  
23 ing.

24 My concern is one that perhaps one does not say in  
25 polite society, but it has to do not just with this report

1 which I would urge the Board to agree to the third proposal  
2 on behalf of our committee, but with the notion that this  
3 is not the first time that this Board has heard of foot-  
4 dragging out there in the field in terms of material that is  
5 essential.

6 This Board has to take the heat from Congress if  
7 there is any heat that failing to report within the time that  
8 they are supposed to report. It seems to me that somewhere  
9 along the way and I would suspect the regional directors would  
10 have to lend assistance in this effort to get groups to  
11 respond, particularly when the corporation included them has  
12 been mandated to do a certain job.

13 Now I know that the number one excuse or the number  
14 one reason is that we are so busy delivering legal services  
15 we cannot do these other mundane things. But as I said, this  
16 Board is the one that has to take the heat because of this,  
17 and I would suggest strongly that the message go out loudly  
18 and clearly that we are concerned when requests are made for  
19 information and certainly the entire field knew that we would  
20 be mandated to make such a study and report, and they should  
21 know that it is our feeling that this is not to be tolerated  
22 by the Board which in the end has to suffer the consequences  
23 if there are consequences.

24 Finally, I would like to suggest that if the committee  
25 felt constrained to go along with the staff's suggestion

1 because they felt that a good strong solid report would be  
2 better than an interim report, and then find that because  
3 we did not have complete data, that we might have to make  
4 some changes, the alternative suggested by the staff, I feel,  
5 should be adopted.

6 MR. KUTAK: I could have predicted this. I guess  
7 if you look in the record, you will find that I did predict  
8 this and I would like to file an exception to the recommen-  
9 dation.

10 I remember last spring when this came up and I heard  
11 the exact words I just heard now, and that is that we have  
12 plenty of time to finish this report by the date that it is  
13 due.

14 Now I hear that we are being told that we will have  
15 plenty of time to finish this report three months after it is  
16 due. I really must say that I could not be more dissatisfied  
17 and disappointed.

18 We knew well in advance that we had a Congressionally  
19 mandated deadline which was an obligation, perhaps to dis-  
20 tinguish itself from every other governmental organization,  
21 the corporation had. I think one of the best things that  
22 this national law firm could exemplify would be that it could  
23 meet deadlines and not delay.

24 I know how hard our committee chairman and this  
25 distinguished committee has worked and I know how hard Alan

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1 and his colleagues have worked, but I think we cannot minimize  
2 that if we are not going to be just another governmental  
3 agency, that can just drift off and perhaps sometime in the  
4 indefinite future move into a response that I am sure is  
5 destined for the shelf because it has no sense of urgency  
6 and no sense of immediacy.

7 We must meet these deadlines, as lawyers would meet  
8 them, as law firms would meet them and as this uniquely  
9 designed national law firm should meet them.

10 I do not understand. I have not really heard why  
11 we have not met them. Of course, it is too late, I presume,  
12 to meet them. And I now register a very loud dissent to the  
13 position that we find ourselves in and I just hope, sincerely  
14 hope, that this is not going to be a precedent that our  
15 law firm finds itself in simply because we might be able to  
16 get an extension from our client, the Congress.

17 Maybe the program has been inefficiently designed.  
18 Maybe the program has been developed with too much detail. I  
19 do not know, but I do know that we were given a request, and I  
20 do know that we were advised as a Board of that deadline, and  
21 I do know that we have failed. And I am very disappointed.

22 CHAIRMAN RODHAM: We haven't failed yet. Maybe your  
23 dissent will be a majority decision on how this Board votes.

24 MS. ESQUER: Maybe my recollection fails me, but  
25 I cannot remember that we received this report that the

1 1007(h) study would not be completed on time when our committee  
2 met. We did receive a memo that was dated the 12th that  
3 included that information. I, for one, was thoroughly  
4 concerned when we received this report together with the  
5 budget documents and as far as I can understand them, some  
6 of the budgeting decisions are concerning expansion which  
7 is involved in this 1007(h) study, being delayed pending a  
8 completion of this report.

9 So I have a double concern. I share Mr. Kutak's  
10 concern for our failure for a Congressional mandate, but  
11 more seriously, I am concerned over the possibility that we  
12 are not going to get funding for possibly those folks that  
13 need it the most. Secondly, I hope that there is no connection  
14 between some of the field programs wanting expansion and  
15 the inability of some of the field programs to submit the  
16 survey forms that were sent out.

17 I do not think that they were particularly complex.  
18 I agree that they were lengthy, but I did not feel that they  
19 were particularly complex, and I really, Mr. Chairman, do  
20 not remember that we were recommending that they wait until  
21 March.

22 MR. ORTIQUE: We were not; however, we were told  
23 that a substantial number of programs had failed to respond  
24 at the committee meeting, and it was obvious that they were  
25 having difficulty. The problem is that the Board is given

1 a mandate and the field is given a request.

2 MS.ESQUER: But there is one other problem, too.  
3 Why is it impossible to meet this deadline? I am very concern  
4 and I truly hope that if there is any way that we can complete  
5 this report prior to March that we can be assured that this  
6 will be done.

7 MR. CRAMTON: I would like to move that we accept  
8 the staff's recommendation. I think we have to be a little  
9 more tolerant and reflective on our behavior and our own  
10 responsibilities. We try to do our best. The field tries  
11 to do its best. The staff tries to do its best.

12 But the study that was asked for is a very difficult  
13 one in the short time it was given. A good job is being done  
14 and we have a good design. It is taking a little longer for  
15 the data to come in. Three months is not going to be critical  
16 to anyone. I don't think it would do any good to blame  
17 others.

18 MR. TRUDELL: I don't think that we are trying to  
19 place the blame on others, but I think if you will recall, we  
20 built a fire under the staff. The fact of the matter is that  
21 if we are going to discuss the report at the March meeting,  
22 and if it requires revision at this time then there may be  
23 further delay. And as Cecilia has pointed out if any of the  
24 groups that the access studies are being prepared for have to  
25 add additional ones, the expansion monies, I cannot accept

1 that. We will get into the budget later in the day, and I am  
2 sure that it is going to be a very interesting discussion, but  
3 the reports also require some recommendation, some solution  
4 for implementing the recommendations. So there is a lot  
5 riding on these reports.

6 I would have to agree both with Bob and Cecilia and  
7 the fact that I appreciate what Al has done. It is very hard  
8 to get this thing going, but the fact of the matter is that  
9 in some of these areas you are trying survey areas where there  
10 are no decent programs, so in terms of sending the survey,  
11 they are not going to pick up the instrument, go into the  
12 community that they are not responsible for the legal  
13 services.

14 CHAIRMAN RODHAM: There is a motion that has been  
15 made by Mr. Cramton. Is there a second to that motion?

16 MR. ORTIQUE: I second the motion.

17 CHAIRMAN RODHAM: Any further discussion?

18 MR. CRAMTON: The motion is that we approve the  
19 staff's request for additional time. Does our schedule of  
20 meetings call for a March meeting?

21 MR. EHRLICH: Yes.

22 CHAIRMAN RODHAM: Our March meeting is scheduled  
23 for the first and the second which is our first meeting after  
24 our December meeting.

25 MR. CRAMTON: That the complete report be submitted

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1 to the Board in time for consideration at that March meeting.

2 MR. ENGELBERG: When do you think you will have the  
3 reports done, and in terms of us getting comments back to you  
4 that it is acceptable or whatever?

5 MR. HOUSEMAN: We hope to have data collection com-  
6 pleted and analyzed by December, and we hope to have a draft  
7 report circulated within the staff for staff discussion by  
8 January, and that gives us at least a month before the March  
9 Board meeting for extended discussion and revision among the  
10 Board.

11 It would be a very thorough exposition draft report  
12 of the issues and the data that has been collected that  
13 addresses those issues would be available, and that is our  
14 current time schedule and we will meet that schedule. That  
15 is our current thought.

16 MR. TRUDELL: Should the report have any effect  
17 on expansion?

18 MR. HOUSEMAN: I can't answer that.

19 MR. EHRLICH: In terms of basic expansion, they  
20 shouldn't. We have allocations for migrants and Native  
21 Americans and the basic thing, of course, is to try to assure  
22 that those groups move along with other groups of working  
23 people toward the goal of completing the objective. At the  
24 same time, as I said, the effort is enormously important and  
25 beyond that, it is what Congress has to do in reference to

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1 special problems by the way of access of the one hand and  
2 legal problems in terms of these groups.

3 The paper that the Committee reviewed already and  
4 the Board has a number of policy options, and in our considered  
5 judgment, those options should be made against a background  
6 of factual information of what is going on. I wish we had  
7 more of the facts. I can assure you only that the staff is  
8 pressing as hard as they can to get the information in a form  
9 that is useful so as to make a policy judgment.

10 It does involve a lot of quantitative data and that  
11 is why the timetable that Alan outlined is important.

12 MR. KUTAK: I always realize that when you are in  
13 a situation like this, you have to pull together rather than  
14 pull apart, and I suppose that Roger's wisdom brings me back  
15 to my seat and my senses and I think probably what I should  
16 simply do is to express that mild manner form of disappointment  
17 and assure my colleagues that I will support the motion.

18 MR. BROUGHTON: When does the Board meet again?

19 CHAIRMAN RODHAM: In December, the first and second.

20 MR. EHRLICH: The last page of Book One has the  
21 proposed conference schedule on it.

22 CHAIRMAN RODHAM: The motion is that the draft  
23 report will be ready for consideration by the Board at the  
24 March meeting, but that it will be available significantly  
25 before that for review.

1 MR. BROUGHTON: I want to know if the motion  
2 created an actual date deadline maybe for no other reason  
3 than to express our concern because it seems clear that in  
4 San Diego in May it was indicated that it would be ready on  
5 time and I wonder if Mr. Cramton would persue it?

6 MR. CRAMTON: I would rephrase it to say that it  
7 should be completed by the staff sufficiently in time before  
8 the March Board meeting to provide a period for comment  
9 and research.

10 MR. ORTIQUE: In response to Ms. Esquer's observa-  
11 tion, you are very correct. I just looked at the minutes of  
12 our committee meeting, and it says that we anticipated that  
13 we would receive something by this Board meeting. The  
14 unfortunate part, I suppose, is that I remember distinctly  
15 that it was indicated that a substantial amount of the data  
16 was not there at a meeting we were holding a month ago, and  
17 without that data being there, I came to the conclusion that  
18 we had a serious problem because how do you justify data when  
19 you don't have it.

20 The minutes reflect clearly that something would  
21 be given to us in a rough form at the October meeting and  
22 then would be prepared after some comments from the Board  
23 for December, so that you are correct, that we did think at  
24 the Committee meeting that it would be on schedule, but the  
25 matter of raw data not having come in was mentioned.

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1           It would seem to me though in light of Mel's state-  
2 ment that we ought to indicate that by the end of December  
3 that we would see something concrete. It just appears to me  
4 that that message has to get out into the field and this  
5 instance and in very other one where we receive a mandate from  
6 the Congress because as was stated before, those are our  
7 clients.

8           I certainly would think that we ought to say that  
9 and let the staff try for such a deadline.

10           MR. BAMBERGER: I would hope that you would say the  
11 end of January, and that would give the Committee time to  
12 review it.

13           CHAIRMAN RODHAM: How many questionnaires are still  
14 yet answered?

15           MR. ORTIQUE: How many do you think you need to have  
16 to have a representative sample to make a judgment?

17           MR. DOOLEY: On the main questionnaire, we believe  
18 that we need a 75 percent return rate overall, especially  
19 those serving migrants and Native Americans. Since we have  
20 reported to you, we have increased the number to approximately  
21 65 percent, and they are coming in. I think by the end of  
22 the month, we will reach our minimum. It is only a minimum  
23 obviously. If we could get more, it would be very helpful.

24           There is other data, and I know that we have not  
25 gone through it all and I will try to keep it brief. that we

1 think is necessary. For example, in order to for us to get  
2 a count of those who are poor, we need the results of the  
3 study from the Department of the Education and we are promised  
4 it by the end of the month. We cannot get it more quickly  
5 than that because it has never been published by anyone yet.  
6 This is like trying to get census information in 1981 when  
7 everyone will be scurrying and trying to make decisions.  
8 We may be, in fact, the first people to have this data.  
9 That is the biggest roadblock we are running into.

10 There are a number of other questionnaires that  
11 we think that because of the quality information that is  
12 coming into us, we would like to wait until we get more  
13 of them, for example, the information from Urban Indian Center  
14 People who are filling out the questionnaires are filling them  
15 out very extensively and we think that it is very valuable.

16 MR. ORTIQUE: There was no real problem. It was  
17 just that we did not get them two months ago. My point is  
18 that the Committee is going to meet in November and the  
19 Board is going to meet in December and the Committee would  
20 like to have the report at the December meeting, where you  
21 are and what your problems are, and that way, without putting  
22 a deadline, we will stay on top of this and that would be  
23 my recommendation, that we adopt the motion, but that we  
24 watch it in November and again in December.

25 MR. STOPHEL: Of the groups you have collected

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1 data for, are there any on which you feel you have sufficient  
2 data to make a report if called upon to do so by December 31?  
3 In other words, is it necessary that we defer the entire  
4 report as contrasted with the report of what we have so far?

5 MR. DOOLEY: The answer is that I believe that we  
6 could do that assuming that the program questionnaires do get  
7 in at the current pace, but I do not believe that we could  
8 get even the minimal quality that the Board could use.

9 MR. CRAMTON: One of the problems here is how the  
10 Board deals with a variety of special groups and special  
11 problems.

12 MS. ESQUER: I think I am going to be forced into  
13 Mr. Kutak's position here because I think I would prefer to  
14 await the higher quality type of report than to settle with  
15 one that really is of use in terms of minimal quality.

16 CHAIRMAN RODHAM: Is there any further discussion  
17 on the motion by Mr. Cramton as he has amended it himself  
18 and seconded by Mr. Ortique?

19 (No response.)

20 CHAIRMAN RODHAM: All those in favor of the motion,  
21 signify by saying aye?

22 (Chorus of ayes.)

23 CHAIRMAN RODHAM: All those opposed?

24 (No response.)

25 CHAIRMAN RODHAM: The motion carries.

1 (Whereupon, the pending motion  
2 was passed unanimously.)

3 CHAIRMAN RODHAM: Mr. Ortique, would you care to  
4 move on?

5 REGINALD HEBER SMITH PROGRAM

6 MR. ORTIQUE: Madame Chairman, I would like to  
7 go to the Reginald Heber Smith Program report and it should  
8 be a brief one in view of the fact that it is anticipated  
9 that we would get a full report at our December Board meeting  
10 as opposed to any detailed discussion today.

11 As I understand it, that has now been shifted to  
12 Clint Lyons since the time of our meeting.

13 MR. BAMBERGER: Yes. The continuing responsibility  
14 for the Reginald Heber Smith Program is with Clint Lyons.  
15 With Mr. Lyons here this morning, is Ms. Linda Garnett and  
16 Mr. Harold Washington. Ms. Linda Garnett has the principal  
17 responsibility for the administration of the Reginald Heber  
18 Smith Program within the corporation and she works in the  
19 Office of Field Services under the Director of that office.

20 Professor Harold Washington is from the faculty  
21 of Howard Law School who is the director of the program.

22 My responsibility was to negotiate the initial  
23 contract with the Dean of Howard Law School and the responsi-  
24 bility for administering the program rests with Clint Lyons,  
25 and he, I think, can answer any questions you may have.

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1 MR. ORTIQUE: All of us have received a copy of the  
2 final contract with Howard University and its School of Law  
3 to conduct the Reginald Heber Smith Program. One of the  
4 points made by the Committee was that we expected that a person  
5 from the faculty would be made responsible for the Reginald  
6 Heber Smith Program, and the committee certainly was impressed  
7 by the selection of the person designated and you may wish  
8 to make some comments on this.

9 At this point, Clint will just describe for us  
10 briefly where we are and what we can anticipate at the  
11 December meeting.

12 MR. BAMBERGER: Let me describe where we are and  
13 I will ask Clint to address the second part of your question.  
14 Beginning at page 99 is the contract that has been executed  
15 by the Howard Law School for the administration of the program  
16 to July 31, 1979, that is for the current fiscal year, the  
17 current Reginald Heber Smith Program.

18 The contract was distributed to the committee on  
19 Provision of Legal Services before it was executed and there  
20 was an opportunity to discuss it at the meeting of that  
21 committee and it was executed at the meeting.

22 The second part of your question, as to what has  
23 happened since then, let me ask Clint if he can respond to that.

24 MR. LYONS: We have received the 1979 budget which  
25 is in line with what we consider to be appropriate. And the

1 only that remains to be done in that area is some analysis  
2 in terms of the function. We have established since the  
3 committee meeting, an ongoing relationship with the program  
4 to have a two-prong approach, to presenting the proposals  
5 from the Board and that approach is to work with the Program  
6 to insure that we are together in terms of carrying out the  
7 intense purposes of the contract and carrying out the expecta-  
8 tions of the Legal Services Corporation.

9 The second approach is to continue working on the  
10 proposal in terms of the following expression of the purpose  
11 of the Program. Professor Washington has, in fact, presented  
12 to my office a working paper on the approach that he has taken

13 The Office of Field Services will in turn present to  
14 the Board a set of options with respect to his judgement as to  
15 how the Reginald Heber Smith Program should be seen. There  
16 are special issues involved, the progress report and other  
17 matters, and hopefully, out of this, we will be able to make  
18 some recommendations to you, and hopefully, out of our working  
19 relationship with the Program, we will be able to come to you  
20 with uniform recommendations with respect to the options that  
21 will be presented to you.

22 That is the present status of where we are.

23 MR. ORTIQUE: And you notice, I mentioned December,  
24 and it was my clear impression that in addition to attempting to  
25 develop an immediate contract, that we would be receiving in

1 December a report from the Corporation staff indicating whether  
2 we were going to move forward with a long term relationship  
3 with Howard University, first of all, with the Reginald Heber  
4 Smith Program, because I think all of us were in agreement  
5 that that is number one, the Reginald Heber Smith Program, as  
6 we know it or how we define it or whatever we are going to do  
7 with it, and we are expecting something along that line in  
8 December.

9 Are we moving in that direction with that type of  
10 schedule?

11 MR. LYONS: Yes, we are. As I said previously,  
12 Professor Washington has already presented to us a working  
13 paper as to what direction he thinks the program ought to go,  
14 and that is the component or position that we will consider  
15 informally, options to be presented to you and then come back  
16 to you with discussions about the Reginald Heber Smith Program.

17 We have an ongoing staff and a consultant who is  
18 working on this research with respect to getting input from  
19 the field, so we will, in fact, in December present an outline  
20 concerning this, and also we have a recommendation.

21 CHAIRMAN RODHAM: Will that paper be ready in time  
22 for consideration at the Board meeting?

23 MR. BAMBERGER: The committee meeting is November 13,  
24 and I think it is going to be very difficult.

25 CHAIRMAN RODHAM: Will you have everything that will

1 form the basis of what the paper will be?

2 MR. LYONS: I can't get that to you, but I can  
3 get you a draft of the discussion of the options and the  
4 staff recommendations.

5 MR. ORTIQUE: I don't want us to make commitments  
6 that we can't keep, but you will circulate that to us well  
7 in advance of our December Board meeting.

8 MR. LYONS: I understood the Chairperson to say  
9 that she expected something with the provisions prior to this  
10 meeting in November?

11 MR. ORTIQUE: I understand that, but what I am tryin  
12 to say is that the rough draft will get to us well in advance  
13 of the December Board meeting, so we can begin to think about  
14 the options that we are going to vote on at the December  
15 meeting.

16 MR. LYONS: Yes.

17 MR. TRUDELL: It would seem to me that if there is  
18 a kind of interim memo there describing the options that are  
19 being pursued, what is going to be incorporated in the propose  
20 plan and recommendations, that it may be necessary and I know  
21 the Board members frown on it, but to have some sort of com-  
22 mittee meeting prior to the December Board meeting rather than  
23 wait until the Board meeting to really seriously entertain the  
24 proposals.

25 That is really just an aside, but I would go along

1 with Hillary in at least having an idea of what the component  
2 parts of this plan would be.

3 PROFESSOR WASHINGTON: We have started the process  
4 already. At this particular juncture, we are working with  
5 a staff which amounts to four plus three consultants and  
6 12 on our committee also which assures our having continual  
7 input into the Program's development.

8 MR. STOPHEL: Madame Chairman, I would like to have  
9 a copy of the working papers.

10 CHAIRMAN RODHAM: I absolutely agree. Could we have  
11 whatever is circulated to the entire Board.

12 MR. LYONS: We will certainly do that.

13 MR. CRAMTON: I had a couple of questions. The  
14 contract in the book does not indicate that they ever had  
15 an arrangement negotiated with Howard, and I wonder what that  
16 was, whether you are satisfied that the Program is going to  
17 get the necessary monies.

18 MR. LYONS: We have looked very carefully at the  
19 personnel budget and the administrative budget of the Program,  
20 and we are satisfied in terms of those costs, those budgeted  
21 items, the function and activities that have been described  
22 to us by Professor Washington and the administration of the  
23 Program that they will, in fact, continue. It is about 40  
24 percent of salaries.

25 MR. CRAMTON: I am surprised that the figure was

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1 that high.

2 MR. LYONS: The figure historically has been 40  
3 percent.

4 MR. CRAMTON: And we have complained vigorously  
5 about it.

6 MR. BAMBERGER: One of the things that we had hoped  
7 to be able to do was to show as direct expense some items  
8 which were reflected in the indirect expenses and then reduce  
9 the overhead. The time that there was to negotiate that  
10 did not happen. I think, however, that we are satisfied that  
11 that 40 percent figure is a realistic payment for the work  
12 that they do and for space and for other items.

13 MR. ORTIQUE: You can shift out certain things and  
14 have a lower figure. I think that the question that you  
15 raised initially Roger is the important one. Are we getting  
16 value for the dollars that we are spending? That is the  
17 justification that you are going to be looking for rather  
18 than whether it is a 40 percent or 25 percent or whatever  
19 number we want to put on it.

20 MR. CRAMTON: I received a copy of a memorandum  
21 from the Dean of the Law School and from Professor Washington  
22 proposing a number of people for that committee, and I was  
23 just wondering whether the President felt that there had been  
24 adequate consultation in the selection of members.

25 It did seem to me that initially the group did

1 not contain a number of people that seemed to me to be  
2 particularly knowledgeable about the Program.

3 MR. ORTIQUE: If you will excuse me, we have discussed  
4 and the President and I have been in close contact, and I  
5 think whether your letter labeled it an interim advisory  
6 committee or not, that is what I was assured by the Dean that  
7 that is what that was, and there would be some changes, some  
8 additions perhaps, that would take that into account.

9 MR. CRAMTON: My understanding is that the contract  
10 requires the Dean to consult with the President of the  
11 Corporation before the appointments were made, and I was  
12 asking the question, whether that consultation had occurred.

13 MR. EHRLICH: The steps so far that have taken  
14 place are these: the Dean sent a list on an interim  
15 committee and it was put together quite quickly because the  
16 committee suggested that it would be helpful to meet with  
17 some group, that is the members that you see.

18 The Dean was concerned in terms of the contract  
19 and felt that it ought to include a broader range of interests  
20 and indeed, the contract specifically calls for that. We  
21 have received assurances that that happened.

22 MR. BROUGHTON: Is this contract before the Board  
23 or approved by the Board in Board action last July authorizing  
24 the interim contract?

25 MR. EHRLICH: It did, and we did. At the last

1 meeting, the Board did authorize it and we have signed it.

2 MR. TRUDELL: I think it would be helpful if we  
3 had met some of the committee members and I know that I  
4 have not received a list of them if it has been sent out.  
5 Maybe I could ask either today or tomorrow if we could get  
6 copies of that list.

7 MR. EHRLICH: The current advisory committee certain  
8 is not formed.

9 MR. TRUDELL: The interim advisory committee.

10 MR. EHRLICH: We will get that for you.

11 MR. BROUGHTON: I have some question on the section  
12 dealing with "term," on pages 103 and 104, particularly 104  
13 where it says that notice of cancellation and it refers to  
14 Congressional action or inaction. The term, as I understand  
15 it, of this contract runs until July 31, 1979 and then it  
16 goes on to say that the contract can be cancelled before that.

17 I am not clear where it says that notice must be  
18 written and given to the Dean before March 1 or within 90  
19 days after the Congressional action is finally effective,  
20 whichever is later and it goes on say that the cancellation  
21 may be effective at a time ten days after the notice is given  
22 to the Dean and then compensation in the context thereafter,  
23 does that mean that you have reason based on Congressional  
24 action or inaction to cancel or give the cancellation of  
25 notice, ten days notice, because that brings the entire

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1 Program to a halt. Then it goes on to say that the compen-  
2 sation of employees of the Program will continue for at least  
3 90 days after the notice of cancellation.

4 MR. LYONS: I don't know if it would necessarily  
5 bring the whole Program to a halt at that time. I think it  
6 would depend on what would happen.

7 MR. BROUGHTON: I was just reading this section  
8 of the contract.

9 MR. BAMBERGER: Essentially, this is a provision  
10 that the Dean and I negotiated when we were contemplating a  
11 contract period longer than a year. If you will notice along  
12 the previous page, we point out some provision of the contract  
13 would be applicable and I was satisfied that we needed to have  
14 this kind of safeguard, this kind of right to cancel, and  
15 frankly, negotiated it in a way that I thought was fair to  
16 both parties.

17 I wanted to keep it in this contract so that if there  
18 were any further negotiation with Howard, it would not be  
19 a point that I would have to renegotiate.

20 MR. STOPHEL: Does the document state the criteria  
21 you are using in selection?

22 PROFESSOR WASHINGTON: Yes.

23 MR. STOPHEL: Does it also contain a list of the  
24 staff people who are doing the interviewing and background  
25 on them?

1                   PROFESSOR WASHINGTON: It does not, not by indivi-  
2 duals.

3                   MR. STOPHEL: I think that would be helpful. Could  
4 you send that to us?

5                   PROFESSOR WASHINGTON: Certainly.

6                   CHAIRMAN RODHMAN: Any further questions?

7                   MR. ORTIQUE: I think that if you put in the ten  
8 day notice provision and certainly the ten days serves some  
9 purpose, the purpose obviously being that they would have and  
10 opportunity to respond and submit their brief on behalf of  
11 retention and I am sure that Howard University wanted some  
12 provision in there that would protect them for a period of  
13 time while these negotiations were going on if there was room  
14 for negotiations.

15                   I think that is the rationale for the 90 day  
16 period for the compensation.

17                   MR. BROUGHTON: At the bottom of the paragraph,  
18 you say, if in the sole judgment, and to me that means if the  
19 Corporation unilaterally has to cancel due to Congressional  
20 action or inaction, giving a ten day cancellation notice, and  
21 that is the action, and there is no room for negotiation.

22                   That is why I wondered why it brought it to a halt.  
23 This is the way I am reading it, and perhaps I am reading it  
24 wrong.

25                   MR. BAMBERGER: We certainly contemplated that

1 there would be work required to be done and secondly, the  
2 Dean wanted some protection for the employees, so that  
3 in effect, the employees would be protected so they would  
4 have a ten day termination of their employment. These  
5 are all employees who would be performing and working satis-  
6 factorily, but because Congress would take the appropriation,  
7 they would have to make a decision to terminate all of them.

8 MR. BROUGHTON: So you are saying that they would be  
9 paid?

10 MR. BAMBERGER: Yes.

11 MR. ORTIQUE: Certainly from Howard University's  
12 point of view, if we are going to demand that we get dollar  
13 value, then it is obvious then the person administrating  
14 the Program is going to say as of the moment that you send  
15 us that ten day cancellation notice, these people are fired.

16 CHAIRMAN RODHAM: Thank you very much. We are all  
17 having a tremendously difficult time hearing and if we could  
18 all just speak up, and if the people in the back of the room  
19 could either sit down or go outside and talk, it would be  
20 very much appreciated.

21 Let's move on to the next report by the Committee  
22 on Provision of Legal Services.

23 LEGAL SERVICES INSTITUTE PROPOSAL

24 MR. ORTIQUE: Madame Chairman, I want to say in  
25 all honestly that at least person in our committee expressed

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1 great disappointment that we are not going to the Board with  
2 a recommendation of the matter before us today. The Chairman  
3 permitted a full discussion of this matter and that is the  
4 Institute Proposal at our committee meeting, however, there  
5 were expressions that the consideration of the Institute's  
6 proposal was a change in policy really of the Board and  
7 frankly, the Chairman felt that this matter might come to the  
8 Board.

9           You will recall that the Board attempted and in  
10 my view, I think the record will reflect, my expression of  
11 concern that this was not the way to go, that the Board did  
12 vote at its last meeting that it would permit other persons  
13 to submit proposals so as to attempt to bring this within the  
14 area of Board policy.

15           I think I would have to say to you that it was  
16 anticipated that this was not a realistic approach to a  
17 problem. I would expect that the proper posture to present  
18 this to the Board is this proposal does, in fact, represent  
19 a change in Board policy to the extent that we have before us  
20 prior to this time a Board policy that said that number one  
21 on our agenda was the expansion of legal services.

22           This program does raise questions as to whether  
23 resources would be committed at this time for an additional  
24 training posture that has not been contemplated prior to the  
25 July meeting. An effort, as I said, was made to try to bring

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1 the Program within the ambient of Board policy by saying  
2 that we will accept other proposals at this time.

3 Concerns were expressed that we did not have some  
4 monies available to do certain things that the Board felt  
5 would enhance its operations and could reach into this pocket  
6 of money and do something about it.

7 But Madame Chairman, we want to say that we come to  
8 you with no recommendation primarily because this Board has to  
9 come to grips with whether or not it wants to do this type of  
10 program, and that is why it is presented to the Board at this  
11 time.

12 I think we are here first, to allow the President  
13 to make some initial comments and then to have the program  
14 presented to us and then we could make a decision here and  
15 now about the Institute's proposal.

16 MR. EHRLICH: I will be brief. First on the merits  
17 of the Institute, the project in particular, and the proposal  
18 for a developmental grant fund in general. These concepts do  
19 seem to me of great importance for the future of legal  
20 services.

21 The pressures of the last few years, I think,  
22 have lead to too little creativity and too little attention  
23 to the innovation of legal services. In my own view, this  
24 project is the prime example of what can be done in creative  
25 and innovative efforts thanks to the very thoughtful questions

1 and very constructive criticisms we received particularly  
2 at the last meeting of the committee, and I think the project  
3 is now a good deal stronger than it was.

4 We will ask people to speak about it and its merits  
5 later on.

6 Secondly on the process of considering the project,  
7 as it has gone on in the corporation in retrospect, this  
8 matter was not handled by me as well as it might have been.  
9 In retrospect, I could have done better and I will learn from  
10 that experience and naturally, I hope that the merits of the  
11 Institute would not be obscured by that fault. It is a real  
12 one.

13 Finally, the basic rationale for this effort was  
14 summed up in a recent article by Cy Rosenthal and he did  
15 discuss the matters and I do not know his views specifically,  
16 but I do know his views on the broad approach and he expressed  
17 my own sentiments exactly. Creativity and experimentation,  
18 he said are in danger of being stalled upon. The demand for  
19 formulas, dollars per person, analysis -- cannot negate the  
20 concept of creative efforts designed to help low income people.

21 In my judgment, that is what this effort is all  
22 about.

23 MR. ORTIQUE: For those people who don't know  
24 Cy Rosenthal, Cy Rosenthal is in the room and he may want to  
25 enlighten us further if the Chairman feels he needs to do so.

1 CHAIRMAN RODHAM: We have with us today Bill McNally,  
2 Director of the Greater Boston Legal Services, Gary Bellow  
3 and Jeanne Kettleson from Harvard, William Simon, Director of  
4 Training in the Office of Program Support to discuss the  
5 proposal.

6 MR. BELLOW: We decided that only one of us would  
7 speak, and furthermore, that we would be brief and not try  
8 to go over all the pros and cons in the documents that are  
9 already before the Board.

10 So I would like to tell you this morning, and I would  
11 like to take some time to reemphasize some of the issues. As  
12 the members of the Board know, I believe that if we are going  
13 to be the major training needle of the system and meet the  
14 training needs and handle the day to day cases in the local-  
15 ities required, I believe we must have a number of training  
16 centers or practice centers or institutes and that is places  
17 where people who can do training actually practice at the same  
18 time and they put priority on training methods, places where  
19 our own trainers can be trained in the context of on the job  
20 training.

21 Most importantly, places where our entering lawyers  
22 can get the space and attention they need to do this very  
23 hard job. An institute is just one way in which it can be  
24 done. It is not a substitute for other things that also must  
25 be done, salary structures, deficit to the job, additional

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1 support and expansion.

2           The Board does not fully have to embrace the vision  
3 we have nor to do this in an experiment. I believe that it  
4 is just not realistic to assume that materials and spreading  
5 training money around the programs or training events can  
6 bridge the enormous gap of education and deal with the dif-  
7 ficulty in poverty in the four or five years and the over-  
8 burdening of the resources.

9           What they ask is how are we going to give the idea  
10 of local training real content, and the question is whether  
11 the Board is willing to experiment with that conception, which  
12 is a conception that looks from five to eight years of devel-  
13 oping this kind of network.

14           It seems to me that the proposal we make is a good  
15 place to start. First of all, it is within the commitment to  
16 law schools who will sponsor it and provide credit for entering  
17 law students who make five year commitments to legal services.  
18 This is an important precedent for the future.

19           Second, there is a good deal of law school money,  
20 more than I thought we could ever get, \$800,000 and a commit-  
21 ment to raise an additional \$1,200,000; \$200,000 which is not  
22 in the memo and contribute faculties, at least one faculty  
23 person at the first of the year, and the precedent for the  
24 wage that we should demand, the kind of demand that we should  
25 make of other law schools.

1           Lastly, this proposal has a structure which is an  
2 ongoing services program which is exactly the kind of model  
3 we are to use because it ties control to a program that is  
4 also concerned with education.

5           For that reason, I think it is a good start and I  
6 hope that it will be matched by others. The benefits of this  
7 have to be weighed against those and I think there is a  
8 priority question, and that is, there are demands on our  
9 resources, but it is hard and we must put it on the list of  
10 priorities if the delivery is going to be effected.

11           I don't believe that there is a radical distinction  
12 between training and the effectiveness of delivery. I think  
13 they are linked. And neither one of them can be effective  
14 unless both are effective.

15           If training is a priority, then I think that this  
16 kind of focussed effort is exactly the kind of experimentation  
17 that has to be given priority. But the problem of costs is  
18 real. If one looks at what this effort is trying to do and  
19 allocate service to the community, training or practicing  
20 lawyers, the amount of material that would be developed, we  
21 estimate spread over four years, that it is about \$1,500 per  
22 student which I think you will recognize is a very low cost.

23           If one takes only the two and a half years a  
24 student will actually be there, the Legal Services Corporation  
25 is asked essentially not to pay for the training expense

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1 involved.

2 But the issue is: are the ideas workable. Will we  
3 learn from things so we can profit in the future. The question  
4 is not whether there is a singular model that can be used in  
5 a variety of places.

6 I honestly believe that we have not done anything  
7 wrong is sending the proposal to the Board. I hope others  
8 will do as well. I do not believe that it is good policy  
9 for there to be a process in which discretion can't be  
10 exercised and which all needs have to be solved before some  
11 needs are met.

12 I have to be honest and say that I assume that we,  
13 those in the legal services community, and the Board have to  
14 weigh whether the good reasons are not so good reasons and  
15 to you quite honestly that I do not think that we are going to  
16 solve the training problems of the legal services system if  
17 it is. I believe that on balance this is a good idea, a  
18 potentially very important idea, and it is an opportunity that  
19 will not be easy to put together again.

20 CHAIRMAN RODHAM: Thank you, Mr. Bellow. Are there  
21 any other comments from the group of people that you have with  
22 you? Perhaps we can ask the Board to respond.

23 MR. ORTIQUE: The Program has been placed before us  
24 and it was placed before us at our July Board meeting and it  
25 was indicated that we did certain things to supposedly satisfy

1 ourselves that we were acting appropriately. But I don't  
2 think that it has changed one bit from the position that we  
3 were before, and that is that this Board has to come to grips  
4 with the question of whether this type of program is going to  
5 be funded in the light of our priority expansion.

6 That is what is really comes down to. Now I have  
7 heard, and I am sure that all the other members of the Board  
8 have heard from people in the field who have to set this  
9 program off in terms of their needs in their particular area.

10 I don't think that that should be an issue at all.  
11 I think that the real issue is whether this Board no matter  
12 what comes to us, expansion is our number one effort, our number  
13 one goal. I think it does not follow, and there is excluded.

14 But only this Board can come to grips with that  
15 because I think the Board set up its own priority and that is  
16 where we are now. I would suspect that that is the issue that  
17 this Board has to meet now.

18 MR. CRAMTON: You are chairman of the committee that  
19 has considered this matter at great length. We would be  
20 interested in your views on that.

21 MR. ORTIQUE: I frankly feel that if we start off  
22 with the proposition that here is, in my view, a good solid  
23 proposal in terms of what it could mean for training and so  
24 forth for the opportunity of the Board to do something, in my  
25 view, that is really unique.

1           And I have absolutely no problem. I made the bold  
2 statement that if Gary Bellow put it together, I have to look  
3 at it twice because I have such tremendous respect for what  
4 Gary Bellow does and what I have seen him do over the years.  
5 That is where it is.

6           MR. CRAMTON: But I gather that you think it is  
7 worthwhile even in view of the priority question.

8           MR. ORTIQUE: I personally favor the proposal. The  
9 question that I am concerned about is, are we in our budgetary  
10 considerations, going to stick with the priority of expansion  
11 as opposed to everything else.

12           If that is what the posture of this Board is, then  
13 fine; I will go along with that. But if this Board is going  
14 to consider any areas where we look at a good proposal and we  
15 think that it is good, and we are going to make any exceptions,  
16 then I think that is where I have to go.

17           MR. SMITH: I think that I have to agree that this  
18 is a departure from our priorities, but I think that this is  
19 an exciting and innovative method of achieving and working  
20 towards the same goal, expansion of services, because here we  
21 have the possibility of a laboratory type situation in which  
22 we are very definitely out in the field and increases the  
23 probability of law school students going into legal service  
24 careers.

25           And that is one of the ways that we are going to

1 increase access and expand our services and the only way that  
2 I would see possible is to increase the number of people who  
3 have the dedication and the commitment to legal service  
4 careers.

5           That is the reason, I think I recall when it was  
6 first proposed in July, I was very excited about it at that  
7 time. There was information and inclination on some parts  
8 of members of the Board that we should not get too enthusiastic  
9 until we reflect upon it, and give Gary and other people time  
10 to reply and make the proposal more specific as they have now  
11 done, also give the time for other similar proposals.

12           I think if there was one underlying reason for the  
13 creation of this Board by the Congress it was to try to  
14 encourage development of innovative methods or new methods for  
15 delivery of legal services so that we would just not be heading  
16 more funding for the same old methods. The old methods have  
17 done very well and they continue to have a very definite purpose  
18 in our funding process and in our overall consideration of our  
19 budget.

20           But we just cannot add more money and expect that  
21 that is going to provide the expansion we need. We need to  
22 have some innovative ideas and suggestions, and my own feeling  
23 is very much in line with the memo we have in the book here  
24 by our President where I think he expressed it just like I  
25 feel about it.

1 I feel that we should endorse this Institute  
2 proposal and we should move on to it with a great deal of  
3 enthusiasm and excitement and in so doing, I want to point  
4 out though, as I started out saying, I do not feel that it  
5 is a departure from our priority. I feel that it is just  
6 another method and a very exciting method of achieving that  
7 same priority by creating a greater reservoir of committed  
8 people who work in the field of legal services, and I think  
9 that is the way that we are going to see expansion which is  
10 our number one priority.

11 We are going to see that that expansion is achieved  
12 with continued effort on quality which is also part of our  
13 established priorities. So I do not take the view that this  
14 is a committee departure at all. I view it as a means of  
15 reaching the same goal as we originally started.

16 MR. ORTIQUE: You will recall quite clearly that we  
17 had a group of law school deans who made the exact arguments  
18 that you have made just now, and we rejected that out of hand.  
19 I think if we make a decision such as you suggest, we are  
20 going to have to be in a position to say to the field, quite  
21 honestly, this is how we feel in terms of expansion and  
22 the implications thereon.

23 I don't think that we can skirt the issue. I believe  
24 that the issue is there, and we have to face up to it.

25 MR. TRUDELL: I wasn't around when you people went

1 through your priority setting process and when you arrived at  
2 your proposed budget for '78-'79, but we have gone through  
3 a number of steps that we need really encouraging and request-  
4 ing and telling some of the local programs the priority  
5 setting process so they can justify the monies they are asking  
6 for.

7           You alluded to the fact that we shouldn't lock our  
8 priorities in, but on the other hand, one of the priorities  
9 is expansion and when you take a look at the budget and the  
10 \$300 or \$400 million was requested, \$49 was asked and I  
11 probably shouldn't say much about this now, but \$49 million  
12 was asked for expansion.

13           The staff's proposed budget for \$270 is \$30 million.  
14 If you are going to say that we lost ten percent, so we are  
15 going to cut back various areas by 10 percent, then that still  
16 says that we should set aside in the vicinity of \$43 to \$44  
17 million for expansion.

18           I have a lot of problems with the whole process.  
19 The fact that the way that the proposal came before the Commit-  
20 tee and the fact that at the first committee meeting there  
21 were only two or three of us sitting there and I wasn't even  
22 on the committee, and then it appeared on the July agenda.

23           We have gone through this quality improvement  
24 process in terms of requesting grants, to improve services and  
25 everything, and there is a certain amount of money out there

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1 already and as previously pointed out, the fact that the  
2 additional money was built into the budget, the facts were  
3 just full of holes.

4 At the outset of today's meeting, I think we  
5 encouraged participation from the field. There are a lot of  
6 people here and I think this thing should be ventillated.

7 MR. SMITH: I think as was stated a while ago, if  
8 you want expansion you need a greater body participating in  
9 legal services.

10 MR. TRUDELL: I haven't taken time to go over the  
11 Congressional reports or why the Corporation saw the increase  
12 it did, but I think we would be hard pressed to justify  
13 giving money to a law school. I think it would be very  
14 difficult to go to Congress and say that we have to cut  
15 back considerably on the expansion monies from \$49 million  
16 to \$30 million or whatever the final outcome is because we  
17 took the liberty to give money to Harvard.

18 MR. STOPHEL: Are we talking about matching funds?  
19 We are not responding by saying that we are cutting down on  
20 expansion, but just that there are other methods to achieve  
21 expansion.

22 MR. CRAMTON: Is there any overhead in this proposal?

23 MR. TRUDELL: I think the opportunity for anyone to  
24 submit a proposal and go back to the drawing board and have  
25 the staff involved in assisting them with a different

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approach and then come back with a \$1.8 million for four years raises a lot of questions. This is aside from the merits.

I think Gary and everyone is in agreement that if you improve legal education, you are going to have better lawyers. That is like if you improve elementary education, you are going to have brighter kids. So it is also innovative. But a lot of people are saying other things for other areas.

I think the Board has to come to grips if it expects local programs to act a certain way, then we have to act a certain way, and I do not think we are.

MR. MCNALLY: I just want to react to something that was just said. From the perspective of a project director, the legal services project director not from the perspective of an educator. What is happening is quite unusual. I have been involved in this for four years, and I have worked very hard trying to create clinical programs in Boston from the area law schools.

The fundamental problem, I would say I had, was that they didn't always want to pay their fair share. You go to them and they say that you have to handle those cases anyway, why should we help you.

Here we have the exact opposite result. We have a situation where the area law schools collectively either through funds they raise through their own sources over

1 \$2 million dollars, and I think what is happening is quite the  
2 opposite, not just with respect to the merits of this dis-  
3 cussion, but with respect to the perception of it.

4 MR. TRUDELL: I think a lot of money is being spent  
5 trying to reshape things.

6 MR. ENGELBERG: I think the major problem here  
7 and this has been brought up in the very difficult funding  
8 issues, is that there are a lot of people who feel initial  
9 allocations for the '79 budget were way out of line. I  
10 think most people agree that regardless of what they think of  
11 this proposal, it is unfortunately a victim of that. Secondly,  
12 I do think that the process without blaming Tom or anyone  
13 else, and it is my own view of the way I believe that this  
14 Board should function is that I do not think that we have the  
15 time or the ability to deal with the thorough job that this  
16 kind of proposal requires. I think that is up to the staff.

17 But obviously we have to provide broad direction.  
18 And obviously if the staff funds things they should not fund,  
19 then we have to deal with that. It is a very difficult  
20 thing that we are being asked to do here, but I understand  
21 why we are being asked to do it.

22 I think that basically the real problem here is that  
23 it really dawned on me that you don't have limited discretion-  
24 ary budget, that most of the money properly so is fairly  
25 committed to the things that have to be done. I think the

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1 reason that I am supporting this proposal now is because I  
2 think there should be a limited amount of money made avail-  
3 able for some creativity and for some discretionary money  
4 and I was the one that made the proposal at the July meeting  
5 to try to open the meeting up, and while I made it in good  
6 faith, I think it was a bad idea, but I don't think there  
7 really was adequate opportunity to discuss it.

8 I think there should be some small amount of  
9 discretionary money. I think that is the issue, and I think  
10 we have to decide whether we want to have a very small amount  
11 of discretionary money and if we do, we do; and if we don't,  
12 we don't.

13 MR. TRUDELL: In terms of the Board coming to some  
14 kind of agreement or decision regarding monies being set  
15 aside for experimental programs, I think we need to establish  
16 some sorts of guidelines. And that has not happened and that  
17 is the real issue. That is the thing I think we should decide  
18 first before we go any further and then come back to this  
19 area after we take a hard look at the budget and the allocation  
20 proposed.

21 MR. ENGELBERG: I think in fairness, that I would  
22 think that that already has happened, Dick. The Corporation  
23 basically had \$100,000 available for something that was very  
24 important. I am not saying that it is exactly analogous, but  
25 the point is that there are times when the Board should

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1 consider this type of action. I am saying that there are  
2 times when the staff reaches out and we should respond  
3 positively.

4 MR. TRUDELL: I think the Committee has to come to  
5 the Board with some kind of recommendation and I think every  
6 Board member is entitled to attend every committee meeting  
7 and if they chose not to and discuss anything interesting,  
8 then that is their problem.

9 MR. ORTIQUE: I don't think that it is going to  
10 do us any good at all to have this come back to the committee.  
11 I think we are going to be in the exact same spot as we are  
12 now. I think the question is, do we take some money and  
13 are we convinced that it is worth taking the heat from  
14 Congress and everybody else and taking some money and putting  
15 it into a program because we believe that that program is  
16 worthy of this exceptional step.

17 That is what was before us in July, and that is what  
18 is before us today. I don't think going back to the committee  
19 is going to solve that problem, and that is what we have to  
20 deal with.

21 MR. KUTAK: I would swear that this was the meeting  
22 of the committee on regulations.

23 MR. BROUGHTON: Just sort of a warm-up.

24 MR. KUTAK: Mr. Chairman, I didn't open with that  
25 observation because where we have in the last year been perhaps

1 probing some of the dimensions and directions of the Corpora-  
2 tion through guidelines as expressed by regulation, we have  
3 moved now into a different dimension and perhaps in a better  
4 direction talking about programs.

5 It is timely that the committee on provision of lega  
6 services comes to the forefront. Just think about what is  
7 happening this morning. We have had tremendous discussions  
8 of the next step for our appropriation and really how exciting  
9 they are.

10 We heard about the new direction of the Reginald  
11 Heber Smith Program and how excited they are. I am still  
12 hoping that we are going to hear about 1007(h) and the  
13 alternative delivery system for our Corporation and for our  
14 program.

15 Really, I am confident as to how excited they are  
16 going to be. If you try to capture their spirit, you would  
17 say that in a special sense, they were expansion. All those  
18 programs basically deal with expansion but different types of  
19 expansion, not just a physical expansion, not just a numerical  
20 expansion, not just a quantified sort of expansion, but a  
21 professional expansion and an expansion of quality as well  
22 as quantity, expansion of approach and perspective as well  
23 as traditional procedures and practices.

24 There is nothing more important to this Corporation  
25 and to whom it serves, the poor of this country, than

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1 expansion, but we must not be stereotypical or mechanical  
2 in the sense of that word, and therefore, confining in our  
3 behavior in the response to that important concept.

4 Of course, this program has merit or it would not  
5 be before us now. Of course this program is forthright  
6 and regular or it would not be before us now. And of course,  
7 I submit that it is timely or we would not be discussing it  
8 now.

9 But I think we must be very careful not to get  
10 caught up in abstractions or words like, "America," or  
11 words like "timeliness," or words like, "straight forwardness,"  
12 because I think they miss the point.

13 What we are talking about is a new kind of program  
14 which basically comes down to people, and indeed all of the  
15 programs that we have to struggle with either in concept or  
16 in policy or indeed in funding or in implementation, turn on  
17 people.

18 If we depend upon anything else, if we trust any-  
19 thing else but people, we are going to miss the point, and  
20 indeed our opportunity. The record of the people involved  
21 in this kind of program is prudent and certainly need not be  
22 demonstrated further to our constituency or to ourselves.

23 If indeed expansion is our purpose and if, indeed,  
24 we are not going to be mechanical in our pursuit of expansion,  
25 it must be in the world of ideas as well as in the world of

1 factors, in the direction of new and innovative kinds of  
2 approaches as well as in the day to day development of service.

3 So I am respectfully concerned about the attentions  
4 that I sense from the correspondence and the communications  
5 that I among all others have read and received and I think  
6 when it comes down, we don't really have much difference bet-  
7 ween us. And we sense the legitimacy and the responsiveness  
8 as well as the timeliness of this proposal.

9 I, for one, would urge this Board to consider and,  
10 indeed, endorse the application and if it is timely to do so  
11 so that it is formally on the table because I don't know if  
12 I have heard such a motion, I would like to move that this  
13 Board approve the application.

14 CHAIRMAN RODHAM: Is there a second?

15 MR. CRAMTON: I would ask Mr. Kutak if he would  
16 refine the motion a little bit. What I would like him to do  
17 is to have him move the adoption of the President's recommen-  
18 dation essentially summarized on page 67 of the Book where it  
19 is contemplated that \$750,000 of Corporation funds would be  
20 set aside for the developmental grants, and that the President  
21 could negotiate a grant to carry out the proposed legal  
22 services and it is contemplated that that grant be in the  
23 amount of \$375,000 that would meet our fiscal '78 one time  
24 grant.

25 It is contemplated that if everything goes well,

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1 a \$500,000 commitment for next year would be involved.

2 MR. TRUDELL: I think it would be presumptuous to  
3 talk about a figure when we haven't even talked about the budget  
4 yet. I think we have to hold off until we divide up the pie  
5 so to speak because we can't endorse something and lock it in  
6 and then have to deal with the rest of the budget later in the  
7 day.

8 CHAIRMAN RODHAM: Do you accept the amendment, Mr.  
9 Kutak, as proposed by Mr. Cramton?

10 MR. KUTAK: Yes.

11 CHAIRMAN RODHAM: Is there a second?

12 MR. CRAMTON: Second.

13 MR. SMITH: I think there is something that might  
14 should be included or is implicit in the motion, in the  
15 delineation of the motion, and that is that the staff see  
16 in negotiating the agreement to include the concepts that are  
17 set forth in the President's memos. Perhaps that is implicit  
18 in the motion. Is it, Roger?

19 MR. CRAMTON: Yes. That is why I phrased it in terms  
20 of the President's recommendation.

21 MR. SMITH: It is important that those components  
22 and the outline be inclusive in the proposal.

23 MS. ESQUER: Coming from a frontier state as Arizona,  
24 this motion might be unconstitutional. We are allowed to deal  
25 with only one subject matter and one area at a time when

1 presenting ideas. So therefore, I might be in a position  
2 where I could support one part of a motion, but not another  
3 part and I think at this point, I would not be supportive of  
4 the entire motion.

5 What I would like to say is that certainly Gary  
6 Bellow has pointed to some real exciting possibilities in  
7 the future of legal services, and I think that Harvard Law  
8 School has shown great leadership in showing that it can  
9 participate and it can cooperate.

10 I think the leadership and creativity should  
11 certainly be congratulated and I have to say that when the  
12 proposal first came before the Board at the July Board meeting,  
13 I really saw it simply as a question of process and I felt  
14 that the process and the manner in which this proposal had  
15 been presented to the Board was unfair, not just to field  
16 people, but to other law schools because it does represent  
17 a change in Corporation Board policy.

18 So I thought that it was going to be a very easy  
19 decision, however, after several meetings and several discus-  
20 sions about the proposal, the efforts and the attempts made  
21 both by Gary and by the other people involved in meeting  
22 criticisms and the suggestions made about how things could be  
23 improved, the decision became a lot more difficult for me.

24 The thing that I finally decided to base my position  
25 on is the fact that first of all, dealing with the allocation

1 and very limited resources and these resources are primarily  
2 designed with the delivery of services to poor people, and in  
3 our July Board meeting, the Board adopted three items of  
4 priority. They appear on page 7 of our Board manual, and  
5 the first priority was the maintenance of the existing legal  
6 services programs; and second, expansion to provide legal  
7 services; and the third, the improvement of existing legal  
8 services programs.

9           Since the July Board meeting, we were disappointed  
10 to learn that the Congress didnot find adequate resources to  
11 grant us the \$304 million dollar budget request, but instead  
12 allocated \$270 million to the Legal Services Corporation to  
13 meet its statutory duties.

14           With this great cut in appropriations then, we have  
15 various documents that we have received from the staff to  
16 show their attempts and how they are going to deal with these  
17 huge cutbacks, and we see staff recommendations that existing  
18 efforts, existing services in a sense, be cut back in favor  
19 of this particular proposal.

20           I think this is where it becomes difficult for  
21 me but also easier for me to reach a decision. Today we are  
22 going to be discussing '79 and '80 budgets and due to the  
23 lack of completion of the 1007(h) study, there are still many  
24 unanswered questions about unserved areas about expansion.

25           And we do not yet know what quantity will be

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1 necessary to meet these efforts in 1979 and 1980 or 1981, and  
2 yet this proposal is for four years, and I sincerely believe  
3 that if we do start, we are committed for a four year period  
4 of time.

5 At any rate, the idea has been presented that we  
6 should consider this proposal in the form of expansion and  
7 then it certainly fits into the priorities, but I don't  
8 think that you can really relate this to the priorities, but  
9 I think my concept of expansion is to afford the funds on an  
10 equal basis, and there, I have come full circle because I do  
11 believe that the lack of process and the lack of ability to  
12 allocate these funds on an equal basis is what causes me to  
13 speak against the motion.

14 I think the staff has shown that there is a capabil-  
15 ity and has shown how you can allocate and allow for creative  
16 ideas. I think the proposals presented for the quality  
17 improvement project show that there is great creativity in the  
18 field and I think there was a time when this type of  
19 proposal should have been made and that is when funds were  
20 allocated for just this type of activity.

21 At that time, I would have no doubts that I would  
22 have voted for it, but here it is presented as a change in  
23 policy because we are creating a special line budget item for  
24 this one particular proposal, and I think the motion that  
25 says that we allocate \$750 for other types of proposals is

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1 somewhat inadequate.

2 If this one proposal requires \$375,000 for this year  
3 and \$500,000 for each of the succeeding years, there is not  
4 going to be any room left for many more proposals that are in  
5 this area that would require a great degree of funds in order  
6 to come forth with a successful, creative type program.

7 Therefore, first of all, I think that in the 1978  
8 budget, there was no room to use one time funds to fund this  
9 proposal. In fact, there is great need in other areas to  
10 continue needing existing efforts, and two, to allow for  
11 expansion and improvement of efforts in the general field.

12 As far as the 1979-1980 budget, it would be reason-  
13 able to accept and adopt a policy that would allow for funding,  
14 but then when proposals are created, I could only support  
15 them in what our accomplishments have been in the carrying out  
16 of our stated priorities.

17 So we would have to wait and see how we have complied  
18 and I have gone through different sections of the Congressional  
19 record where we have assured our funding source, that we are  
20 going to complete our minimum access clients, that we are  
21 going to meet those needs in the needed areas, and I think that  
22 the funding of this proposal is not promoting those interests.

23 MR. COOK: I am Willie Cook and Director of the  
24 Legal Services Program in Washington, D. C., and I would like  
25 to speak against the proposal for three basic reasons. Number

1 one, I think there was a fatal process in getting this proposa  
2 put before the committee and before the Board. Secondly, I  
3 think the proposal in terms of the other priorities of legal  
4 services should not have the kind of ring it has. I don't  
5 think that we can successfully compete and I am not only  
6 talking about expansion, we are talking about the maintenance  
7 of programs, maintenance of the presently existing programs,  
8 and my third objection is on the basis of what I consider  
9 to be basically an unfair kind of situation that is based  
10 upon particular personality and a particular law school.  
11 Those are the three.

12 Now Tom Ehrlich started out by saying that he had  
13 some problems but he thought that perhaps he could learn  
14 something. I think that this is a very expensive price to  
15 pay for that kind of lesson.

16 And I think that you are going to have to understand  
17 that we aren't talking about small amounts of discretionary  
18 money. In the original proposal, it was proposed as a four  
19 year project that came to \$3,463,000. Now Tom Ehrlich has  
20 scaled this down somewhat and he has come up with an initial  
21 first year amount of \$375,000 and each succeeding year for  
22 three succeeding years, \$500,000.

23 He is talking about \$1,875,000 over the period. We  
24 are not talking about petty cash. We are talking about  
25 substantial allegation of funds and I think Tom Ehrlich was

1 being very honest at least in presenting this to the Board.  
2 He is telling you that if you accept it for the first year,  
3 that really what you are committing yourselves to is to a four  
4 year plan.

5 So if you commit yourself to \$375,000 now, you are  
6 really talking about committing yourself to \$1,875,000.

7 There have been some changes from the original  
8 thing. It is now going to be under the auspicious of the  
9 Washington Legal Systems Project and not Harvard Law School  
10 any more. We are now told that Harvard is going to contribute  
11 \$800,000, and they are hoping that by the end of the four year  
12 period, that that contribution will be raised to \$2 million  
13 dollars.

14 But I want to make the point that PAG took a very  
15 strong stand that this proposal was not to be funded by the  
16 Board at this particular time. The process, I think, and the  
17 manner in which this became a line item for the 1979 budget  
18 points out to me what I consider to be just a real problem  
19 of favoritism that I think really has no place in legal  
20 services particularly with that kind of money.

21 I think there are too many other needs out here in  
22 legal services that need to be dealt with in '79, '80 and  
23 after, and I think that even Tom has told us and the Congres-  
24 sional people have told us and I don't think that we can  
25 realistically expect that in 1980, 1981 and 1982, we can

1 expect the Congress to continue increasing our budget by  
2 \$65 million dollars and by \$80 million dollars.

3           So the question then becomes how do you make the  
4 most judicious use of money you already have. It is  
5 alarming here this morning in dealing with this proposal.  
6 The budget that we have for the Office of Program Support  
7 which includes training, and now I understand that this is  
8 now characterized as a support project, and if it is a support  
9 project, the money that we are spending in 1979 that is  
10 being proposed to be spent in '79 for support, that nobody  
11 here has seriously questioned whether or not the money  
12 already allocated can serve the needs of the Gary Bellow  
13 proposal, nor has he talked about that.

14           So we talk about innovation and creativity as if  
15 those two words were just brought in here today. I don't  
16 think anyone in legal services is against creativity, nor  
17 is anyone against innovation, but the question is, you have  
18 a limited amount of money, how do you make the best use of  
19 that.

20           Nobody has said here and there has been no major  
21 discussion even in committee meetings or in discussions of  
22 this Board as to firstly, whether or not the money we are  
23 going to be spending for OPS next year for training, whether  
24 or not they can do the same job, a better job, or whether  
25 or not this Institute is going to add anything measurable

1 to the plan of 1979. There has been no critical analysis  
2 in terms of that particular program versus what is being  
3 planned for 1979.

4 I think it is too much money. I think that the way  
5 that Tom presented it to the Board, the way that it went to  
6 the Board, the method by which it went to the Board was  
7 unfair. It favored Gary Bellow as a personality because of  
8 his reputation in terms of what he has done in legal services

9 I don't mean to say that Gary hasn't made a  
10 contribution. I am not saying that at all. I think the  
11 problem though is that we need to get away from dealing  
12 with personalities and superstar personalities on a national  
13 basis and making grants on that basis. We need to start by  
14 making some hard judgments about what everybody agrees is  
15 going to be limited funds in the future.

16 I am suggesting that you haven't done that and  
17 with this particular proposal, everybody is awed and everybody  
18 is very happy and is very happy about the innovative and  
19 creative proposal, but there are a lot of innovative ideas  
20 out here concerning legal services support, and we can't  
21 fund all of the innovative ideas, and it seems to me that  
22 since we can't do that, it seems to me that what we need to  
23 do is to sit down and take a very hard look at what you have  
24 and see whether or not you can make do with what you have,  
25 or at least to try to make the best use of what you have.

1 I simply propose that spending \$1,875,000 over the  
2 next four years is simply a bad use of Corporation funds,  
3 and if you are talking about Gary Bellow's proposal of  
4 \$3,400,000 a year, I think that is even worse, and put it  
5 under the auspicious of the Washington Legal Assistance  
6 Program fools nobody.

7 Harvard University is going to put \$800,000 into  
8 this and maybe up to \$2 million dollars during that four  
9 year period and I don't think that anyone needs to be fooled  
10 about what their role is going to be in that context.

11 And I think we have better uses of the money. PAG  
12 is opposed to the proposal and I would like to recommend to  
13 the Board that they table this proposal for the three reasons  
14 that I have given.

15 (Applause.)

16 CHAIRMAN RODHAM: Does any other Board member  
17 wish to comment?

18 MS. WORTHY: I am speaking on the basis of letters  
19 that I have received. I don't think that people are saying  
20 that the proposal isn't a good proposal. It is. But after  
21 talking to the people, especially those in the field, I have  
22 to kind of go along with Mr. Cook.

23 If Harvard is going to put that much money into  
24 it, they are going to have some say. You can't say that they  
25 are not. People in the area are concerned about the fact

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1 or the question, are they going to have any kind of control.  
2 Another concern of mine is the way that the proposal was sent  
3 in, that other institutes did not have a chance and we are  
4 not giving ourselves a chance to really approve it.

5 I also go along with what has been said in terms  
6 of our priority being expansion. The word is very important.  
7 I also think that we need to look at some of the training.  
8 Can we make it better? I am very concerned that right now  
9 that we have to sit here and make a decision.

10 MS. KETTLESON: I would like to take just a moment  
11 and respond to some of the concerns that people have expressed.  
12 When I left legal services and came to Harvard Law School, I  
13 spent about four years working in the clinical program and  
14 had a major responsibility in the fund raising for the clinical  
15 program.

16 I can assure you that based on my experience there  
17 in trying to raise money from Harvard for a program of  
18 general clinical education that the law school wouldn't be  
19 interested in this type of program. It is not the sort of  
20 thing where you could find law school deans rushing in  
21 because they see enormous economic or other benefits for  
22 support of their general educational programs.

23 In fact, eight or ten months after we proposed this  
24 at Harvard Law School, it might look that way, but it really  
25 took a long time to persuade Harvard that this was eventually

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1 worth getting into for a variety of reasons. It does have  
2 interest to them as an educational venture.

3 But in the general area of clinical education, this  
4 would not be where the priority is. A good deal of the  
5 motivation, Harvard's motivation, behind this is because they  
6 were willing also to make a commitment to do something in the  
7 area of legal services, to make a contribution here. That  
8 is not something that the school has done a lot of in the  
9 past.

10 I have been very critical of the school on that,  
11 but on this one, I don't feel that I can be. And I think it  
12 might come down to the fact that we have to have some confidence  
13 that their gesture to provide a substantial financial commit-  
14 ment way beyond any immediate benefit is quite innovative and  
15 is a recognition on their part that they have a responsibility  
16 as a school that has some resources to make a commitment in  
17 this area, that they need the support of the legal services  
18 community and they were persuaded or whatever you want to  
19 call it, but I am very glad that they did and all I can say  
20 is that I think that we have to proceed on the basis that  
21 that is a good faith commitment on their part, and they have  
22 no hidden motive in that except that they would like for it  
23 to succeed.

24 They would like to see it be a successful career  
25 line program, a training program for legal services' attorneys,

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1 and maybe it can be adapted in other areas at other times.

2 CHAIRMAN RODHAM: I suppose that one of the benefits  
3 that none of us can see and that we cannot write down on any  
4 proposal or any assessment of the proposal is that in fact  
5 this will change legal education in a way that will benefit  
6 legal services because for the first time, the law school will  
7 have the guts to release their students from three years of  
8 sitting in a classroom into two years and one year of actually  
9 being a lawyer.

10 I favor the proposal for a number of reasons but  
11 one of them is that we have to start somewhere to break this  
12 deadlock that case method and abstract academic control for  
13 legal education because I think more than anything else,  
14 people who want careers on behalf of any person outside of  
15 the usual courtroom practice that we are now training everyone  
16 for so that legal service attorneys and anyone else in the  
17 public interest area has to then train themselves or be  
18 trained at great expense by people whose resources are  
19 limited to learn how to be a lawyer on behalf of other  
20 people and corporations.

21 Any other comments?

22 MR. BROUGHTON: What ever the considerations are,  
23 are we doing this before we consider the budget?

24 CHAIRMAN RODHAM: I would assume that we could ask  
25 Mr. Stophel as with every other item in the budget that this

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1 this would be open.

2 MR. BROUGHTON: It seems to me to be a fragmentary  
3 way in which to proceed.

4 CHAIRMAN RODHAM: I take it what the motion recom-  
5 mends is that the Board decides whether it wishes to recommen  
6 that this item be included in the budget but it does not  
7 disclose further discussions of it in a budgetary sense.

8 MR. BROUGHTON: Can we take this as a separate item  
9 in the budget and see how it relates to other items?

10 CHAIRMAN RODHAM: If you will remember, the  
11 appropriations committee decided to do that. We left that  
12 particular line item and decided at the committee meeting  
13 because we knew that the provision committee had considered  
14 it, and the Board would consider it, and therefore, we left  
15 the item undecided for the Board to consider again in the  
16 context of the budget if it so wished.

17 If there were no recommendations coming from the  
18 Board to consider this proposal, there would be no way to  
19 consider it in the budget. If there is a recommendation,  
20 it is my opinion at least that that does not forestall or  
21 foreclose any discussion within the budget context of the  
22 proposal because it is an item on the budget.

23 There are items on the budget which have already  
24 been decided on as far back as July and we made recommendatio  
25 to the Board on certain items that they could go ahead and

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1 plan on because we knew that the problem of Congressional  
2 appropriations would come to pass, and this is a process  
3 that is unfortunate.

4 MR. TRUDELL: The point about the proposal being  
5 a line item is an important point, and I think that we should  
6 postpone further discussion on this particular item until  
7 we get through the budget.

8 MR. BROUGHTON: I would like to second that motion,  
9 that that be deferred until the budget is taken up.

10 MR. CRAMTON: I just think that we are so far into  
11 this, it is a mistake to fool around with the procedural  
12 question. It is just a question of priorities and these  
13 problems have always been before us, and we are always making  
14 decisions at one meeting that presupposes items in the budget.

15 At the very last meeting, we made decisions as to  
16 certain items that were fixed and which commitments were to be  
17 made moving ahead on a resolution basis. We can always change  
18 our minds. When the personnel committee makes commitments  
19 about salaries and so on, that affects items in the budget.

20 Let's decide something on the merits, and not just  
21 talk always about when we are going to decide something.

22 MR. BROUGHTON: Let me respond to that by saying at  
23 the last meeting, we had several discussions as you will  
24 recall as to the amount that was in the expansion budget ver-  
25 sus the amount that would be for the programs. If I understand

1 it when we take up the budget per se, that there is enough  
2 flexibility when the budget comes to the Board, it seems to  
3 me that this will give an opportunity for this particular  
4 proposal to be considered in light of what might be considered  
5 to be other priorities and considerations.

6 That is the point that I am making.

7 MR. ORTIQUE: I would have seconded the motion, but  
8 I think there are two things on the merits that I think we  
9 ought to get cleared up now. I think it is appropriate when  
10 this Board sees something that it is excited about, we ought  
11 to have the flexibility to do something about that. That  
12 is the position of the Board. I think that is a condition  
13 that ought to be decided prior to the budget considerations.

14 I think the second point is one that maybe we have  
15 not responded to and it has to do with what this corporation  
16 wants to do because I think you are very correct. That is why  
17 I didn't second his motion to defer.

18 I would like to know, for example, from the staff  
19 are we saying that this money is going to be taken away or  
20 seriously affect our notion of expansion or some other item  
21 in the budget. And I think we should know what these consider-  
22 ations are prior to the time that we come to the budget item.  
23 One, is this something that we want to do in terms of any real  
24 innovative, excited project, we want the staff to come to this  
25 Board and say, here is one of the successful situations and we

1 want this Board to make a decision about it; and two, whether  
2 as a matter of fact, we think that this is so good that it  
3 ought to have special support money that was talked about.

4           These are considerations that I think we have to  
5 decide upon before we make a budget determination.

6           CHAIRMAN RODHAM: Would you please identify yourself  
7 for the record.

8           MS. LANIER: I am a client representative and I  
9 have been listening to the Board. I, as a client, and I  
10 think others as clients feel that this money should really go  
11 into the area of serving clients in a different manner.

12           What I am saying is that there are many offices that  
13 need to be opened in client communities and there are many  
14 clients not being served across the country. And I feel that  
15 this money should be directed in opening more offices so  
16 that more clients can be served that are not now being served.

17           My feelings are that it is good, but when we have  
18 people who are suffering from other things, like where we  
19 should have an office in places that is not being served, I  
20 think this money should be going in that direction.

21           I would like you all to think it over again and  
22 the clients that I have talked to have also felt the same  
23 and I would urge you to direct the funds into the area of  
24 opening an office in places that are not currently being  
25 served. Thank you.

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1           CHAIRMAN RODHAM: Thank you. Please identify your-  
2 self for the record.

3           MS. HARGROVE: I am Ms. Hargrove and I am an  
4 attorney for the Colorado Rural Legal Services and I am also  
5 a member of the Committee on Client Funding which came out  
6 of the Next Steps process.

7           Before the Board votes on this proposal, I think  
8 you should be aware of everything that came out of the Next  
9 Steps process including a resolution which we would like  
10 to present to you right now.

11           I would like to introduce Ms. Birge who is a client  
12 from Oklahoma.

13           MS. BIRGE: I am state chairperson for the National  
14 Clients Council and also regional chairperson for Region VII.  
15 Out of the six Next Steps conferences, we came here represen-  
16 ting a large segment of the people selected from those  
17 conferences and then later another smaller came back and we  
18 have come up with one basic resolution.

19           The clients feel like this is where it is. The  
20 resolution reads, "Resolved that: The Legal Services Corpor-  
21 ation fund the National Clients Council in the amount of  
22 three percent of the total Legal Services Corporation funds  
23 for fiscal year 1979, four percent of the total Legal Services  
24 Corporation funds for fiscal year 1980 and five percent of  
25 the total Legal Services Corporation funds for fiscal year

1 1981, over and above the present and future amounts allocated  
2 to the National Clients Council. Of this amount 97 percent  
3 would be dispursed to local client councils and other client  
4 community organizations to upgrade and promote community  
5 education, lay advocacy and training, and accessibility  
6 for clients; and that three percent go to the National Clients  
7 Council for supportive services, such as provide training,  
8 technical assistance, et cetera."

9           The Next Steps Conference found that there was an  
10 inability on the part of management to deal with racism,  
11 sexism and elitism and that was predominately because they  
12 did not use the expertise that was available to them. They  
13 did not use the clients.

14           We also found out that there was an effective use  
15 of boards of directors especially the client segment. We found  
16 out that there was lack of adequate planning and priority  
17 setting again resulting from the non use of client members.

18           The inability to implement plans and priority  
19 settings effectively had been left off or not utilized  
20 properly because nobody was using clients. Clients cannot  
21 effectively participate without some training.

22           Those of you who are Board members were trained in  
23 the field of law. We need training also. We recognize that.  
24 We are waiting for it. We are asking for it. We are begging  
25 for it.

1           You have given us the loaf of bread and we are ask  
2 for the shoes now so we can go get our own bread for many  
3 years to come. Please pass this resolution.

4           (Applause.)

5           CHAIRMAN RODHAM: Thank you. I might say that  
6 a copy of the resolution has been given to each Board member  
7 and Kathryn deGermany is prepared later to talk about what  
8 is currently being done and what is planned for client  
9 training which was very briefly discussed this morning and  
10 the plans for additional support.

11           The resolution will more properly be taken up  
12 in the budget context and in the discussion of support. We  
13 are very glad to have it before us at this time. So if you  
14 will be staying when we begin to discuss the budget in more  
15 detail, your resolution will be brought up again at that  
16 time.

17           MS. BIRGE: May we make one or two other statements

18           CHAIRMAN RODHAM: If they are germane to the motion  
19 that is on the floor at this time. We certainly welcome  
20 your comments now, but I wanted to make clear the context  
21 in which we are dealing at the present and I thought perhaps  
22 they would be more appropriate in the context of the budget  
23 discussions which we will get into later in the day.

24           MS. HARGROVE: I would just like to point out that  
25 this resolution does not only concern training, but it

1 concerns a very ambitious nationwide delivery system. We  
2 are just asking you to utilize one of our greatest resources,  
3 the clients, who are enthusiastic and who have skills already  
4 whose skills can be upgraded and are willing to work for very  
5 little -- the amount of money to put telephones in their  
6 offices -- and who can do lay advocacy and community education  
7 probably more effective than anybody else.

8           These are people who live in the communities, who  
9 lived through the problems themselves and who are acquainted  
10 with the problems and all the issues in the community, and  
11 who speak the language and who can be the most effective  
12 advocates in all kinds of administrative procedures including  
13 things like welfare and immigration law.

14           I would just like to make it clear now that the  
15 proposal is not only about training.

16           Thank you very much.

17           MS. BIRGE: In other words, what we are saying  
18 is that we do not have to be trained to be clients. We live  
19 that every day. We want to be trained to help ourselves.  
20 That is what we are asking.

21           CHAIRMAN RODHAM: Thank you. The motion is  
22 currently before us and it has been seconded -- any further  
23 discussion -- yes, sir.

24           MR. BARNHAUSER: My name is David Barnhauser and  
25 I am the director of legal services at Cleveland State

1 University and I wanted to let you know that I worked with  
2 Gary about seven years ago, and the reason he got into  
3 clinical education at Harvard out of the field work in legal  
4 services was because of a commitment that he has had and  
5 maintained for all that time.

6 I agree with Willie Cook, but I think you have to  
7 also say about Gary, that he got into this business of teach-  
8 ing methodology, teaching people how to be legal services  
9 lawyers ten or twelve years ago, and that is the sole reason  
10 that he got into clinical education and the sole reason that  
11 he went to Harvard.

12 Now what he has done over that period of time and  
13 what I have tried to do, the work I have done, is to develop  
14 the skills and I have worked with a lot of other clinical  
15 teachers, but there is no one in the United States who has  
16 the knowledge and the skills and the intellect and the  
17 creativity to bring back to legal services the kinds of things  
18 that Gary can do.

19 This program cannot be replicated; maybe two or  
20 three years from now when he teaches other people how to do  
21 it, it can be replicated. The reason I am saying this in  
22 terms of the critical nature is that the one thing I haven't  
23 heard today when we are talking about case load and you are  
24 talking about expansion and a couple of the Board members  
25 touched on it, but I have represented thousands of legal

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1 service attorneys and I have represented anyone who could pay.

2 The thing I would like to say because of the poverty  
3 situation that they are in, legal services attorneys have a  
4 problem in quality. We know better. I had it. I see law  
5 students coming up and being hired. Who do you think the  
6 attorneys are that go out into these very needed rural  
7 areas that are in such desperate need for legal services?

8 They are kids from law school who don't know a  
9 damn thing. You talk about improving the quality of services  
10 in terms of legal services and we talk about it all the time  
11 rhetorically and it is a great idea but it does not happen  
12 because we send kids out who don't know anything.

13 What Gary is talking about is creating a model  
14 which is transferable to what others are doing, to be able to  
15 increase before they get out into the field, before they  
16 get out with the skill levels as Harvard rated model which  
17 did not work very well for the clients. The rated model  
18 is a corporate practice model, but it doesn't do anything else  
19 well.

20 What we have to do is what Gary is suggesting, create  
21 a specific career line model for the legal services that can  
22 focus on quality for our clients the same way as the model  
23 did for their clients and do it right.

24 That is what it comes down to fundamentally. So  
25 let's not talk about cutbacks. There are cutbacks, but that

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1 is a property of federal funding. You never get as much as you  
2 ask for, and you know it.

3 Of the \$207 million budget, this kind of creative  
4 and innovative program is in fact one-tenth of one percent of  
5 that budget. And that doesn't seem like much when we are  
6 talking about the kind of quality inherent in this proposal,  
7 and this is a problem that is under the surface of everything  
8 we do as legal services attorneys -- the quality of the  
9 representation that our clients get.

10 That is at least as important as their going in and  
11 getting service. It is a problem, and I hear this in the back.  
12 We know it happens. I have done it. And everybody in this  
13 room who has been a lawyer has done it because you were not  
14 trained to do a good job. That is the reality.

15 Now what Gary is talking about is training people  
16 with the skills that they need for the representation in legal  
17 services and to give our clients quality service, also a lot  
18 of it, but quality.

19 MR. BROUGHTON: I would like to ask a question.  
20 What has been your opinion of the Reggie Program?

21 MR. BARNHAUSER: That is a loaded question!

22 MR. BROUGHTON: You are speaking about training  
23 and I know that you have had a lot of experience.

24 MR. BARNHAUSER: I think the Reggie Program has  
25 had tremendous results on many levels, not necessarily in

1 the very merits of the objectives it seeks to accomplish.  
2 Those objectives have been stated differently at different  
3 times. I can identify at least three. One, Hillary, you  
4 addressed a little earlier in terms of clinical education as  
5 such and perhaps that is the strongest part of this proposal  
6 though I would question whether at this point in time, the  
7 development of clinical education should be the priority  
8 of the Corporation.

9           The other two which seem to be discerned are how  
10 do you actually train legal services lawyers do to the best  
11 job they can and what kind of legal services program you  
12 develop. Assuming, as I think we all must, that those are  
13 two objectives desired by this proposal, to date there has  
14 been absolutely no critical examination of whether this  
15 proposal is the best way to accomplish these objectives.

16           It may or it may not, but the fact is that you do  
17 not know because you really have not considered whether that  
18 is the best way to get from here to there, and you also do  
19 not have any alternatives to chose from.

20           Now to illustrate my point, let me just point out  
21 that there is ample documentation in the training and develop-  
22 ment field that if you take a person out of context, train  
23 them and send them back into that organization, nothing  
24 happens. They rarely performed badly unless the organization  
25 itself is changed, unless it develops so that it and the

1 individual are keeping pace with one another, you have pretty  
2 much nothing.

3           Something else has been demonstrated and that is  
4 that the best way to train people is on the job, day after  
5 day, receiving critical supervision from, in this instance,  
6 another lawyer, something akin to what some of the other  
7 larger law firms, the institutionaized law firms with their  
8 cadre of young personalities.

9           I would submit to you, therefore, that if we were  
10 looking to accomplish the objectives of the best legal  
11 services on the one hand and the most excellent programs on  
12 the other, we might want to consider alternatives which would  
13 reach out today to those programs and to the people who are  
14 performing them to try to make those kinds of changes rather  
15 than the very gradual 25 graduating seniors a year that is  
16 conceived by this proposal.

17           On the other hand, maybe Gary can make out a  
18 convincing case because he is a very convincing guy. There  
19 is enough question about the proposal that I would submit  
20 to you that a process should exist as it should have existed  
21 from the beginning and that process should first identify  
22 the objectives, assuming this innovation to be a priority  
23 for budget purposes to begin with, to determine the objective  
24 you are trying to seek through the innovative proposal and  
25 help us to accomplish them.

1 CHAIRMAN RODHAM: Any further discussion?

2 MR. CRAMTON: We have spent much time discussing  
3 this, but we do have many more important items on our agenda.

4 MR. TRUDELL: Could you restate the motion?

5 MR. CRAMTON: The motion as I understand it and Mr.  
6 Kutak can correct me, is to have the Board adopt the  
7 recommendation of the President spelled out in the President's  
8 memorandum and it contemplates setting aside \$750,000 in the  
9 '79 budget for developmental grants and negotiation of a grant  
10 with the Greater Boston Legal Services that would conform  
11 to the conditions and other elements spelled out in the  
12 President's recommendation.

13 CHAIRMAN RODHAM: That is a restatement of the  
14 motion. All in favor, signify by saying aye.

15 (Chorus of ayes.)

16 CHAIRMAN RODHAM: All opposed?

17 MS. ESQUER: No.

18 MR. BROUGHTON: No.

19 MS. WORTHY: No.

20 MR. TRUDELL: No.

21 CHAIRMAN RODHAM: The ayes have it.

22 MR. CRAMTON: I think we need in the record those  
23 who voted for the motion and those who opposed it.

24 CHAIRMAN RODHAM: Okay. All in favor includes  
25 Mr. Kutak, Mr. Smith, Mr. Stophel, Mr. Cramton, Ms. Rodham,

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1 Mr. Engelberg and Mr. Ortique. Those opposed include Ms.  
2 Esquer, Mr. Trudell, Ms. Worthy and Mr. Broughton.

3 (Whereupon, the pending motion  
4 was passed.)

5 CHAIRMAN RODHAM: We are now going to break for  
6 lunch and we will be back at exactly two o'clock. Thank you.

7 (Whereupon, a luncheon recess was held at 1:00  
8 o'clock p.m. to reconvene at 2:00 o'clock p.m. as described  
9 above.)

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CERTIFICATE OF REPORTER

I, Marilynn M. Greenfield, do hereby certify that the foregoing proceedings were reported truly and correctly to the best of my knowledge and ability, and that I have no interest in said proceedings financial or otherwise, nor through relationship with any of the parties in interest or their counsel.

IN WITNESS WHEREOF, I have hereunto set my hand this 23rd day of October, 1978.

Marilynn Greenfield  
Marilynn M. Greenfield  
Court Reporter