

TRANSCRIPT OF PROCEEDINGS

LEGAL SERVICES CORPORATION PROVISIONS FOR THE DELIVERY OF LEGAL SERVICES

COMMITTEE MEETING

March 7, 1987

9:05 a.m.

The Westin Canal Place
Terrace Room
100 Rue Iberville
New Orleans, Louisiana

A P P E A R A N C E S

Basile J. Uddo, Chairman
LeaAnne Bernstein, Member
Lorain Miller, Member
Robert A. Valois, Member
Hortencia Benavidez, Member
Claude G. Swafford, Member

Also Present:

Michael B. Wallace

COUNTY COURT REPORTERS, INC.



Registered Professional Reporters
Certified Video Technicians



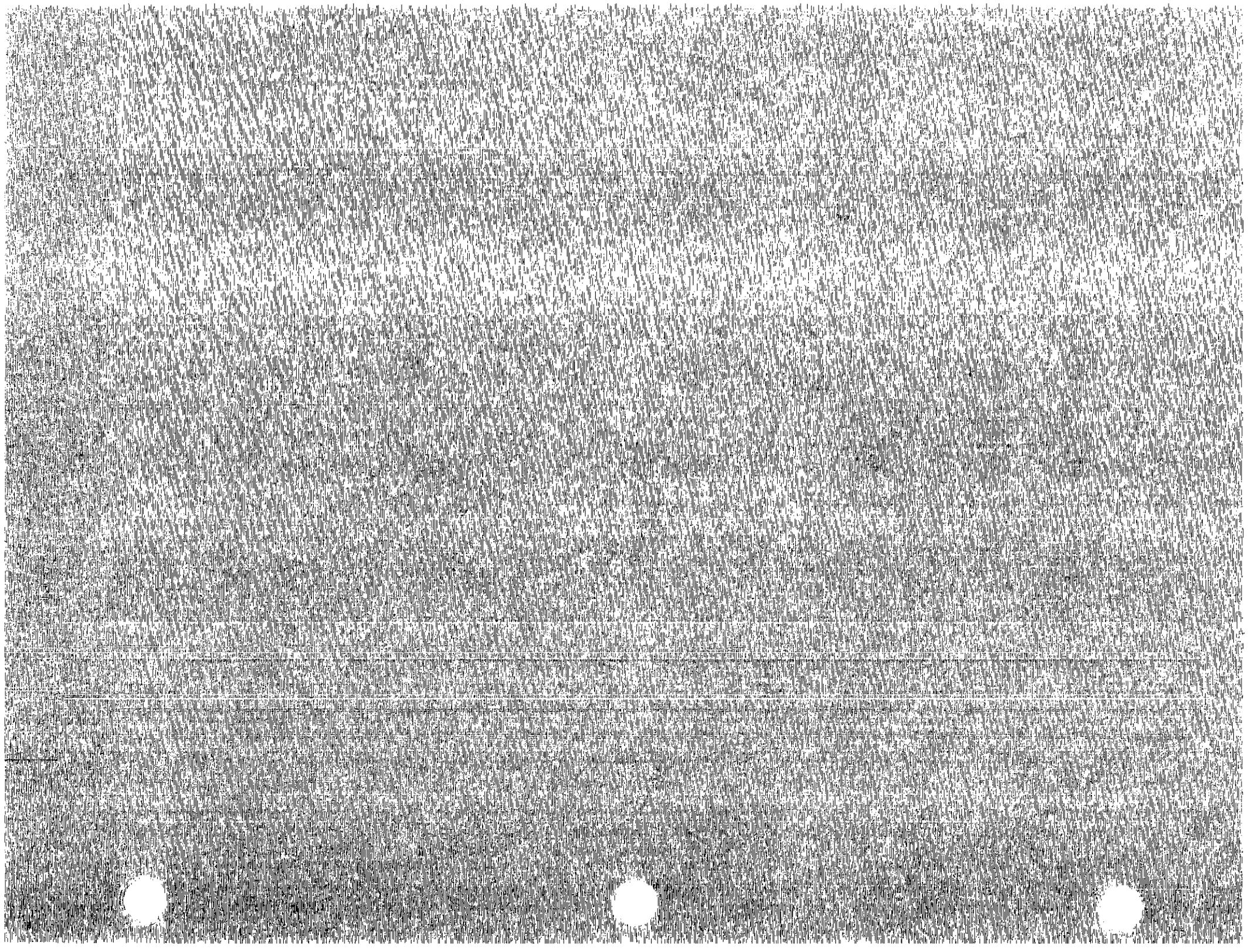
LEESBURG, VIRGINIA 22075
110 Market Street NE
(703) 777-8645

WINCHESTER, VIRGINIA 22601
30 South Cameron Street
(703) 667-0600

WARRENTON, VIRGINIA 22186
51 Culpeper Street
(703) 347-2020

Members: National Shorthand Reporters Association • Virginia Shorthand Reporters Association • TomCAT Users Group
PROFESSIONAL REPORTING SINCE 1975

Washington Metro 471-7400
IN VIRGINIA Call 1 800 CO CT RPR



I N D E X

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

Committee Agenda

Page

Vote

3

Approved

3

Presentations

Page

Catherine LeFleur

3

Sylvia Drew-Ivie

10

Robert Sable

15

Henry Freedman

27

Gordon Bonnyman

124

Jan Scussel

130

Mary Trimble-Norris

135

Mark Morrow

140

Betty Walker-Lanier

176

Joseph Oelkers

181

David Cooper

188

Robert Byrd

192

Ashley Wiltshire

199

Allan Rodgers

208

Mary Burdick

218

Louis Armstrong

223

William Whitehurst

237

Catherine LeFleur

299

Sara Campbell

313

Anna Smart

324

Phyllis Hollman

332

Michael Leonard

338

Linda Catalano

343

Robert Mark

367

Rosemarie Williams

385

1 it gives us an opportunity that we don't normally
2 have, to talk to people that we often just talk to on
3 the phone.

4 And I'd like to ask you all to please come back
5 and visit the individual programs in the state and
6 let us show you what we have done and what we
7 continue to do to serve clients.

8 If we can be of any help to you all during you
9 all's visit, let us know. Thank you.

10 CHAIRMAN UDDO: Thank you,
11 Catherine.

12 Let me just take a couple of minutes to also
13 welcome everyone to New Orleans. Since this meeting
14 is being held here at my request because my wife is
15 pregnant and about to deliver and I couldn't leave
16 town, the corporation agreed to arrange its meeting
17 here and I'm happy to have everyone in New Orleans.

18 I had hoped the weather would hold out for you.
19 We had a beautiful week last week, but it looks like
20 we're returning to the period of unceasing rain.

21 I hope maybe it does let up for those of you who are
22 going to be here for the weekend.

23 The purpose of this meeting, in case there is

1 any disagreement or uncertainty about the purpose of
2 this meeting, is to give the public the opportunity
3 to comment both generally and specifically on issues
4 dealing with funding of national and state support.

5 I think all of us know the history of this issue
6 and I think everyone here knows that there was a
7 prior vote by the board suggesting that national and
8 state support funding be shifted from that line in
9 the budget to the field programs and that the funding
10 be achieved through a process of subgrants whereby
11 national and state support units would, in effect,
12 purchase their...would, in effect, have their
13 services purchased by a local program.

14 That is not necessarily the only proposal that
15 you should be interested in or address yourself to,
16 because I asked Mr. Bayly to write the letter that
17 announced this meeting and invited the public comment
18 generally enough to ask you to be prepared to speak
19 to the issue of national and state support funding in
20 a general sort of way.

21 That's obviously one of the things that I hope
22 you'll be prepared to address your comments to.
23 Also, I would invite, as I think you've been told by

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 me, if I've talked to you or by other people who have
2 given some thought to this, that this would also be
3 an appropriate time for any proposals about
4 alternatives or suggestions.

5 I suspect that there will be a rather consistent
6 theme in the testimony that probably not much should
7 be changed and that's fine, but if there is the
8 thought that some other proposals or some other
9 alternatives ought to go into the hopper for
10 consideration, I think now is the time to do that.

11 This is a fact finding meeting. It's an attempt
12 to try to gather as much information as we can and
13 it's an attempt to try to give the Board a basis for
14 making decisions in the future.

15 You'll note that there is no agenda item calling
16 for a staff report. There is no staff report. This
17 is preliminary fact finding, as far as I'm concerned
18 and there is not a given position on the point that
19 you're being asked to respond to. That may happen,
20 but at this point it is a more general fact finding
21 inquiry.

22 I would ask everyone who speaks to follow a few
23 ground rules. One is to understand that we do have a

1 number of people who want to speak today and because
2 of the schedules we're going to try to move it along
3 as best we can without sacrificing the quality of the
4 input that we're trying to gather.

5 Several of you have submitted written comments
6 and many who are not here today have submitted
7 written comments so, what's said at the microphone
8 today, won't be the extent of the comments that will
9 be considered by the corporation, because so much
10 more has been submitted and I suspect more might be
11 submitted.

12 But, in your comments, I'd ask you to be concise
13 and direct and we're sort of roughly going to try to
14 follow five minutes per person of direct testimony or
15 direct address to the Committee, but keeping it to
16 five minutes, because I'm hoping that we will have
17 any exchange and discussion or dialogue with as many
18 people who are willing to engage in that as possible.
19 So, we want to leave enough time for questions.

20 I'd ask you to be prepared for questions in the
21 sense that I think the members of my subcommittee and
22 the members of the Board who are here, have
23 questions, have things that they want to ask you. I

1 know that the spirit of the exchange will be
2 spirited, but respectful and on the appropriate
3 level, but I want you to be prepared for precise and
4 vigorous questioning.

5 I mean, the point of being here today is to have
6 that kind of exchange so we can ask the kind of
7 questions that we don't always get the opportunity to
8 ask and to give you an opportunity to respond to
9 those questions.

10 So, I'm hoping that there will be a spirited and
11 productive exchange on the number of items that are
12 going to come up.

13 I guess that is about all I wanted to say at
14 this point. Having said that, I would ask according
15 to our revised agenda, the panel for national support
16 to please come to the table. That's Allan Rodgers,
17 Louis Armstrong and Mary Burdick.

18 MR. VALOIS: That's state
19 support.

20 CHAIRMAN UDDO: Oh, I'm sorry.
21 I'm sorry. That's not who we want first, then. The
22 agenda had you first, but I think by agreement among
23 the audience is that the National Support Panel is

1 supposed to go first. I'm sorry. That's Mr. Sable
2 Henry Freedman and Sylvia Drew-Ivie.

3 This was done by agreement of the audience. I
4 mean, I'm not hopping over someone that wanted to go
5 first. Mr. Rodgers, were you consulted about this
6 change?

7 MR. RODGERS: I have no view
8 on that.

9 MR. VALOIS: Maybe we can
10 send this matter to some support center.

11 CHAIRMAN UDDO: The floor is
12 yours.

13 MRS. DREW-IVIE: Good morning.
14 Professor Uddo and members of the Committee, I'm
15 Sylvia Drew-Ivie, Director of the National Health Law
16 Program and I will briefly describe what support
17 centers do and why the present system is a cost
18 effective, leveraged way to serve large numbers of
19 eligible clients.

20 Bob Sable, Director of the National Consumer Law
21 Center will review the history of support for the
22 present system and the practical unworkability of the
23 privatization proposal.

1 Henry Freedman, Director of the Center for
2 Social Welfare Policy and Law will share lessons he's
3 learned in 21 years of service at the Welfare Law
4 Center and how privatization would affect his service
5 to clients.

6 We ask that you allow us to each make our five-
7 minute presentations before we take your questions.

8 CHAIRMAN UDDO: And I will ask
9 the Board to please respect that request.

10 MRS. DREW-IVIE: The national
11 support center system provides two indispensable
12 services, specialization and access to expertise.

13 Clients cannot be professionally represented
14 without an ongoing source of specialized knowledge in
15 such public benefits programs and entitlement
16 programs that we deal with.

17 Familiarity with statutes, regulations governing
18 these complex programs, recent changes in the law,
19 up-to-date information on court decisions, agency
20 actions affecting poor people are not luxuries, but
21 the minimum that is necessary to protect the rights
22 of clients.

23 Some of our centers specialize in special

1 population groups, such as seniors, youth, migrants,
2 indians. Some specialize in subject areas, such as
3 housing, consumer welfare or health.

4 We have made this specialized knowledge
5 accessible by creation of central offices which
6 produce or collect, then disseminate work which
7 otherwise would be needlessly created or researched
8 over and over again by individual field program or
9 private attorneys.

10 The centers are, therefore, a critical element
11 in the provision of high quality, efficient and cost
12 effective legal services.

13 The center staff help local LSC and private
14 attorneys handling LSC cases, ranging from brief
15 telephone advice to presentation of memos, analysis
16 and assistance of pleadings and briefs, to co-
17 counseling of cases in court and before
18 administrative agencies and legislative forums.

19 David Bryson's submission on behalf of a housing
20 law program is an excellent in-depth description of
21 all of those services provided by the centers.

22 The centers produce expert materials in the form
23 of manuals, newsletters, articles, model briefs and

1 mailings in specialty areas. The involvement by the
2 vast majority of our centers in each of these
3 functions, strengthens the quality of our work in all
4 of these functions. That is, litigation strengthens
5 the manuals. The manuals develop...help with our
6 training and the training strengthens our networking
7 among experts in the various specialties within the
8 field.

9 We keep specialists in touch with one another
10 through our trainings and mailings and centralize and
11 preserve much of the data given to us by the field
12 through our clearinghouse review articles.

13 Our staffs are made up of highly experienced
14 attorneys supported by unique library resources
15 collected over many, many years.

16 I want to share with you an example of the work
17 of the Health Law Program which illustrates the way
18 the support system works best.

19 End Help was founded in 1969 by the Office of
20 Economic Opportunity. One of our first attorneys was
21 Marilyn Rose. Before coming to End Help, Marilyn had
22 been Chief of the Health Civil Rights Branch of the
23 Department of Health, Education and Welfare.

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 In that capacity she discovered an entitlement
2 to health care access under the Hill Burton Act which
3 has been dormant for the 20 years of the statute's
4 existence. She urged the Department of HEW to
5 enforce the obligations of hospitals built with
6 federal funds to allow such uncompensated care to
7 people unable to pay.

8 The Department ignored her urgings. Larry
9 Silver, the first head of the Health Law Program
10 asked Marilyn to join the staff of the National
11 Health Law Program. Within five months, Marilyn
12 published two articles in which she set forth the
13 premise and supporting arguments that a hospital
14 constructed, modernized or expanded under federal
15 Hill Burton funds had statutory and contractual
16 obligations not to deny services to persons who could
17 not afford to pay.

18 Jeff Schwartz, an attorney at that time right
19 here in New Orleans, was meanwhile representing a
20 group of tenants concerning housing law violations.
21 Two of his Plaintiffs kept missing appointments and
22 meetings. Upon exploration he discovered the women
23 were late or absent because they took their children

1 for medical attention. Whenever they did they ended
2 up spending most of the day going from one hospital
3 emergency or outpatient clinic to another in search
4 of care.

5 Access to care became a recognizable problem,
6 but Jeff and the other New Orleans legal assistance
7 attorneys had no experience litigating health issues.
8 The severity of the access problems his clients were
9 presenting to him prompted Jeff to attend an End Help
10 training conference in Chicago.

11 Jeff met Marilyn Rose who was training on Hill
12 Burton issues and he discovered that she was
13 presenting a way that he could assist his existing
14 clients with a problem they were experiencing with
15 access to care.

16 Suit was filed and as a result of that piece of
17 litigation, Cook Bioxner regulations were promulgated
18 for the first time, articulating the rights of Hill
19 Burton beneficiaries to hospital access.

20 End Help, thereafter, wrote for the
21 clearinghouse review in its own newsletter, trained,
22 using the pleadings that had been developed in the
23 decision in the Cook case and in a short period of

1 time, Hill Burton beneficiaries were being protected
2 by legal services lawyers all over the country.
3 Dozens of suits and administrative complaints were
4 filed protecting their heretofore unprotected
5 interests in that entitlement.

6 Testimony was solicited from the End Help staff
7 by Congress as it reviewed the Hill Burton program
8 and as a result of that testimony, regulations were
9 changed in 1974 and again in 1979.

10 Gordon Bonnyman, a Nashville legal services
11 attorney worked with the National Health Law Program
12 in litigation on behalf of his clients, resulting in
13 a decision that, not only could present rights of
14 Hill Burton beneficiaries be protected, but the old
15 obligations of these hospitals could be recouped
16 going back to 1973.

17 Today, End Help works with over 300 local legal
18 service attorneys in the Hill Burton area.
19 Clearinghouse has just published our most recent
20 manual on Hill Burton, which I'm asking Michael
21 Leonard to send you all copies of and it is one of
22 the most frequently requested areas of training by
23 local programs on behalf of their clients.

1 Millions of dollars of free care have been
2 secured on behalf of these beneficiaries. Without a
3 stable support health program with commitment to
4 specialization and dissemination of information and
5 the commitment of talented field attorneys like Jeff
6 Schwartz or Gordon Bonnyman, the Hill Burton program
7 would still be a dead letter today.

8 Each of the 17 services has the same type of
9 history to share with you. These great contributions
10 to client protection are histories of which we are
11 very proud. We invite you to become part of our
12 history by preserving the institutions which have
13 made such high quality services to field attorneys
14 and clients available.

15 Thank you.

16 CHAIRMAN UDDO: Thank you,
17 Sylvia.

18 MR. SABLE: My name is Bob
19 Sable. I'm the Director of the National Consumer Law
20 Center in Boston. I've addressed the Board before in
21 particular about the general work of the national
22 support centers and the work of my center and to some
23 extent have discussed some of these issues with you

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 previously.

2 Sylvia has explained and I have tried to explain
3 in my earlier presentations why we think that
4 national support, as it is presently structured is,
5 to use the term that she and I both like, a highly
6 cost effective, leveraged way to get high quality
7 legal services to a large number of eligible clients.

8 Field attorneys and field programs where the
9 immediate recipients of most our services have
10 repeatedly agreed with this assessment and indicated
11 their support.

12 In 1982, Mr. Dumas, who at that time was a Board
13 member, instructed the staff to perform a
14 confidential survey of program directors and program
15 chairmen, asking them, would they prefer to get the
16 money that was given to national support through
17 their own programs or would they prefer that the
18 money went to the national support programs.

19 In that year, a particularly significant year
20 because it was right after a 25 percent funding cut,
21 approximately 85 percent of the respondents said that
22 they would prefer that the money stayed with national
23 support.

1 After that, the corporation hired the National
2 Opinion Research Center to do a scientific study of
3 support needs. I'm sure many of you have reviewed
4 that already. Some of the key findings were that 94
5 percent of project directors, speaking on behalf of
6 their programs, 87 percent of field attorneys and 58
7 percent of legal services paralegals had received
8 assistance from national support centers during the
9 period under review, from '82 to the summer '83.

10 This percentage is for project directors,
11 incidentally, who had received assistance from state
12 support, was similarly high. Not only were the
13 centers widely used, but those who used them reported
14 the services to be good. 89.9 percent of the program
15 directors, 90.3 percent of the staff attorneys, 81
16 percent of the paralegals and 85 percent of the
17 adjudicatory attorneys who used national support,
18 gave it the highest satisfaction rating that was on
19 the survey.

20 More recently, this staff put out a survey
21 asking about utilization of state and...or national
22 support and a high level of utilization was reported.

23 When this Board voted to zero fund the national

1 and state support centers, the Project Advisory
2 Group, which is the representative group of, I think,
3 approximately three-quarters of the field programs,
4 passed a unanimous resolution in support of the
5 present structure in urging you to reverse your
6 decision.

7 Because of this support, others who are
8 concerned about legal services in the American Bar
9 Association, Bar Leaders for the Preservation of
10 Legal Services, have supported the present system
11 and, I think as a result of all of that, the Congress
12 rejected the privatization notion and mandated a line
13 item funding for national and support centers.

14 So, when we turn to more directly answer the
15 questions about the desirability and affects of the
16 proposal, I think perhaps, the prime reason for
17 favoring the present system is that no one wants it
18 to change. Neither the field, nor the centers, nor
19 the Congress.

20 Now, among the reasons that they don't want
21 privatization and why we don't want it are these.

22 First of all, we think it will result in fewer
23 support services than are needed.

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 Secondly, the services will be more expensive
2 than they are now.

3 Third, the allocation of the services will not
4 be as effective.

5 Fourth, some needed, but quote, unprofitable
6 services may be eliminated altogether. We think the
7 private bar may well be cut off from a substantial
8 amount of support that they can now get and we think
9 it would be an administrative nightmare, at best and,
10 more likely, will prove to be totally unworkable.

11 Let me try, in the very short time I have, to
12 explain why we think that those effects...why we
13 think those effects will result.

14 The first I'd address is what's known as the
15 free rider problem. Congress, I think, has long
16 recognized that it's not always the case that a
17 series of individual decisions will necessarily
18 result in the optimum goods or services being
19 provided.

20 And this is so when you have something which
21 they call a public good. That is something which is,
22 once produced, others can take advantage of. And
23 these people taking advantage of it are called, in

1 the economic jargon, the free riders.

2 We put out manuals. We put out pleadings. We
3 establish a case in one area which helps someone in
4 another area. We write a clearinghouse article.

5 Now, it's quite possible for others to benefit
6 from those things and in the context of choosing
7 whether to pay for support, there is a very strong
8 and understandable temptation to say, well, I'll take
9 a chance that I won't need that service this time and
10 I'll benefit from someone else getting it.

11 Len Goodman in the presentation that he has made
12 to you earlier has set out in more detail the
13 economic theory behind that in his letter to you of
14 April 11th, 1985.

15 I have here a Wall Street Journal article, which
16 I would like to just hand out and urge you to read
17 later at your leisure.

18 CHAIRMAN UDDO: We'll pass
19 that out and you can preserve your precious time.

20 MR. SABLE: And this describes
21 an experiment performed by an economics professor in
22 which students are given the opportunity to choose in
23 which it was clear that there was one optimal, that

1 if everyone made one choice, the optimal amount of
2 services, or in this case, money, would be given to
3 all. But there was a temptation to think that if
4 everyone else went along, but you cheated and tried
5 to just act on your own more narrow benefit, that you
6 could come out ahead. And the result was
7 consistently that overall, everyone came out worse.

8 And this is the analogy to the free rider
9 problem. A local program under a lot of other very
10 legitimate pressures will be tempted to put their
11 resources elsewhere and the result is that they will
12 not get the support services that they would agree,
13 up front, was optimum for them and was optimum for
14 everyone else.

15 And so, I think that this is a very serious
16 problem with this proposal, but it's not the
17 only...it is far from the only problem.

18 The cost for the services will necessarily be
19 higher. We now spend, in my own program and in every
20 other program, virtually 100 percent of our money
21 providing legal services or support for legal
22 services for poor people.

23 We just got through our audit. Our legal

1 services fund balance this year will be \$13. That is
2 to say we've spent every penny but \$13 of the funds
3 that we were given for legal services.

4 In a situation in which we faced uncertainty,
5 where we didn't know what our contract was going to
6 be, who was going to contract with us, we would
7 necessarily have to set aside some reserves for that
8 uncertainty.

9 We would also have to price our goods...our services
10 higher to take part of the risk that some folks might
11 not sign up and, therefore, we'd have to collect
12 enough money from the others to cover that
13 difference.

14 We would also have to market our services. We'd
15 have to spend a lot of time going out to the field
16 and advertising and other things which don't help the
17 clients directly, but simply would help us get our
18 share of whatever that market is out there.

19 And finally, we would have enormous, immense
20 contracting costs as we kept track of each one of
21 these 300 contracts and when an attorney calls us up
22 from Mississippi or New Orleans or somewhere and
23 wants to know, you know, I've got a case tomorrow.

1 My client's car has just been repossessed and they've
2 raised a novel argument that I've never heard, my
3 answer will not be, well, let me run up to the
4 library and check or let me tell you about this case
5 last year. My question will be, well, do you have a
6 contract? How many hours have you done on that
7 contract? Let me check with our business office to
8 make sure you've got enough time left. It would just
9 be immensely, immensely costly.

10 In addition to this, another reason that
11 national support centers and field programs, for that
12 matter, are able to leverage and get more help is
13 because we are charitable organizations working on
14 behalf of poor people. And, as a result, we can
15 attract other charitable funds.

16 My center, for instance, in the last couple
17 years has gotten two foundation grants. Grants that
18 specifically help us help local programs on major
19 litigation that they were involved in.

20 If we were simply another legal consulting firm,
21 we would have no ability, as I see it, to get these
22 kinds of funds and there would be fewer, less legal
23 services going to local programs, even if we were

1 getting every penny of the Legal Services money that
2 we're getting now.

3 We think, also, that small programs will
4 particularly suffer because they will have smaller
5 budgets and yet, often and frequently, they're the
6 ones who need more work and, in any event, big cases
7 don't necessarily end up in big programs.

8 There's a major second mortgage company in
9 Virginia which has gone under a couple years ago. We
10 are involved in an immense piece of litigation
11 protecting the rights of about 5,000 low income
12 homeowners in the State of Virginia.

13 Now, we have poured an enormous amount of
14 litigation resources into that case. Resources,
15 incidentally, which were not available from the
16 private attorneys, but both of us have tried...that
17 is, the local Virginia programs and ourselves, have
18 tried very hard to get private attorneys involved in
19 this case.

20 Now, supposing they had a contract and that
21 contract was for \$4,000 worth of services. What are
22 they to do and what are we to do when the \$4,000 of
23 services are up? They've got 40 named clients and a

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 whole bunch of other clients all over the state that
2 are involved in this mammoth piece of litigation for
3 which they do not have the resources, without some
4 sort of central backing and expertise.

5 CHAIRMAN UDDO: I'm going to
6 have to ask you to summarize, Bob, please.

7 MR. SABLE: Well, let me
8 summarize by making three quick points.

9 I think also we will only provide profitable
10 services in profitable areas. For instance, why
11 write a clearinghouse article when no one is going to
12 pay for it. In the long run we're going to lose the
13 staff which is one of our key...we're going to lose
14 the type of staff that we have now. That is, staff
15 devoted to spending long hours on legal services.

16 People who want to be consultants and get into
17 marketing and hope to make some money will come to
18 us. People who want to focus on legal services and
19 not worry about marketing and that sort of thing are
20 going to go to field programs and we're going to lose
21 a lot of flexibility.

22 And finally, I would make the point, that in
23 this context, where you have a limited number of

1 providers, it's not at all clear that a market signal
2 of less money is going to improve things. If people
3 are not getting good services from my center and we
4 get fewer contracts, we don't have the capital or
5 anything else that make our services better, nor can
6 they go out to some other consumer law center.

7 What's going to happen is we're just going to
8 cut back our services more and there's going to be
9 worse consumer services, even though the signal
10 people were trying to send us was, they wanted
11 better consumer services.

12 So in short, I think you've got a system that
13 people like. I would urge you not to fix something
14 that isn't broken.

15 CHAIRMAN UDDO: Henry, I'm
16 going to ask you to try to be a little bit more
17 concise because we're running a little bit over what
18 I'd like to...

19 MR. SABLE: Sorry.

20 CHAIRMAN UDDO: That's okay.

21 MR. FREEDMAN: Okay. I will
22 try to do my best. I'm Henry Freedman, Director of
23 the Central and Social Welfare Policy and Law and I

1 wanted to begin with some lessons I think we've
2 learned over the 21 years of history of the center
3 and then turn to some examples of what privatization
4 might mean in providing support services.

5 We were established in 1968 with private funding
6 as a demonstration project to see if constitutional
7 and statutory legal principals, which have long been
8 applied in other areas of the law, could be used to
9 address legal problems of public assistance
10 applicants and recipients.

11 The demonstration project was an enormous
12 success. Poor people represented by center
13 attorneys, legal services attorneys and others won
14 major victories in court and in negotiations with
15 agencies on a host of issues.

16 This history summarized in the June, 1981 Legal
17 Services Corporation document called Legal Services
18 Corporation Funding of National Support Centers, A
19 Cost Effective Approach to the Delivery of Quality
20 Legal Services to the Poor. This document presents a
21 thorough and cogent analysis of the critical role of
22 national support in effective client representation
23 which, I hope you will consider carefully in your

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 deliberation.

2 We have learned much from our history. One
3 early lesson was the critical need for
4 specialization, because of the incredible complexity
5 of the law in the area in which we work. And had I
6 more time, I would read you some wonderful quotations
7 from judges about how complex our area of law is.

8 But I would note that often it's not even what
9 comes up in court. It's the subregulatory material.
10 The mimeographed material. The loose-leaf materials
11 that agencies keep over the years that's totally
12 inaccessible to any legal researcher in any legal
13 library in the country. Material that may be 20 or
14 30 or even 40 years old, which we have been able to
15 gather, to sort out and to categorize over our years
16 of practice.

17 And that brings me to the second critical
18 lesson. The importance of developing an
19 institutional presence and commitment staffed with
20 many years of experience in welfare law and legal
21 services. A collection of historical documents, as I
22 just described.

23 These institutional strengths could not have

1 come about without a long term commitment to federal
2 legal services funding.

3 The third lesson is that while the need for
4 support is certain and enduring, as Bob has
5 mentioned, the identity of local programs that will
6 need assistance on individual matters and the extent
7 of that assistance they will need, cannot be
8 predicted, but on a day-to-day basis.

9 The issue before this Committee, I submit, is
10 whether this valuable resource, the national support
11 centers, carefully developed over the past 20 years,
12 with a proud record of service to legal services
13 clients and their unpredictable support needs, is to
14 be destroyed in a careless, ill planned experiment.

15 An attempt to require the national support
16 centers to rely entirely upon selling products to
17 indigent clients and financially strapped local legal
18 services offices is, I submit, whether by intention
19 or inadvertent, a sure plan for the elimination of
20 national support centers, not only as we know them
21 today, but in any form whatsoever.

22 If I could pause for a moment to disagree with
23 what Bob said. He said that under a system of

1 privatization we would attract staff that is
2 interested in being consultants. I would submit that
3 anyone interested in being consultants would not want
4 to come to work for a firm that's trying to market
5 its services in this kind of a selling environment.

6 But in any event, you've heard and will hear
7 from many witnesses about these problems and you've
8 received so many statements over the past years and
9 have included more, including the wonderful
10 statements on the National Housing Law Project, that
11 I thought it might be helpful in my few minutes to
12 give some examples of the kinds of support we give
13 and to ask you to imagine how our services would be
14 provided if we had to deal by subgrant with each
15 field program and whether that world is what your
16 vision of legal services ought to be.

17 Example one, valuable documents. A few years
18 ago, lawyers from Westchester Legal Services were
19 representing clients and they prevailed before the
20 United States Supreme Court in a claim that they had
21 been wrongfully denied emergency assistance under the
22 Federal Social Security Act.

23 We provided these attorneys both advice and a

1 substantial amount of historical agency material that
2 was scattered through our files that was critical,
3 absolutely critical to them in preparing their
4 briefs.

5 We were pleased to provide this assistance and
6 were gratified that they succeeded in the Supreme
7 Court on behalf of their clients.

8 A similar situation arose in Iowa. A legal
9 services lawyer was representing an AFC family...AFDC
10 family denied benefits because the state was applying
11 the lump sum income rule to a family in which the
12 step parent, who was not a member of the assistance
13 unit, had received a lump sum income.

14 The federal and state agencies said federal law
15 required this result. We knew, however, of
16 unpublished legislative history which demonstrated
17 that the federal agency, itself, when it proposed the
18 fact to the Congress two years before had told
19 Congress the law would not apply in such
20 circumstances. But this does not appear anywhere in
21 the published legislative history.

22 This was a blockbuster piece of evidence. We
23 provided it to the local legal services lawyer. When

1 he introduced it in the case the federal and state
2 agencies folded and agreed to settle the suit and,
3 indeed, the federal agency changed its policy
4 nationwide.

5 Obviously, this was a valuable piece of paper
6 that we had obtained as a result of our ongoing
7 institutional responsibility in the area.

8 What if we had to rely on subgrant income? How
9 would we have responded to these two requests? First
10 we would have to determine whether the lawyer seeking
11 the help on behalf of the client worked for a program
12 that had entered into a subgrant and then we would
13 have to determine if the subgrant covered this
14 particular type of service.

15 And they might not have realized the year
16 before, year and a half before when they were making
17 decisions about the subgrants that they would have
18 this kind of litigation and might need this kind of
19 help or that they were going to the Supreme Court or
20 would have a difficult interpretative question.

21 Under that model, if we were to supply
22 financially, we would have to refuse to provide them
23 that assistance unless we got paid and, I would say,

1 in this case that that would be outrageous.

2 But suppose the program says, okay, we'll pay.
3 How much money do we...we've got what will win their
4 case. They could not get these documents anywhere
5 else, at least in the time needed. We have a
6 monopoly. Should be charge monopoly prices? Should
7 we squeeze the legal services program and perhaps
8 even their clients for everything we can? Is that a
9 rational way to provide legal services to the poor?

10 Example two. A local program shares our advice
11 with another program. From time to time we give
12 advice and information to a lawyer in one program who
13 passes it on to a lawyer in another program who has a
14 similar problem. And that second lawyer wins. Now,
15 we're delighted when we find out about that, but that
16 is now.

17 Under the subgrant system, we would be outraged.
18 What do we do about this free rider? Should we
19 demand that the second lawyer, the free rider,
20 compensate us for the benefit which his client
21 received? Should we claim that our intellectual
22 property had been stolen or should we sue the first
23 legal services lawyer to whom we had given the

1 assistance. After all, he gave away our valuable
2 work product.

3 And that raises the question under the subgrant
4 system of whether our advice to the first attorney
5 belongs to that attorney or to us. Should we
6 copyright advice? Perhaps copyright law doesn't
7 cover the situation. Should we have a subgrant
8 provision including a promise to keep our advice
9 confidential or perhaps a sublicensing agreement in
10 which the first attorney would agree that if he or
11 she passes it on to anyone else, we will receive a
12 royalty payment. And then, how do we keep track of
13 all of this? And what is the benefit to legal
14 services clients of such a system?

15 Example three. Last fall we received an urgent
16 call from a legal services lawyer in West Virginia.
17 The Welfare Department was closing down almost all
18 operations so that the staff could be diverted to
19 unannounced home visits to the entire case log for a
20 month.

21 Clients believed they would be deprived of
22 important rights and were threatened with possible
23 loss of income.

1 I see Professor Uddo looking at his watch, so I
2 will spare you the rest of the facts of the case.
3 They went to court overnight and won a settlement
4 based, I think in substantial part, upon the
5 assistance. We gave that program a substantial
6 allocation of our time during the next two weeks, won
7 a settlement in which the state agreed to a series of
8 protections that would satisfy the clients concern.
9 We were delighted again to give this assistance and
10 to be of such help to clients in that state.

11 But what if we were under a subgrant system.
12 First we'd have to go through the whole routine. Did
13 they have a subgrant? Did they have time? What if
14 we found out that they only had three hours of time
15 remaining? Would we give them warning at the
16 beginning that we could only give three hours of help
17 and after that they were on their own? Or do we
18 suggest they go back to their projector director or
19 to the Board and get some more money, fast. Or
20 perhaps they should go to a foundation and try to
21 raise money overnight to pay for our services. Or is
22 the suggestion that we should be giving our services
23 pro bono?

1 Example four, advice to a state support center.
2 In sum, we can help state support centers, but
3 they're dependent upon grants...subgrants presumably
4 from local programs. So now we have two generations
5 of subgrants. From local programs to state support
6 to national support to the local programs, to be
7 figuring out exactly what national support the state
8 support centers should be buying with their contract
9 as opposed to what the local programs will be doing
10 directly.

11 I've given these examples to try to focus your
12 thoughts upon the destructive effect of requiring
13 subgrants for all support services. The effect on
14 the relationship between support providers, the legal
15 services lawyers, paralegals and clients and the
16 inhibition on the free flow of ideas, advice and
17 information that would occur if privatization should
18 be realized.

19 But it cannot be realized for the problems I've
20 alluded to and for all the other reasons discussed in
21 painstaking detail on other testimony which you have
22 received over the past two years.

23 The diversion of resources to marketing and

1 bookkeeping, the problem of negotiating these
2 contracts I've just referred to, the incentive for
3 free riding, privatization in sum, will not work and
4 I urge you to put the idea to rest.

5 There is one issue that Mr. Bayly raised in his
6 letter which I realized we have not talked to, that
7 of consolidation of national support.

8 That has been discussed in such detail by
9 support centers and I refer you to, for example, to
10 the detailed statements on consolidation which all
11 centers have submitted in 1983, at the insistence of
12 the LSC Board, as a condition of receiving our 1983
13 funding. I believe we addressed all the relevant
14 issues then and nothing new, to my knowledge, has
15 been raised.

16 Bob Sable also provided testimony on this point
17 to the Board in 1985 and the written testimony you
18 are now receiving contains more. And if there are
19 questions that arise that have not been addressed,
20 please let us know and we will attempt to respond.

21 Thank you.

22 CHAIRMAN UDDO: Thank you, Mr.
23 Freedman.

1 I have a couple of questions to get things
2 started and then I'll go to the other Committee
3 members and the Board members generally.

4 Bob, you talked about the prior studies and in
5 particular the NORC study and one of my problems with
6 prior studies is that I'm not sure that they would
7 pass muster in scientific studies. I mean, they tend
8 to be surveys that ask for something close to
9 anecdotal reaction. Do you use national support
10 centers? Have you used national support centers?
11 Are you satisfied with the national support center?

12 Correct me if I'm wrong, but I don't know of any
13 studies that have actually evaluated the frequency of
14 use in terms of looking at actual hard data. Files
15 or something that would indicate how many times a
16 particular support center was used. Something that's
17 not as subject to memory or vague memories about how
18 often they were used.

19 I mean, is there that kind of hard data?

20 MR. SABLE: Well, you're
21 correct in your characterization of the NORC study.
22 It was scientific, but scientific study of opinions
23 and recollections and not a study of actual case

1 files.

2 As the...I mean, I can't speak for the other
3 centers. I know the monitors in our center,
4 particularly in the last monitoring visits, Chris
5 Rosak will testify an endless amount of time going
6 through our particular files, the requests we get
7 from the field and the responses to them, so that I
8 think a lot of that data, yes, is available within
9 the files of the corporation, even though there are
10 many public data that spells that out now.

11 CHAIRMAN UDDO: In what form
12 do you retain that data? I mean, is it categorized
13 as phone inquiries, more...

14 MR. SABLE: Well, the
15 corporation keeps changing the rules on us as to how
16 to categorize it and there is no overall required,
17 uniform system. In my own center, every call or
18 letter that comes in is...there is a slip, a piece of
19 paper, which records that, records the subject matter
20 or records who the questioner was.

21 After that, the record keeping varies depending
22 on the nature of the response. We do not keep a
23 detailed time record of each response and if it's a

1 phone response, which frequently many of them are,
2 there is frequently little or no documentation other
3 than phone response.

4 In other cases, there are voluminous files with
5 lengthy correspondence going on over a period of
6 years.

7 CHAIRMAN UDDO: But there's a
8 resistance to timekeeping, as I understand it and I
9 guess my question is, wouldn't that be the best
10 evidence of the commitment of the support centers to
11 particular problems that they deal with. I mean, is
12 there a way now to determine that you supported some
13 complex litigation that's 150 hours.

14 MR. SABLE: Well, there
15 is...again, I can't speak for the other centers. Our
16 center does have very accurate records and we can
17 show you what percentage of our...and I think again,
18 Chris Rosak perhaps, could confirm some of this...I
19 can tell, not in front of me, but I can tell you
20 precisely what percentage and approximately, given
21 time and difficulties, how many LSC dollars went into
22 general service requests, how many went into
23 litigation, how much time we spent on clearinghouse

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

articles, how much time we spent on manuals and so forth and, I assume most centers in some sense or another can give you a pretty detailed breakdown of where your money, our money, the taxpayers money goes.

CHAIRMAN UDDO: Let me ask...Henry, let me ask you a question. You talked about the incredible complexity of some of the matters that you deal with. That's often an argument that's made for the national support centers and I'm sure that there's justification for that praise, but can you give me some examples of what's been categorized as incredibly complex and why you use the phrase that certain information would be inaccessible to research?

I mean, you know, I'm from a law school context and I've generally been of the opinion that there's nothing inaccessible to a research, that anyone who undertakes a legal research project has an obligation to exhaust their avenues so that nothing is inaccessible. And I'm a little bit troubled by that.

MR. FREEDMAN: Okay. Let me take both parts of the complexity. First I...perhaps

1 some of you will appreciate it if I start by saying
2 that the nation's federal welfare laws are drafted by
3 the same Congressional committees that write the
4 Internal Revenue Code. And they use the same
5 approach, which is to take advantage of any possible
6 cross referencing that might be possible so that only
7 those who are particularly alert and familiar with
8 the entire code will know exactly what it is that has
9 been done at any particular time. A provision of
10 one section may be silently repealed in another, that
11 one might not be aware of and so forth.

12 In addition, the issues are similar to those of
13 income tax. What is income? What is accountable
14 income? What is to be disregarded? What is an
15 asset?

16 Questions of that sort often left without
17 definition, but left to agency officials to decide,
18 The problem is complicated further in the...program
19 by the fact that it is a joint federal/state program.
20 Some policies set at the federal level and some at
21 the state level and there are often inconsistencies
22 between those policies, which are not caught even by
23 the officials, themselves.

1 And that gets to the question of the
2 accessibility. The kinds of materials we have, for
3 example, are that...well, for several years during
4 the 1970's, for example, the Department of Health,
5 Education and Welfare maintained a series of policy
6 interpretation questions which is a system for
7 collecting the inquiries that have been received from
8 the states about the policy questions and the
9 responses that the regional and central offices of
10 HEW had given.

11 And they set up this system for their purpose
12 and for the state's purposes to be able to have some
13 access to all the kinds of policy that previously was
14 contained in a letter just between headquarters in
15 one state and was unknown to the 49 other state
16 agencies.

17 These so-called PIQ's were maintained for
18 several years and then abandoned. I agree that a
19 legal researcher working on a matter would want to
20 have access to this material.

21 Some of it is now totally out-of-date, but some
22 if it is the latest agency interpretation on a
23 particular matter of policy.

1 Now, I would submit that the typical legal
2 services lawyer, the typical private lawyer donating
3 services pro bono and the typical law clinic attorney
4 or student would not even know that these documents
5 exist.

6 If they were to find out that they exist, they
7 would either have to locate someone at the state
8 agency who had maintained these materials which are
9 now eight or nine years old, because this was stopped
10 somewhere around '78 or '79 as I recall, or get to a
11 federal office...one of the regional offices or the
12 main office in Washington and get someone to bring
13 this material forward and let them examine it.

14 It is possible. It is possible that the people
15 would find this material. Probably the best...one
16 route is the Freedom of Information request, I guess,
17 to try to root it out.

18 That, indeed, is how we, over the years, have
19 been able to obtain much of this material. As we
20 begin to work on a particular issue or find out
21 something exists, we'll ask for all the materials
22 supporting it and things of that sort and begin to
23 develop this kind of material.

1 But I would not be very encouraged if I were
2 looking into these questions in 1987 and I had to
3 rely on the Freedom of Information request from the
4 agency to locate this material for me.

5 CHAIRMAN UDDO: Is that the
6 same sort of material you were referring to when you
7 spoke about the case where you knew about unpublished
8 legislative history?

9 MR. FREEDMAN: No, the
10 legislative history comes from having to monitor on
11 an ongoing basis, legislation and there is much
12 material that will be submitted, for example, by the
13 federal agency which never gets into the
14 Congressional record or hearing reprints or things of
15 that sort, which is pertinent, as in the example I
16 gave and you only get that by following the
17 legislation as things develop.

18 MR. SABLE: I was just going
19 to add in my own field, I think we probably have less
20 material which isn't quite as inaccessible as what
21 Henry is talking about, but it's just a question of
22 inefficiency.

23 There's an issue in Fuel Assistance grants as to

1 federal credit laws and the interrelationship between
2 state and federal credit laws.

3 Those materials are accessible to any wide range
4 of people, but we have pulled them together, we have
5 analyzed them, we've set them out and we see the
6 day-to-day poor people's problems. And the point on
7 those problems is both the high level of analysis and
8 of efficiency. We can answer those questions in ten
9 minutes instead of a field attorney or a private
10 attorney having to spend hours or weeks on the same
11 issue.

12 Why do it 100 times when we can do it once,
13 preserve it and zap it out to the next person.

14 CHAIRMAN UDDO: Let me ask
15 Henry then, because your situation seems a little bit
16 different. What percentage of what your center does
17 involves this highly or relevantly inaccessible
18 information as compared with things that would be
19 more readily available?

20 MR. FREEDMAN: One reason it's
21 hard to answer that in numerical terms is that I
22 would say that if you added up the different
23 elements, it comes to more than 100 percent. And the

1 reason is that alternate...

2 CHAIRMAN UDDO: More than 100?

3 MR. FREEDMAN: More than 100
4 percent. And the reason is that we get a great deal
5 of that material in the course of our work on
6 material that is also more accessible. And let me
7 explain.

8 As we're working with attorneys around the
9 country or litigating on matters of policy, we are
10 providing material to them that they have...they are
11 often providing to us the materials that are
12 developing in their litigation, much of which may
13 include that the state enters into the files a letter
14 it received from the HHS regional office a year and a
15 half before saying that the state's policy was
16 correct.

17 The court's decision...or the pleadings in that
18 case, for example, may be available through the
19 clearinghouse, but what we have done, in the course
20 of working on material that is otherwise publicly
21 inaccessible, is to add to our files of agency
22 material, with the result of what we are able to do
23 very often, is then provide to people and say, well,

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 here is what two other states were told by HHS and
2 they happen to be different from what your state is
3 being told and that's because different regional
4 offices were at work and things of that sort.

5 But to try to, you know, to answer what
6 percentage of our time...I don't really know how to
7 answer. To get some feel for it I would say 20
8 percent or something like that. I mean, it's just a
9 monitoring, collecting function that's a very
10 important part of our work, but it always...it's
11 almost always in the course of other assistance that
12 we're providing.

13 CHAIRMAN UDDO: All right, let
14 me just ask one final question and then ask each of
15 you to respond to it and it's one of those kinds of
16 questions that is on a lot of people's minds and the
17 answer will be, I guess, in some sense predictable,
18 but I would like a very candid reaction to this.

19 How do you and how do you think most national
20 support centers characterize their goal? Is the
21 fundamental objective of a national support center
22 intense support for direct delivery or do you
23 legitimately consider your role as more issue

1 oriented? More directed towards something other than
2 support in discreet, direct delivery problems?

3 MR. SABLE: I have trouble
4 answering the question. Our goal is the best...

5 CHAIRMAN UDDO: I'm not going
6 to go with my questions there if you have trouble
7 answering it.

8 MR. SABLE: ...and highest
9 quality legal services. It's necessarily issue
10 oriented. We are, by definition, an issue oriented
11 program, but even within that context, when we see a
12 consistent problem with usury laws, we try to develop
13 a solution which will assist people with the problems
14 they're having with usury laws.

15 If we see a consistent problem with
16 repossessions we try to develop an answer for those
17 things. I think that's what any attorney does.
18 Tries to solve the problems of the clients and that's
19 what we do, too and that's what our goal is.

20 The distinction between issues and helping
21 clients is not one that I completely grasp.

22 CHAIRMAN UDDO: Would you
23 think that your emphasis is more on legislation than

1 on support in specific cases?

2 MR. SABLE: Well, I mean,
3 numerically we spend a very small amount of time on
4 legislation and virtually no LSC money on
5 legislation, but contrasting legislation with cases
6 is something again that I don't completely
7 understand. Some of our clients want a big victory
8 about a very complicated wrinkle in the usury law. I
9 won't get into the details of it and then legislation
10 was proposed to overturn that case.

11 Now, I mean, that's part of their problem, part
12 of their issue and we would get involved in that
13 legislation, just as we got involved in the
14 litigation. We're helping clients with their problem
15 using the legal tools.

16 CHAIRMAN UDDO: Sylvia?

17 MRS. DREW-IVIE: The National
18 Health Law Program spends most of its time answering
19 requests for assistance from the field. One of our
20 frustrations as support center attorneys is that a
21 great deal of the assistance we put out there we
22 never get anything back on.

23 We get the calls, we get letters, we provide the

1 assistance. We don't know in most cases whether the
2 information was useful in winning the case for
3 the...or settling the matter with the administrative
4 agency, but we have remained committed over the years
5 to continuing that as our central type of service to
6 the field. That and the training and manual
7 development, because we feel that this is the primary
8 way that we can help clients get access to health
9 care.

10 And, you know, that is not an issue orientation.
11 That is a service orientation. We have had fights
12 with our Board of Directors, some of whom wanted us
13 to be much more of an impact litigation focused
14 program than we, in fact, are.

15 But the field has said to us in priority
16 settings over and over again, the main function, the
17 main use of the National Health Law Program is being
18 there when we need you, sending us materials when we
19 need them and answering our questions without our
20 having to research all these issues.

21 So, I don't think there's any question that we
22 are support oriented, rather than issue oriented, as
23 I understand the question you posed.

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 CHAIRMAN UDDO: Henry?

2 MR. FREEDMAN: I think there's
3 no question that the overwhelming amount of time that
4 we're spending is to what everybody would call
5 classic support. I think it has to be recognized
6 that in any of the areas that we're working in, there
7 are recurring problems that clients have all over the
8 country and if you refuse to identify each issue as
9 being no more than that individual client's issue,
10 you're going to miss a lot in understanding what's
11 going on and how problems can be addressed through
12 legal analysis and representation.

13 And I also have to second with what Bob has said
14 in terms of legislative matters generally. A very
15 small part of our budget goes into it, but I think it
16 has to be recognized that when one goes to court and
17 the judge says there is nothing I can do. This is
18 the result commanded by the law, that the only way
19 the client seek redress at that point is to seek some
20 change in the law.

21 CHAIRMAN UDDO: Ordinarily I
22 would ask my subcommittee members for questions next,
23 but I know LeaAnne has to leave early and I did

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 promise her I would give her a chance to ask some
2 questions.

3 Do you have some, LeaAnne, that you want to ask
4 them now?

5 MRS. BERNSTEIN; Let me just
6 say that I've got some documents...some of the
7 materials that were provided by both the state and
8 national support and I kind of lumped them because I
9 do have to go back to my children.

10 The background has been useful, I think, in
11 giving us the context of the role of the court and
12 the history of the corporation. I have some
13 additional memos regarding the development of it that
14 we're not included or referenced in the...the content
15 of those memos was not included or referenced in any
16 of the material that I saw prior to the meeting.

17 I would simply ask the Committee's leave to have
18 them entered into the record and provided to other
19 Board members. I only have one copy with me and I'm
20 going to hand them to Mario and let him see that that
21 gets done so everyone will have the benefit of that
22 material.

23 The other thing that goes along with that,

1 excellent question. In the context of a five-minute
2 presentation, it's a little bit difficult for me to
3 go through the history of how our center has evolved
4 and changed both in response to changes in field
5 programs, changes in the law, changes in technology
6 and, I assume, in some sense, that you don't want me
7 to give that presentation right now...

8 MRS. BERNSTEIN: No, I....

9 MR. SABLE: ...but let me just
10 state as a generality that we are a far different
11 program than we were in 1969 when we started and then
12 in 1974 when I joined the program. We are evolving.
13 We are changing as any dynamic institution is and I
14 think we're changing in the facts that you've
15 discussed and a whole host of others. We're
16 different. In some ways we're much better than we
17 were and in some ways, particularly given the
18 restraints on our resources, we're not as good as we
19 were five years ago because we don't have the
20 resources that we had five years ago.

21 I'm sorry if, by having to defend a proposal, I
22 intended to say...by saying it's not broke that it
23 is, therefore, fixed in stone right now. This is the

1 way it was in '64, this is the way it is now and this
2 is the way it should be at the turn of the century.

3 I don't mean that and if you'd like, at some point we
4 can discuss in some detail about my center or any
5 others what changes we have made and hope to make.

6 MRS. BERNSTEIN: Well, I guess
7 what I'm really asking is, is from the...and I
8 realize the constraints on time and I'm appreciative
9 of Professor Uddo's indulging me today by letting me
10 ask these questions.

11 I would just ask that each of the national
12 support centers, because you are aware that they come
13 under, at times, evaluation from the word go and I
14 think that one thing that we're missing, though, in
15 terms of really seeing whether or not this is
16 something that is still a viable place to expend
17 resources, we have to look at how those entities have
18 changed, not simply say, well, since they were funded
19 last year and nobody really complained too much about
20 them, we ought to continue and I would just ask each
21 of the national support centers, or if you can do it
22 on an individual basis it would be the best, to
23 show what kind of changes have taken place, when you

1 computerized, what you have in 1987 that you didn't
2 have in 1972. The coordination of centers in 1976,
3 '77, once it was inherited from QED, there was a
4 combination of centers that happened at that time.

5 You say that in 1983 you responded to the
6 corporation's request about coordination and overlap
7 and so forth. I guess I'd also be concerned what
8 went into the decisions that, you know, your
9 positions on those.

10 And I realize that this is a lengthy question,
11 but because the issue of state...of a national
12 support entity is something that seems to be, at
13 least in a spacial sense, seems to be furthest
14 removed from the direct delivery of services.

15 I think that to some extent, the burden of
16 persuasion rests with you in this sense. So, I just
17 ask for a little bit more...

18 MR. SABLE: You know, I mean,
19 I obviously don't quite agree with you about the
20 burden of persuasion, but we'd be happy to provide
21 you information about how our centers have evolved
22 and changed over the years.

23 MR. BERNSTEIN: Professor

1 Uddo, while you were out of the room, I asked Lee to
2 give some background material, just memos and
3 actually, a part of it is some sections of the House
4 Investigative Report that was done in March of 1979
5 on legal services generally. Just to be provided to
6 the Board and entered into the record as part of the
7 discussions since this is basically an intake day.

8 CHAIRMAN UDDO: That's right,
9 fine. Do you have any other questions?

10 MRS. BERNSTEIN: No, that's
11 fine. I understand him.

12 CHAIRMAN UDDO: Let me ask my
13 Subcommittee members. Mrs. Miller, do you have any
14 questions?

15 MRS. MILLER: Just one. Do you
16 feel that the present support structure is the best
17 structure or would other forms be more effective?
18 Any of you?

19 MRS. DREW-IVIE: Do we feel
20 that this is the best possible structure?

21 MRS. MILLER: Yes.

22 MRS. DREW-IVIE: I don't think
23 that any structure system has achieved perfection in

1 legal services and there are probably ways that each
2 of our centers and all of our centers could improve
3 what we do. But I do think that the system that we
4 have now has been tested over time, has been reviewed
5 many times by the field and by clients who are using
6 the service and I think there is very widespread
7 satisfaction with the system as it presently exists.

8 CHAIRMAN UDDO: Mr. Valois?

9 MR. VALOIS: Mr. Freedman, are
10 you currently, in your role, still answering
11 questions from the field?

12 MR. FREEDMAN: You're saying
13 me, personally?

14 MR. VALOIS: Yes, sir.

15 MR. FREEDMAN: Occasionally.
16 I'll fill in often when others are not available.

17 MR. VALOIS: When's the last
18 time you personally answered a question from the
19 field?

20 MR. FREEDMAN: It was within
21 the last month. If you're going to ask me what it
22 was, I don't recall.

23 MR. VALOIS: Well, that's my

1 next question. What's the last question you do
2 recall?

3 MR. FREEDMAN: Well, I do
4 remember a very interesting question this past summer
5 from a private attorney in North Dakota who was
6 working in a...it was either an adjudicatory or pro
7 bono project up there and he had a welfare case and
8 was struggling with the fact that his clients had
9 relied upon a representation that was incorrect and
10 there was substantial benefits associated with the
11 guideline and he had a hearing in, I think, a week
12 and a half.

13 This...of estoppel, which has come up a number
14 of times in recent years and we have done an
15 extensive memorandum of law and have gathered the
16 case material that existed in the welfare...I was
17 able to get that out and discussed the case with him
18 and figure out where things stood and get that
19 material out to him in the mail that afternoon, for
20 which he was very grateful.

21 MR. VALOIS: Was this a kind
22 of federal question or a state law question?

23 MR. FREEDMAN: State law

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 question.

2 MR. VALOIS: And wouldn't you
3 agree with me that the question of equitable estoppel
4 in the State of North Dakota probably would be
5 discussed at some west law index or some state law
6 publication in North Carolina that's called Strong's
7 Index?

8 MR. FREEDMAN: I'm sure that
9 it would be. And I'm sure that a welfare
10 administrative fair hearing is discussed very little,
11 if at all.

12 MR. VALOIS: Are there
13 any...aside from that question which sounds to me
14 like purely a state law question, are there...could
15 you kind of categorize for me what statutes make up
16 the majority of time spent by you or your
17 organization giving advice? What federal statutes?
18 Start with those.

19 MR. FREEDMAN: Okay, the
20 federal statutes. The most time is taken up by Title
21 4A of the Social Security Act, which is the AFDC
22 statute.

23 MR. VALOIS: What percent of

1 your resources in time or money or both would you say
2 are spent delivering answers to the field on that?

3 MR. FREEDMAN: 70 percent.

4 MR. VALOIS: Is there any
5 national reporter system reporting on AFDC or Title
6 4A of Social Security?

7 MR. FREEDMAN: Well, to the
8 extent cases are published, they would appear in the
9 Federal Reporter, Federal Supplement and every now
10 and then in the Supreme Court Reporter.

11 MR. VALOIS: Is there not
12 a...doesn't the CCH or Matthew Bender or BNA or
13 somebody like that have a Social Security reporter?

14 MR. FREEDMAN: A number of
15 publishers in recent years have become publishing
16 Social Security reporters that are focused upon
17 Social Security disability programs. That is
18 entirely different from the Aid to Families of
19 Dependent Children Program.

20 MR. VALOIS: You're saying
21 there is no national publication on AFDC?

22 MR. FREEDMAN: That's correct.

23 MR. VALOIS: What about the

1 other 30 percent of your time?

2 MR. FREEDMAN: Well, I...this
3 is not an analysis that I have done before, so this
4 is obviously very rough...

5 MR. VALOIS: I understand.

6 MR. FREEDMAN: ...but I'm
7 trying to give you, you know, a sense.

8 I'd say 20 to 25 percent on Title 16 of the
9 Social Security Act, which is the Supplemental
10 Security Income program, the SSI program, the welfare
11 program for aid to the blind and disabled.

12 MR. VALOIS: Does the Social
13 Security Administration, itself, put out any
14 publications on reports. Do they make their official
15 reports available?

16 MR. FREEDMAN: Well, you see,
17 they don't make the decisions. Their decisions in
18 the AFDC programs are rendered at the state level.
19 They do issue several Social Security rulings which
20 is a collection of court decisions and policy
21 statements of theirs with regard to the Social
22 Security, the Title 2, OASDI program and SSI that has
23 no effects on AFDC.

1 MR. VALOIS: Thank you. Miss
2 Ivie, can I ask some of those same questions of you?
3 Are you still involved in a day-by-day handling
4 questions from the field?

5 MRS. DREW-IVIE: Yes, I am.

6 MR. VALOIS: What percent of
7 your time does that take up?

8 MRS. DREW-IVIE: Well, I'm on
9 Medicaid rotation and so every third week I take
10 intake on Medicaid in our office and what that means
11 is generally I am asking the attorneys for
12 information and discussing the facts that they give
13 to me with others in the office who are primary
14 Medicaid specialists and getting back to the person
15 who's called.

16 MR. VALOIS: Do any of the
17 other recipients of our funds on something other than
18 a purely local level, have a...purport to have any
19 expertise in Medicaid?

20 MRS. DREW-IVIE: There are
21 very, very few people in the private sector, if
22 that's your...

23 MR. VALOIS: No. Anybody else

1 that receives our funds.

2 MRS. DREW-IVIE: You mean
3 local legal services attorneys?

4 MR. VALOIS: No, I mean
5 national support centers of any type or...

6 MRS. DREW-IVIE: Yes.

7 MR. VALOIS: ...state support
8 centers that...

9 MRS. DREW-IVIE: Yes. The
10 Senior Citizens Law Center deals in Medicaid issues
11 as they pertain to nursing home eligibility.

12 MR. VALOIS: Do you deal with
13 those issues, too? Nursing homes?

14 MRS. DREW-IVIE: No. The
15 Senior Citizens Law Center generally takes care of
16 those issues as they arise.

17 MR. VALOIS: Yours are more on
18 individual claimant questions?

19 MRS. DREW-IVIE: Yes. Our
20 services are directed to eligibility and services
21 that are available and understanding the programs in
22 all the different states. Senior Citizen has just
23 limited itself to that issue of eligibility in

1 getting into nursing homes.

2 MR. VALOIS: Do any of your
3 questions come directly from clients or are they from
4 attorneys representing clients?

5 MRS. DREW-IVIE: We get some
6 questions directly from clients, but we always refer
7 them to the local legal service program when we get
8 those calls.

9 MR. VALOIS: You told me that
10 one week out of every three you get the pleasure of
11 doing medical rotation, which I take it that's an all
12 day, all week job?

13 MRS. DREW-IVIE: Yes, yes.

14 MR. VALOIS: And what do you
15 do the other two weeks?

16 MRS. DREW-IVIE: I work on
17 other issues that I'm responsible for in the program
18 substantively, which include Hill Burton community
19 service and civil rights in the health context. And
20 the rest of my time is taken up with administration
21 of the program.

22 MR. VALOIS: Give me an
23 example of a legal issue involving civil rights in

1 the health context.

2 MRS. DREW-IVIE: There are
3 problems, for example, such as discrimination against
4 non-English speaking patients in services being
5 rendered in Hill Burton hospitals. For example,
6 there is an overlap of Hill Burton community service
7 requirement and nondiscrimination requirements where
8 janitors are being called in and asked to translate a
9 obstetrical problem that a Spanish speaking patient
10 presents. There is no one on staff who speaks
11 Spanish at a professional level. And that's been the
12 subject of a number of administrative complaints and
13 lawsuits.

14 MR. VALOIS: How do you
15 solve...how do you address that particular problem
16 which is fairly discreet that you have just...I mean,
17 what books do you pull down and take a look at?

18 MRS. DREW-IVIE: Well, what I
19 would do in that situation is share with the
20 individual what the statutory and regulatory handles
21 are in dealing with the problem and send them copies
22 of decisional law in the area if they didn't have it
23 or administrative complaint decisions, which is more

1 likely the information that they would not have in
2 their local offices.

3 MR. VALOIS: Let me ask you
4 the same sort of questions I asked Mr. Freedman. Are
5 there any national health law reporters which you
6 subscribe to, to start with?

7 MRS. DREW-IVIE: Yes.

8 MR. VALOIS: Yes. Who puts
9 those out?

10 MRS. DREW-IVIE: CCH has a
11 Medicare and Medicaid guide which is a very useful
12 service. Not all the programs have it. It's an
13 expensive service and it's difficult to use.

14 MR. VALOIS: When you say
15 expensive, how much per year? I get a lot of CCH
16 services in my office and I'm curious about...

17 MRS. DREW-IVIE: Yes, I think
18 it's \$800. I'm not certain of that.

19 MR. VALOIS: That wouldn't
20 shock me. I spend more money with CCH than that.

21 MRS. DREW-IVIE: There is no
22 such service available on Hill Burton issues or on
23 civil rights issues in a health context.

1 MR. VALOIS: Hill Burton
2 decisions ultimately are reported in Fed Sup or Fed
3 Second or something, aren't they?

4 MRS. DREW-IVIE: Yes, but the
5 administrative decisions are not, from HHS or HEW.

6 MR. VALOIS: Do you obtain the
7 administration decisions?

8 MRS. DREW-IVIE: Yes,.

9 MR. VALOIS: How do you get
10 them?

11 MRS. DREW-IVIE: Freedom of
12 Information requests.

13 MR. VALOIS: Do they publish
14 anything? Does the HHS, itself, publish anything?

15 MRS. DREW-IVIE: No, they
16 don't.

17 MR. VALOIS: Are their
18 decisions put out to be published?

19 MRS. DREW-IVIE: No.

20 MR. VALOIS: They don't put
21 them out on a desk or anything? Nothing at all?

22 MRS. DREW-IVIE: No, they
23 don't.

1 MR. VALOIS: I would pass for
2 the moment.

3 MRS. SWAFFORD: I'm not on
4 your Committee, but I'd like to ask a question.

5 CHAIRMAN UDDO: That exhausts
6 the Subcommittee.

7 MRS. SWAFFORD: Very good. I
8 have a question.

9 Looking through the program directory, I notice
10 that each of you represent a center that has a
11 Washington office.

12 MR. SABLE: Yes, ma'am.

13 MRS. SWAFFORD: And that is
14 what my question will be about.

15 I guess, first of all, I'd like to know from
16 each one of you approximately what percentage of your
17 budget would be devoted to the expense of that
18 Washington office.

19 Start with you, Bob. Mr. Sable.

20 MR. SABLE: Right, thank you.

21 I'm afraid I'm not going to be able to give you
22 the answer except in...well, let me see.

23 In terms of our LSC budget, it's...

1 MRS. SWAFFORD: I'll tell you
2 this...what is the size of your staff?

3 MR. SABLE: Right, I'll give
4 it to you. We have 12 professional staff of whom two
5 are in Washington so, in some rough sense, two-
6 twelfths of our overall program is...

7 MRS. SWAFFORD: Well, that
8 gives me an idea.

9 MR. SABLE: ...funded.
10 However, the bulk of that is not funded by LSC, it's
11 funded by other sources. So that the LSC component
12 is less and proportionately less. That is
13 proportionately more of our non-LSC money goes into
14 our Washington office than goes into our Boston
15 office.

16 MRS. DREW-IVIE: We have two
17 attorneys in the Washington office out of seven and I
18 would say probably a quarter of our budget goes to
19 the support of that.

20 MR. FREEDMAN: Yes, we have
21 just over three full time equivalent professional
22 staff in our Washington office and just over five
23 full time equivalent in the New York office, although

1 I would say again, that the allocation of our LSC
2 budget is much higher proportionately in the New York
3 office.

4 MRS. SWAFFORD: Why do you
5 feel that you need a presence in Washington?

6 MR. SABLE: A lot of our work
7 concerns federal programs that are administered in
8 Washington before federal agencies and also, to some
9 extent, before the Congress.

10 Right now our primary focus of our Washington
11 office is the Federal Fuel Assistance Program and
12 the Federal Weatherization Program which is
13 administered by the Department of Energy and Health
14 and Human Services. It is very helpful and very
15 important for our D.C. staff to be able to be in
16 contact with and to know people in those agencies, to
17 be able to develop formal and informal relationships
18 with them.

19 We also represent clients before Congress and
20 again, the Congress is in Washington and it isn't
21 practical to provide detailed representation when
22 you're not physically situated in Washington, D.C.

23 MRS. DREW-IVIE: In the health

1 arena, the heart of everything that governs access
2 for poor people is in legislation and regulations.
3 We established the Washington office so that we could
4 have access to the administrative agency primarily
5 and secondarily to Congress where we were frequently
6 asked to testify and share information about access
7 problems poor people were experiencing which were not
8 accessible either to the administrative agency or to
9 staffs on the Hill.

10 Just two weeks ago our Washington managing
11 attorney was invited to a meeting by the
12 Administrator of the Health Care Financing
13 Administration, which administers all of Medicaid and
14 Medicare. He was taking a look at issues of concern
15 to consumers. He invited about 20 people to come to
16 the meeting, including our managing attorney from the
17 Washington office.

18 Everyone else in the meeting spoke about
19 Medicare problems, because Medicare is really the
20 explosive issue today in the newspapers and in
21 Congress and so forth and our attorney was the only
22 person who spoke to the issues as poor people are
23 experiencing them in Medicaid.

1 Had we not had that presence there, we probably
2 would not have had an opportunity to give that input
3 based on all of the requests that we're receiving on
4 problems that Medicaid recipients across the country
5 are experiencing.

6 MR. FREEDMAN: For many years
7 after our office was founded in New York and when I
8 came there, we were often asked why we were not in
9 Washington and should we not open a Washington office
10 and we said we could cover what was happening in
11 Washington fine from New York. There was the Eastern
12 shuttle. Amtrak was improving. If there was
13 something going on down there that needed our
14 presence, we could get down there.

15 As we found the hard way that that was just not
16 so. The Congressional Committees when they mark up
17 welfare legislation don't give necessarily long
18 notice and don't reach out to people around the
19 country to tell them when something is going to be
20 happening. And we found that we were missing a lot
21 of the kind of important information that I described
22 in that Iowa example, for example, a little while
23 ago.

1 And we finally concluded and, admittedly
2 reluctantly at first, because we were not eager to
3 set up a separate office, that we just had to be
4 there if we are to do a responsible job for the legal
5 service programs around the country in being the
6 national experts and the repository of service on
7 welfare law.

8 There is so much that happens at the federal
9 level and it happens year after year and it happens
10 often, very quickly and without notice.

11 MRS. SWAFFORD: Now, let me
12 make a comment then. I wouldn't disagree that your
13 assessment of where it's happening is in Washington
14 and that's where the laws are passed, but then,
15 should we not change the name, rather than support
16 centers...and I had the opinion of what you all did
17 was to find complex law to support these issues that
18 local lawyers could not find.

19 Should we not change it to...are your activities
20 not more instigative than they are supportive?

21 MR. SABLE: No, I don't think
22 so. For instance, in our area which is the federal
23 fuel assistance, clients that we...well, clients all

1 over the country, but especially in the colder areas
2 of the country, have trouble heating their homes.

3 They want to know, are they entitled to federal
4 fuel assistance money? What happens when they're
5 rejected? Can they get that money? Their
6 lawyers...they go to their lawyers, their lawyers, in
7 turn, go to us and want to know what the laws are,
8 what the rules are, what their state plan is? Has
9 the state plan violated the HSS plan? Has HSS
10 violated the statute? Is a plan that has been
11 submitted going to serve their clients well?

12 These are some issues, areas and things that we
13 are responding to from the field, but can only
14 respond to, we think, most effectively from
15 Washington, D.C., because that is where the
16 information is, that's where the access, that's where
17 the opinion makers are.

18 We are not sitting in Washington saying, oh,
19 here's something interesting. I bet poor people
20 would be a lot better off if we went up to the Hill
21 and straightened this issue out.

22 We are getting calls every day from legal
23 services lawyers who are presenting client's problems

1 to us, some of which we can resolve best or assist
2 them in resolving best by people located in
3 Washington.

4 MRS. SWAFFORD: That's all I'm
5 going to ask right now. I do have one comment to
6 make to Bob's question about Social Security law.

7 Quite a body of law is growing up in Social
8 Security. Matthew Bender has an excellent set of
9 Social Security books that I got five years ago for
10 \$140 and keep up for \$100 a year. That's more my
11 speed of what I can spend on a library and I...but,
12 you know, there are things available, not just
13 through support centers because...

14 MR. VALOIS: Our library is of
15 great interest to me. We maintain the largest
16 private library in the City of Raleigh and the
17 largest private law library...private being outside
18 the Supreme Court and Court of Appeals library. We
19 have a full time librarian from Massachusetts who has
20 a Masters in Library Science and the amount of money
21 that we spend on the library is absolutely
22 incredible, including west law...

23 MRS. SWAFFORD: Well, anyway,

1 that's just a little bit of information that I wanted
2 to get in the record, that there is some other law
3 available.

4 CHAIRMAN UDDO: Mr. Wallace?

5 MR. WALLACE: Mr. Chairman,
6 I've got three questions I've managed to boil them
7 down to and they may be the main three questions I've
8 got all day. If people want to be forewarned, this
9 is what I'm interested in.

10 And Mr. Sable, I will compliment you, because I
11 think you've touched on all of them in your speech.
12 I think you hit what seemed to me to be the main
13 issues, so I'll direct these to you, but anybody else
14 that wants to jump in is free to do so.

15 I appreciate the fact that if we go over to a
16 subgrant system you will have to do a great deal of
17 marketing. You will have to see what it is your
18 customers want and you will have to arrange your
19 agreements with them to a certain extent.

20 However, as I understand the data we have on
21 your program, you do that already to a substantial
22 extent. Your program receives a lot of money from
23 non-LSC sources. I see Miss Ivie's has received

1 somewhat less and Mr. Freedman somewhat less than
2 that, if I can read these numbers right.

3 So, you're in the marketing business right now.
4 You have to negotiate with people, you have to make
5 them happy, you have to watch out to make sure you're
6 doing what they want you to do.

7 Why is it so much more difficult for you to take
8 the marketing expertise you've already developed and
9 adapt it to dealing with local programs around the
10 country?

11 MR. SABLE: Well, first of
12 all, in the private contracts that our office does
13 get, they're nowhere comparable to the types for the
14 broad range of services that we provide to legal
15 services. Particularly, government agency or a
16 nonprofit group that wants a particular problem
17 solved. They don't look to us as a general source of
18 expertise or assistance so that the complexity and
19 the problems in the marketing and so forth are simply
20 not there.

21 Secondly, those services are more expensive than
22 the legal services services. Legal services gets a
23 lot more for its buck than our private...if you want

1 to call it private...clients, than our non-LSC
2 contracting people do. We have to...and it's not my
3 favorite occupation, but I mean, we sit around and
4 say, well, if we're going to get that contract we're
5 probably going to have to bid on five contracts and
6 it's going to take us so much time and so we've got
7 to get enough money to cover not only the cost of
8 that contract, but the cost of the unsuccessful bids
9 for the other five contracts and if we're going to
10 get that contract we really ought to do this and
11 that, so we get our name known and somebody has got
12 to pay for that, too and all that gets cranked back
13 into the cost of those services.

14 And we're not too good at it and sometimes we've
15 lost a lot of money on these contracts, but I mean,
16 if we were good at it, the point would be that it
17 would be a lot more expensive.

18 We get our LSC grant every year and we sit down
19 and say, \$675,000 or whatever we get, I forget...it's
20 a little less than that, actually...how can we get
21 the most out of that dollar to legal services and we
22 don't have to sit around and spend the time and crank
23 up the cost the way we do with our private contracts.

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 MR. WALLACE: It is more
2 expensive, but aren't you more responsive? I mean,
3 there is a cost in being responsive. We understand
4 that. But when you make that effort and when you run
5 after those contracts you get them if people are sure
6 and absolutely sure they're getting what it is they
7 want. I mean, there is a trade-off between expense
8 and response, isn't' there?

9 MR. SABLE: Well, I think
10 that from all the feedback we get, and we do
11 obviously spend some time in...we don't think of it
12 as marketing, but in effect, it is marketing our LSC
13 services, as well...and I think that we can do it a
14 lot easier and achieve a high level of acceptability
15 at a much lower price and we can devote among our
16 services, services that involve...that would
17 otherwise involve us in the next free rider problems
18 as to who would ever pay for them.

19 MR. WALLACE: This is my
20 second question.

21 Last fall or last summer when we had originally
22 planned to do this, we sent out a draft model
23 subgrant agreement on the programs. And I sat down

1 and worked with the staff on that myself and my
2 watchword was keep it simple.

3 Now, we may have missed a lot of complexities in
4 that model draft that we sent out, but the question
5 I've got for all of you is, what's wrong with it?
6 Then, can it be changed, because what we tried to do
7 was to get rid of this marketing problem to the
8 greatest extent we could. Let's have a model
9 subgrant, keep it simple and then approve it if you
10 come back in that form.

11 MR. SABLE: I have not
12 reviewed that form for some time. My recollection is
13 that it didn't even begin to answer most of the
14 questions. I mean, to some extent it addressed some
15 questions. That is, there is going to be 300
16 separate pieces of paper which we're going to have to
17 enter into and which programs are going to enter into
18 and which LSC is going to have to enter into and
19 which are all going to be shifted around.

20 But it didn't even begin to answer the questions
21 of what kind of services we're going to provide and
22 under what circumstances and to what extent and to
23 how we're going to deal with sort of third party

1 services, secondary services, clearinghouse. It's
2 just, I mean, it's just a piece of paper which said,
3 we'll give you some services for some money, but it
4 didn't even address most of the issues. And I think
5 Miss Ivie...perhaps I should defer to her...

6 MR. WALLACE: Please.

7 MR. SABLE: ...sent you a
8 detailed response to it.

9 MR. WALLACE: Miss Ivie?

10 MRS. DREW-IVIE: Mr. Wallace,
11 we sent a letter to Clifford Crook on September 26th
12 outlining our problems with the model form. We were
13 not invited to comment on it, but we did submit
14 comments, nevertheless.

15 MR. WALLACE: I thought we
16 sent it out to everybody. Did we not invite comments
17 when we sent it out?

18 MRS. DREW-IVIE: The national
19 support centers were not invited to comment on it.

20 MR. WALLACE: Did it only go
21 to the...

22 MRS. DREW-IVIE: To the field.

23 MR. WALLACE: Okay. Well,

1 that was obviously a flaw on our part. I apologize
2 for that. I thought we'd asked for comments from
3 everybody.

4 MRS. DREW-IVIE: Well, we
5 submitted them anyway...

6 MR. WALLACE: I'm glad you
7 did.

8 MRS. DREW-IVIE: ...in that
9 letter. The main problem I think that we addressed
10 was that we don't see the issue as a matter of the
11 correct form or the simplest form, but a flawed idea
12 of how to best get support services that are needed
13 to the field. And we just think the idea of having
14 them buy these services by subgrants is unworkable.

15 MR. WALLACE: Let me just say
16 that if, you know, if you just want to attack the
17 idea on first principals, that's fine. But you come
18 in here and tell us it's practically unworkable. It
19 seems to me we need to go a step beyond first
20 principals and get us some...

21 MR. SABLE: We did.

22 MRS. DREW-IVIE: We did.

23 MR. SABLE: And also, I mean,

1 I must say, that I think there's quite a bit of
2 written material that this Board has received from us
3 over the past two years discussing the unworkability
4 in many, many aspects. So, I think even if it was
5 not addressed in entirety in response to these forms,
6 I do submit that it has been submitted.

7 MR. WALLACE: Third question
8 and then I'll pass, Mr. Chairman.

9 I understand the free rider problem quite well.
10 I'm not quite the free market expert that our Board
11 Chairman is, but I have some basic grasp of economics
12 and I understand when you put out a book that that
13 book is out there and anybody with a Xerox machine
14 can free ride to his heart's content.

15 But beyond that, what other free rider problems
16 have you got? When you represent somebody in a
17 lawsuit...when I represent somebody in a lawsuit, I
18 charge by the hour and get paid for it. And somebody
19 may go down to the courthouse and read my pleadings
20 and that's one of those external economies you can't
21 quite grasp all the time, but tell me what your free
22 rider problem is.

23 MR. SABLE: Let me give you

1 one example and I think Henry and the others can give
2 you others.

3 In the fuel assistance area, this hasn't been as
4 much a problem in the last couple years, but earlier
5 we had this situation in which programs...in which
6 eligible clients were not receiving fuel
7 assistance...these are not, I should state, these are
8 not entitlement programs. You get a certain amount
9 of money and they spend it and, I mean, those who
10 get, get and those who don't get, don't get.

11 MR. WALLACE: Yes.

12 MR. SABLE: But we were having
13 a problem in certain states where the states were
14 handing the money back saying, well, the heating
15 season is over, we didn't spend it and in those same
16 states we were having eligible clients coming to the
17 office and saying, I can't pay my fuel bills, the
18 lawyer would say, well, what about fuel assistance?
19 Oh, I didn't get that. I applied and I was rejected.
20 They told me the program had turned him down or I
21 didn't apply or whatever, but in any event, the
22 client didn't get fuel assistance.

23 We felt that there were HSS regulations and

1 statutory regulations which required a certain level
2 of outreach and that, therefore, it was illegal, or
3 at least, arguably illegal for a state to turn the
4 money back without having done the outreach. But
5 most of the states were unwilling to simply, you
6 know, be told that and say, oh, you're right. You
7 know, we had to litigate the issue.

8 Now, in the first place, in the beginning of the
9 year you wouldn't even know whether that issue was
10 going to come up, but supposing they all did and
11 every program said, by God, outreach and turning back
12 fuel assistance is going to be a heck of a problem
13 this year. Somebody has got to take that issue up.
14 Somebody has got to litigate that issue, that's going
15 to be a hard, complicated thing. It's going to take
16 a lot of time, it's going to take a lot of effort.
17 We know we've got a national support center that can
18 do most of that work. They're on top of it. They
19 know the legislative history. They litigate and so
20 forth.

21 So Programs A, B and C all say, we'll chip in
22 for the co-counsel assistance. Program D which says,
23 we would really...it would really be good to get that

1 case settled. Once it's settled in North Carolina
2 all the other states are going to see and we'll just
3 be able to go and sell it. We've got other fish to
4 fry. Let's not give them any co-counsel money.

5 So the result is we don't get in net or gross or
6 whatever. We don't get enough money to do the case
7 because a bunch of folks, through all good faith, but
8 just trying to do the best for themselves and for
9 their clients said, well, I'm pretty sure that North
10 Carolina is going to bring that case and so we'll put
11 our money in welfare where, you know, we're really
12 going to need it and we'll hope that the North
13 Carolina program brings the precedent.

14 So, as a result, although everybody would agree
15 that it was important to spend, say, \$10,000 on this
16 fuel assistance case to help their clients throughout
17 the country, we only collect \$5,000 and we don't have
18 enough money to do the case.

19 That's one example of the kind of free rider
20 problem in the large case context. And I think
21 clearinghouse articles are another. We write these
22 clearinghouse articles. Everybody reads them. We
23 don't get paid by clearinghouse to do this. Do we

1 now have to enter into a series of side agreements
2 with the clearinghouse to pay or do we refuse to use
3 what is one of the most effective dissemination
4 systems around, which is the clearinghouse, to get
5 our articles out, but, you know, sort of keep them
6 here and say, well, we'll let you see this if you
7 pay us.

8 These are some of the kinds of free rider issues
9 that we see. The calling the other lawyer for advice
10 that Henry talked about is another example.

11 We don't have a contract with the National
12 Consumer Law Center, but you know, the other program
13 does. And I know they're talking to them all the
14 time. Why don't I call them and see what they know
15 about this issue and the lawyer on the other side, as
16 any lawyer would, is going to say, oh, yeah, you
17 know, I just talked to the Welfare Center and this
18 and that and the other and here's the way to approach
19 that.

20 But, we've only got half the money that we did
21 and, in effect, we've paid for both of those pieces
22 of advice. So, there's a free rider problem there.
23 There's a free rider problem in most of...not

1 everything...in most of what we do, I think.

2 MR. WALLACE: Let me ask you
3 about the big case that you describe, because in a
4 lot of those big cases you're going to be suing
5 states, counties, localities. You're going to
6 get...if you can't clean a 1983 action on something
7 like that, you shouldn't be working for us anyway and
8 if you win, isn't the state going to pay your
9 attorneys fees?

10 MR. SABLE: Well, I don't
11 know. I mean, you're better at it than we are. Our
12 major...I mean, in terms of the kind of major
13 litigation issues that we've been involved in, we
14 have never gotten any...on any of the fuel assistance
15 outreach cases in which we were...the biggest single
16 dollar benefit that we have ever gotten a client has
17 been our assistance in two major oil overcharge cases
18 which literally involved billions of dollars.

19 We could not see a way of entitlement to...and
20 we were lead counsel, which is usually not our
21 situation...in those cases, these cases we were
22 involved in in Virginia, I do think there is some
23 potential of attorneys fees two years down the road.

1 Who would finance those cases during the two years
2 while we're waiting for those attorneys fees, of
3 course would be the question there.

4 And the answer from a number of private
5 attorneys was, not us. It's too speculative. You
6 might lose and get nothing.

7 MR. VALOIS: Another answer
8 in plea generating cases is that publicly supported
9 law firms or centers or so forth may not opt to be in
10 those and that's...if there are...

11 MR. SABLE: I mean, if it
12 were...

13 MR. VALOIS: ...Plaintiffs
14 lawyers around willing to take cases on the
15 contingency, if there are, it may well be that, you
16 know, we shouldn't be in too many of those.

17 MR. SABLE: That's absolutely
18 correct. I mean, if we knew...if a case comes...I
19 thank you for that...but if a case came in up front
20 and, you know, our lawyer looked at it and said, hey,
21 you know, this case is a winner and it's \$200,000 in
22 attorneys fees once we get to the end of it, there's
23 no question about it, our first obligation is to go

1 present those facts to private attorneys and assume
2 that one of them will take it and, presumably, they
3 would if our analysis was correct. Thank you.

4 MR. FREEDMAN: And there's
5 also a question as to whether our choices in what
6 cases to take should be effected in legal services
7 offices or should be effected by the prospect of
8 getting fees or not and whether they are the kind of
9 1983 cases who generate fees.

10 MR. VALOIS: Well, we could
11 spend a couple of days talking about that
12 observation.

13 MR. WALLACE: Those are my
14 three questions, Mr. Chairman.

15 CHAIRMAN UDDO: Okay. Mrs.
16 Benavidez, do you have any questions?

17 MRS. BENAVIDEZ: No.

18 CHAIRMAN UDDO: All right, do
19 you have another question?

20 MR. VALOIS: Bob, let me ask
21 you the same kind of question, but I'll even be more
22 specific than I was with the earlier questions.

23 Do you still answer direct inquiries from the

1 field?

2 MR. SABLE: In this year, not
3 very much except in a couple of fields that I happen
4 to have some particular expertise in.

5 MR. VALOIS: Have you got any
6 idea when the last time one of the North Carolina
7 programs would have called your center and asked a
8 question and, if so, what the subject of it was? I'm
9 trying to localize my...

10 MR. SABLE: Yes, I'm trying to
11 think. I think that I got from the...I think I got
12 an inquiry from the state support center about
13 wanting to know...she had gotten a request from a
14 legislator about linking state...it's a peculiar
15 question...but linking state deposits of money to
16 lower interest rates.

17 That is, the state would only put its money in
18 banks that agreed to charge lower interest rates on
19 certain types of consumer loans and she called me and
20 asked me, did I know anything about that and I told
21 her that I was aware of a program in Massachusetts
22 which had been broader than that and I put her in
23 touch with a professor who had done an analysis

1 of it.

2 MR. VALOIS: I think probably
3 I know who that is. Somebody has been watching the
4 Banking Committee in the legislature very closely
5 from LSNC. That's interesting, thank you.

6 CHAIRMAN UDDO: Mr. Bayly, I
7 think you had...

8 MR. BAYLY: I had heard you
9 speak about the complex litigation of more important
10 cases and it occurred to me that a word from you
11 might be of interest or of help to the Board if you
12 would explain whether or not your centers have a
13 procedure whereby they decide how you take on a
14 specific sizable or complex case. Call it priority
15 setting or whatever, and then after you made such a
16 decision, how you make your funding decisions or how
17 you conclude how you will finance such participation?

18 MR. SABLE: We go through a
19 fairly elaborate priority setting process every year.
20 Although it's elaborate it tends to end up in the
21 same place in a lot of senses, that is, there are
22 some fairly standard components to it.

23 We set aside a certain amount of money for

1 response to individual requests. We set aside a
2 certain amount of money for writing our manuals. We
3 set aside a certain amount of money for writing our
4 newsletters and so forth. And then we have an almost
5 residual category called projects which involves
6 larger things.

7 Within that context, we usually won't say, well,
8 we're going to take on a big case this year, but we
9 will try to identify issues which seem to be of
10 importance based on input we're getting from the
11 field and so forth. And so, we would say, for
12 instance, we will put in so many weeks of staff time,
13 say, on second mortgage issues which seem to be of
14 particular importance.

15 Now, this year we were in the middle of this
16 case and we said, and most of that money is going to
17 go into the Land Bank case in Virginia and,
18 therefore, we will put it there.

19 In other instances...but of course, life isn't
20 that simple often and a big case will come up in the
21 middle of the year. If we have allocated resources
22 within a certain program area, we might say, well,
23 that's appropriate. We were writing a big

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 clearinghouse article, but here's a case that
2 involves hundreds of eligible clients immediately.
3 Important precedents are involved. Let's immediately
4 put our money in there.

5 In other instances we might have to reshuffle
6 our priorities and make a judgment about the
7 importance of that immediate individual request
8 versus some longer terms projects.

9 Finally, in this particular case, we have also
10 gone out and sought outside funding where it didn't
11 appear that our LSC resources were adequate to handle
12 both that case and the rest of our priorities and in
13 this case, I'm happy to say, we were successful and
14 got outside funding in order to get money to assist
15 local programs in litigation.

16 MR. BAYLY: If I may just
17 follow up with one question.

18 MR. SABLE: Yes, sir.

19 MR. BAYLY: When you spoke
20 about the priorities, how is it, I think the Board
21 would be interested to know, how is it that you go
22 about setting priorities for your center?

23 MR. SABLE: How? You mean,

1 what is the procedure?

2 MR. BAYLY: Yes.

3 MR. SABLE: Well, it's a bit
4 complex, but I'll try to not go into every single
5 aspect of it. And it is also, I think, important to
6 distinguish between the formal priority setting and
7 the informal sort of weigh it, sort of how really
8 feels to you when you're in the middle of it.

9 And let me focus on that first, because in some
10 respects I think that's more important. The way it
11 feels to us really is, our phones are ringing every
12 day and our mailbox is full every day. We're
13 constantly hearing from the field about we've got
14 this consumer problem, we've got that energy problem.

15 And that is educating us every single day on the
16 basic problems that low income clients are bringing
17 to legal services field offices. And our priorities
18 basically in some extent or another are a reflection
19 of that and a reflection of this day-to-day informal
20 feedback.

21 The formal mechanism which in some extent serves
22 more as a validator of this informal day-to-day
23 feedback involves formal surveys of the local

1 programs asking them both substantively, that is,
2 what are the areas you would like see us put our
3 resources in and what are the types of support that
4 you would like to see us do? Training, big case
5 litigation, service requests and so forth.

6 Our staff considers those, considers our own
7 areas of expertise. Considers our previous
8 commitments that we're sort of locked into from the
9 year before. Considers the various elements that you
10 have to consider in terms of the LSC regulations.
11 Comes up with a draft priority setting plan. Those
12 documents, the surveys and so forth are then taken to
13 our Board of Directors which goes over it, reviews it
14 and finally sets up a formal priority setting which
15 sets...I mean, in each center it is different.

16 In our own center we allocate percentages of
17 overall effort in terms of various priority blocks.
18 And then the Board understands and we try to retain
19 some flexibility to make some changes during the
20 course of the year.

21 CHAIRMAN UDDO: Bob, or any
22 one of you, do national support centers have
23 lawyer/client relationships with eligible clients

1 when they're involved in litigation?

2 MR. SABLE: It depends on
3 the...well, I mean, there's various aspects to that
4 question. In terms of a formal retainer letter and,
5 you know, the sort of likelihood that if a client
6 were asked, he would say yes, the National Consumer
7 Law Center is one of my lawyers, we do in some cases
8 where we appear as lawyer of record or where it
9 appears very likely that we do.

10 In a number of other cases, we believe that
11 there is a lawyer/client relationship set-up in terms
12 of confidentiality and so forth in the sense that a
13 lawyer representing an eligible client, in turn, is
14 asking us questions in our capacity as attorney. But
15 there is no link in the sense of a written retainer
16 or possibly even the client, you know, actually
17 knowing that his lawyer has consulted with us about a
18 particular case. So, it varies.

19 Certainly...and it may vary from center to
20 center...but at least in our center when we're
21 involved...I think nearly always when we're involved
22 in litigation we get a separate retainer letter as
23 well.

1 CHAIRMAN UDDO: So, always
2 when you are involved in litigation you would have a
3 separate retainer agreement with the client?

4 MR. SABLE: If we're in court
5 as a matter of record, yes, I believe we do and it's
6 conceivable there have been slip-ups, but I think
7 that's been our practice.

8 We don't do a lot of...I'm hazy on this because
9 there are relatively few cases in which we appear as
10 a matter of record and as I mentally look over, I
11 think we have retainer letters in all those cases,
12 yes.

13 CHAIRMAN UDDO: You said
14 earlier, though, that sometimes you would be involved
15 in legislation because there was some obstacle
16 created by a particular act or a change in a
17 particular piece of legislation.

18 MR. SABLE: Yes.

19 CHAIRMAN UDDO: And that it
20 would be in the best interest of the client to pursue
21 that.

22 MR. SABLE: Yes.

23 CHAIRMAN UDDO: How does that

1 arise in the context that we're talking about now, if
2 you don't have lawyer/client agreements, retainer
3 agreements and lawyer/client relations?

4 MR. SABLE: It arises in two
5 contexts. In the state and local context, we are
6 simply advising the local attorney who, in turn, is
7 representing the client.

8 In the federal context we would have a retainer
9 letter. We would not represent...we would not
10 represent a client before Congress without having our
11 own independent retainer letter, although I believe
12 some programs simply rely on the local retainer
13 letter in the sense that the...I'm not sure. I
14 shouldn't speak for other centers. I think it's
15 possible that in some centers, a local lawyer will
16 write and say, I represent Mrs. X. Mrs. X has the
17 following problem and I would like you to represent
18 her on that problem before X federal agency or Y
19 federal committee.

20 But that's not our practice. Our practice is
21 that if we're going to appear in a federal forum
22 without the presence of the local attorney, then we
23 will establish a direct retainer relationship with

1 that client, although we ask the local attorney to
2 act as our agent in that. I mean, most of our
3 communications are through the attorney to the
4 client, rather than directly to the client. But we
5 get a retainer letter from the client retaining us.

6 CHAIRMAN UDDO: If you
7 were aware of a client's problem that you had either
8 to participate in litigation or had advised the local
9 program on and some time later legislation comes up
10 which might affect that client, would you call the
11 client or the local program back and say that, you
12 know, we recall that you had a client that was
13 interested in this matter and there is legislation
14 that's going to be proposed or has been proposed that
15 that client might be interested in?

16 I mean, is that how you would pursue the
17 interest of the client in the legislative form?

18 MR. SABLE: Well, I mean,
19 there's a number of different ways. ... Certainly we do
20 tell local programs about developments that affect
21 eligible clients and in response to that, we are
22 frequently asked to represent clients, yes.

23 CHAIRMAN UDDO: I think Mr.

1 Valois has a couple more questions.

2 MR. VALOIS: I'm asking this
3 question of each of you. Do you keep statistics or
4 records as to which field programs have used your
5 services during a given year?

6 MR. SABLE: Yes.

7 MR. VALOIS: You all do that?

8 MRS. DREW-IVIE: Yes.

9 MR. VALOIS: Mr. Freedman?

10 MR. FREEDMAN: We have some
11 kind of record of it, yes.

12 MR. VALOIS: Mr. Freedman,
13 what percent our 300 more or less field programs use
14 your services in a given year? Just an approximate.

15 MR. FREEDMAN: Again, there
16 are different services that are used by different
17 programs. In terms of our specialized materials that
18 are mailed out to programs, it's virtually all of it,
19 if not all of the programs and we have reviewed that
20 and I think that's a very significant part of our
21 service.

22 In terms of phone calls and letters, I don't
23 have an immediate response for you. I am sure that

1 it is well over 100 and I...I think I'm being very
2 conservative in saying that...but it's not a piece of
3 information I have pulled together in that form.

4 MR. VALOIS: Are those numbers
5 available from your records?

6 MR. FREEDMAN: It would take
7 some time to put it together, but we could.

8 MR. VALOIS: I'd appreciate it
9 if you would take some time to sort of put that
10 together and give me an idea of the last three years,
11 the number of programs who have asked for...specific
12 questions. I'm not asking how many received the
13 newsletter.

14 MR. FREEDMAN: Fine.

15 MR. VALOIS: And the same
16 question, Miss Ivie. Do you have an idea, off the
17 top of your head, how many programs of our 300 more
18 or less field programs call you us and say, hey, I've
19 got this problem about health law and...how many
20 different programs?

21 MRS. DREW-IVIE: Yes. We keep
22 a compilation of the programs that have called, but I
23 have never compared the ones that call to the ones

1 that haven't, but I would say that we get calls from
2 virtually all the programs on an annual basis on
3 Medicaid or Hill Burton questions.

4 MR. VALOIS: Would you have
5 records indicating the frequency of their calls?

6 MRS. DREW-IVIE: Yes.

7 MR. VALOIS: You keep those
8 kinds of time records?

9 MRS. DREW-IVIE: Yes, we do.

10 MR. VALOIS: I'd appreciate it
11 if you'd just give me a little summary in writing of
12 the last couple years. Bob, the same, please.

13 MR. SABLE: We keep the
14 records, although we don't keep them in a way that
15 they easily just spin out. I mean, there's piles of
16 papers that somebody can sit and go through and get
17 the answer to that question.

18 The last time I did it, which was...I think, for
19 the last monitoring visit or perhaps for the
20 monitoring visit before, I can't remember, maybe I
21 did it for both...I think, in fact, I did it for both
22 and we found that we had received over some period
23 that was somewhere between eight and twelve months,

1 we had received responses from every state in the
2 territories, but I don't recall offhand, since there
3 are many multiple programs within a particular state
4 what the number of individuals programs was, although
5 my guess is it would be between 100 and 200 of the
6 300 programs. But if you think it's necessary,
7 although it's a lot of work, I'd be glad to go back
8 and figure that out for you.

9 MR. VALDIS: Well, I don't
10 want you to take up next year's budget doing it, but
11 I think the information is useful. I think we've got
12 to make some decisions based on facts rather than a
13 lot of conclusionary feelings and so forth...

14 MR. SABLE: Yes.

15 MR. VALDIS: ...that we seem
16 to be quite capable of generating and the responses
17 that we get from inquiries concerning this matter.
18 We get a series of letters which say to me that this
19 is a bad idea and it's a bad idea because we haven't
20 done it before or because I think it's a bad idea or
21 because I really feel strongly that it's a bad idea
22 and so forth and so on.

23 I think we need to make these decisions based on

1 some facts and I'd be interested in knowing, in
2 addition to how many different field programs
3 actually use your services, but whether or not we've
4 got a bunch of...a small number of programs that are
5 using a lot of your time or a lot of programs using a
6 little bit of your time...

7 MR. SABLE: We did look at
8 that and it was spread out, but let me...I'm sure I
9 will in my cover letter to you anyway, but let me now
10 point out some of the difficulties with that...with
11 those statistics which, you know, I think touch on
12 some of the points that we have talked about before.

13 In a number of instances, for example, there
14 will be a consumer specialist in a program. That
15 consumer specialist will be in touch with us on a
16 fairly constant basis or perhaps not on a constant
17 basis, but will have attended some of our training
18 programs, use our materials, call us when a
19 particular difficulty comes up.

20 If you ask that consumer specialist, do you use
21 the National Consumer Law Center, he or she would
22 say, yes, it is indispensable to me. Perhaps most of
23 the field offices in that program, perhaps many of

1 the field offices in that state do not call us
2 because they rely on that person. So that frequently
3 in those situations in which our statistics are
4 poorest our service is best.

5 In fact, we often get worried...I don't want to
6 denigrate any particular field program, but sometimes
7 if we suddenly get 10 or 15 calls in a week from the
8 same program, we usually say, wait a minute. What's
9 going on here. You know, why are they calling us so
10 much. It must be some local issue there that they
11 can't handle, a lot of these problems themselves. We
12 can't handle every single consumer case that comes
13 in.

14 So, the fact that X state is a large user of our
15 services and Y state hardly calls us at all, the
16 reverse may well be the case, in terms of the need
17 and effectiveness for our services. It may well be
18 that the large caller has internal problems which
19 need to get straightened out before they worry about
20 us, whereas Y state, the other state, is very well
21 organized and is making terrific and effective use of
22 our services.

23 I don't mean to say that the statistics mean

1 nothing and we'll be happy to provide, but I don't
2 think you can make a simpleminded kind of
3 generalization based on these things.

4 You have a complex system with different layers
5 in it and the calls that get to us are not
6 necessarily representative of all of our services or
7 the value of our services.

8 MR. FREEDMAN: I'd really like
9 to add something to that.

10 MR. VALDIS: May I?

11 MR. FREEDMAN: Sure, I'm
12 sorry.

13 MR. VALDIS: I think you make
14 a very good point and I appreciate you making it,
15 because I think it's very, very important to this
16 inquiry and, if you are being used, if national
17 support centers are being used as a substitute for a
18 local program, director of consumer matters in that
19 program or the person who's been appointed or
20 recognized as a specialist in consumer affairs
21 matters, if you're being used as a substitute for his
22 going into the library or sitting down or, you know,
23 thinking the problem through himself and it's much

1 easier for him to pick up the phone and call old Bob
2 and see what he says about this, then I think that's
3 an important thing for us to find out.

4 MR. SABLE: Well, you know, we
5 couldn't agree with you more and it's a very delicate
6 issue because we're, in effect, telling our clients
7 not to use it...

8 MR. VALOIS: Look it up
9 yourself.

10 MR. SABLE: ...but I mean, we
11 do have an informal policy within our office that
12 after two or three repetitive calls, you are told to
13 very diplomatically tell the client the next time
14 you...the client, I mean being the attorney...the
15 next time you call, could you please do your
16 analysis. Let us know what your thinking is first
17 and then let us react to it, which is a polite way of
18 saying, you know, try to work it out yourself and
19 then if you're stuck, call us. That, you know, we're
20 not going to handle your case each time.

21 MR. FREEDMAN: Well, to add to
22 that and then to go back to the point you had before,
23 I do think...and we haven't talked about it at this

1 time, although it has been in other presentations
2 before...but one of the things we do offer is
3 something like the senior attorney service or
4 something of that sort. The more experienced
5 attorney dealing with the less experienced attorney
6 in a local program who may not have, at that
7 particular moment and these things, of course, change
8 from month to month and so forth, the supervision and
9 guidance and can be helped to learn how to do his or
10 her own work better and, therefore, make more
11 effective use of us.

12 But I think what it is showing is that there is
13 available a resource, and it's both the national and
14 state support, of experienced people who are
15 available to local programs as needed and that need
16 changes from program to program and from month to
17 month and from time to time.

18 But getting back to the question of what the
19 statistics show. One of the things that we have felt
20 very strongly about over the years is that as there
21 are changes of the law of regulations we know from
22 experience that there will soon be a barrage of phone
23 calls and letters because of changed circumstances

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 and people trying to find out what this means to the
2 client.

3 So we attempt to get material out in writing in
4 advance and so again, I would agree with Bob in a
5 way, that if there are a lot of calls on a matter it
6 means that we didn't quite do our job and get that
7 material out to people.

8 MR. VALDIS: I understand
9 that. My point, I guess, that Bob has so...has
10 brought out which I think is very important and I'd
11 like to know, what percentage of calls to you or to
12 any other national support center are of the nature
13 that say, Mr. Freedman, doesn't HHS have a reg on
14 such and such and such and such a problem.

15 If I were in a private law firm, as I am and
16 some associate asked me that question, my response
17 would be, go on into the library and get out the HHS
18 regs and look it up.

19 MR. FREEDMAN: I think the far
20 more typical question is, I'm looking at the CFR and
21 I see this regulation and the state tells me that
22 there's been some change. Has there been a change?
23 And the necessary reference tool there is the Federal

1 Register, which is often not available to people very
2 readily. Whereas we, by definition, are following
3 those particular regulations.

4 So that can usually be about a two minute call
5 and I would say that that's an economic use of the
6 funds.

7 CHAIRMAN UDDO: Let me just
8 ask one last quick question and it's mostly for my
9 own information and it sort of relates to the
10 question I asked before about issues and clients.

11 Your center recently published an article in the
12 clearinghouse on aids and I'm just wondering
13 was that in response to a request from field
14 programs, that that was becoming a problem for
15 eligible clients or what was the rationale for that
16 being a matter of attention at that time?

17 MRS. DREW-IVIE: That was in
18 part self-prompted by the center itself and in part
19 responsive to calls that we were getting from the
20 field indicating that large numbers of poor people
21 were being impacted and the general coverage of this
22 issue was not raising up the fact that minorities
23 where large numbers of the people who were involved

1 in the figures on who was getting aids and that
2 people who were not poor were spending down very
3 quickly into the poverty level as a result of the
4 cost of health care for the disease.

5 We, therefore, had a staff meeting and discussed
6 what our responsibility was in terms of getting
7 prepared for calls which we anticipated we would be
8 getting in larger numbers and what resources we had
9 and we reached a decision that we did not have a
10 sufficient volume of calls at that point to
11 allocate...to change our allocation to do a
12 significant amount of work in that area, but we felt
13 that we did have a responsibility to pull together
14 the existing information that we did have the
15 available legal tools to ensure access to care that
16 applied to all persons regardless of what their
17 health disability might be and to say these statues
18 apply to aids victims as well as to any other person
19 seeking health care.

20 And that's what we did. We did a clearinghouse
21 article on it and we had decided to limit our
22 involvement to that. Now when we get calls from
23 local programs, we refer them to that article. We

1 also refer them to local legal service attorneys that
2 we know of in the country who are developing a local
3 expertise on that issue.

4 So, it's a good example of how we try to be of
5 service to the field in a discreet way to make
6 available what we have, but not to undertake a
7 massive commitment of time.

8 CHAIRMAN UDDO: Would that
9 article have actually been in existence earlier. I
10 mean, if it's just the bringing together of the
11 health care statutes that would apply to access to
12 health care, it strikes me as odd it would be written
13 so late in the game, you know...

14 MRS. DREW-IVIE: Well, you
15 know, all I can say is that that article was picked
16 up and disseminated very widely because there was...

17 CHAIRMAN UDDO: My question is
18 it seems that earlier on you would have had occasion
19 to do that article or the generic article on
20 statutes...

21 MRS. DREW-IVIE: Oh, we have
22 done that article, not with reference to aids...

23 CHAIRMAN UDDO: That's what I

1 mean...

2 MRS. DREW-IVIE: Yes, yes, we
3 have.

4 CHAIRMAN UDDO: ...that it
5 would be an article that was already out there.

6 MRS. DREW-IVIE: But to take
7 that information and say, this is how the 504 statute
8 should be applied or could be applied in the aids
9 context, had not been done. There is no center which
10 is devoting itself to those issues.

11 The Disability Backup Center has not addressed
12 these issues, as far as I know, to date.

13 CHAIRMAN UDDO: Was your
14 center involved in the Supreme Court case that was
15 recently decided?

16 MRS. DREW-IVIE: No, it was
17 not.

18 MR. VALOIS: The Florida case?

19 MRS. DREW-IVIE: No, it was
20 not.

21 CHAIRMAN UDDO: Have you had
22 many inquiries since the aids article?

23 MRS. DREW-IVIE: Yes, we've

1 had a fair number.

2 CHAIRMAN UDDO: Any idea how
3 many?

4 MRS. DREW-IVIE: I would say
5 maybe 15.

6 CHAIRMAN UDDO: And it was
7 published when?

8 MRS. DREW-IVIE: Last summer.
9 Was it? Wasn't it last summer?

10 CHAIRMAN UDDO: I've run over
11 the time allotted significantly. I appreciate your
12 comments. Obviously it was worth taking the extra
13 time because you represent one of the groups that
14 would be most significantly impacted by any change
15 that the Board would make in funding the national and
16 state support centers.

17 I think you for your time and your preparation
18 and your attention. I suspect that there will be a
19 continuing need for dialogue and information. Some
20 has already been requested of you.

21 I tend to believe that there are more facts that
22 need to be gathered and we're going to need
23 assistance in doing that, so I would ask you and the

1 other people that you represent to be prepared to
2 work with the Board to develop additional information
3 that might be helpful.

4 Other than that, I thank you very much for your
5 presence.

6 MR. SABLE: Thank you.

7 MRS. DREW-IVIE: Thank you.

8 MR. FREEDMAN: Thank you.

9 MRS. BENAVIDEZ: Basile?

10 CHAIRMAN UDDO: Yes?

11 MRS. BENAVIDEZ: I would like
12 to get a copy of that information.

13 CHAIRMAN UDDO: Would
14 you...the information that Bob requested, I think of
15 Henry and any other information that's been
16 requested...what's that?

17 MR. VALOIS: I requested it of
18 all three.

19 CHAIRMAN UDDO: Of all three.
20 Circulate it to the whole Board, would you? Or, you
21 know...If you would send it to Tim and Tim will
22 circulate it to the whole Board.

23 I am going to exercise the prerogative of the

1 Chair and take literally a five-minute break because
2 the Chairman has to go to the men's room. Literally
3 five minutes. Please come back so we can try to stay
4 on some kind of a schedule.

5 (WHEREUPON, a brief recess was taken.)

6 CHAIRMAN UDDO: I have
7 committed to take these panels in the order that it
8 was requested by the people testifying, but I'm going
9 to have to make a couple of changes and one is that
10 the next group is going to have to be the group of
11 staff attorneys because Mrs. Swafford would like to
12 be here during their testimony, since I understand
13 some of those people are from Tennessee and she has a
14 2:15 plane, so we're going to take the staff program
15 panel next.

16 So, would those folks please come up to the
17 table. Is this the whole panel? We have a lot more
18 listed here.

19 MRS. SWAFFORD: Mr. Wiltshire
20 is coming in.

21 MR. BONNYMAN: Would you like
22 us to identify ourselves, just so you can keep track
23 of us?

1 CHAIRMAN UDDO: Yes, why don't
2 you do that.

3 MR. BONNYMAN: My name is
4 Gordon Bonnyman.

5 CHAIRMAN UDDO: We're going to
6 get started here if I could just ask everyone to
7 please settle down and let us get back to the work at
8 hand.

9 All right, Mr. Bonnyman.

10 MR. MORROW: Mark Morrow. I'm
11 the Director of Litigation and Assistant Director of
12 New Orleans Legal Assistance.

13 CHAIRMAN UDDO: Mark, I don't
14 have you on the list.

15 MRS. SWAFFORD: Mr. Wiltshire,
16 aren't you...aren't you going to be...

17 MR. WILTSHIRE: No ma'am, I'm
18 on the project.

19 CHAIRMAN UDDO: This is the
20 Project Directors.

21 MR. WALLACE: We've only got
22 one list and I guess they've been put together.

23 CHAIRMAN UDDO: I've got a

1 Project Director's list that has Mr. Wiltshire, Mr.
2 Bonnyman, Miss Shussel?

3 MISS SCUSSEL: Scussel.

4 CHAIRMAN UDDO: Scussel, I'm
5 sorry. Miss Walker-Lanier, Miss Trimble-Norris, Mr.
6 McIyer and Mr. Collins. That's the list I have.

7 MR. WILTSHIRE: Do you have
8 that index card that I gave Mr. Baker.

9 CHAIRMAN UDDO: Well, I do,
10 but...

11 MR. WILTSHIRE: That's, I
12 believe what we agreed to this morning. These are
13 staff attorneys and then the next are Project
14 Directors.

15 MRS. SWAFFORD: Well, that's
16 fine if we go together so we can have some idea of
17 the...some of these people are from Tennessee.

18 MR. WILTSHIRE: I'll be glad
19 to join the panel if Mrs. Swafford would like me to.

20 CHAIRMAN UDDO: Let's do this.
21 I'm going to try to keep this group down to the 30
22 minute total and then we'll do the Project Directors
23 30 minutes and that should allow Mrs. Swafford to be

1 here for both groups, so I am going to ask you folks
2 to stay within 30 minutes and, as you can see,
3 questions are an important part of why we're here, so
4 if you're going to fudge on anything, make your
5 comments brief and I think you'll see that you'll
6 have adequate opportunity to respond to the specific
7 concerns and elaborate on your views during the
8 question and answer period.

9 But I am going to try to keep this panel to 30
10 minutes so that we can get the Project Directors in,
11 too. Okay?

12 MR. BONNYMAN: Since I'm from
13 Tennessee I will just go ahead and talk first, if
14 that's okay.

15 My name is Gordon Bonnyman, I'm a staff attorney
16 with Legal Services in Middle Tennessee in Nashville.
17 I've been with Legal Services for 14 years and
18 welcome this opportunity to talk to your Committee
19 about the way the field uses support centers, because
20 they're very important to us and to our clients.

21 To give you a little bit of a context, I have
22 worked in very small offices all this time with Legal
23 Services of Middle Tennessee, but when I first went

1 there I was very inexperienced, our staff was very
2 small and we were all very inexperienced.

3 We now have an average length of experience
4 within our office of 11 years among the...that's the
5 average tenure of the attorney staff. We specialize,
6 but we still have local offices in smaller
7 communities where, of necessity, the small staff must
8 be generalists.

9 So, I've had the experience of using the back-up
10 centers both as a relatively...not as a
11 relatively...as an absolutely inexperienced, green
12 attorney in an inexperienced and immature program, as
13 a generalist in a small office and also as a
14 specialist in a larger, more experienced office.
15 And that's the context from which I'm speaking.

16 I have not come to any of the Board's hearings
17 before and I must say that my reaction when I saw the
18 questions and saw the proposals this past week that
19 were being discussed was, why in the world would
20 anybody want to do this, because none of it makes any
21 sense, frankly, from our perspective.

22 I know it's something that's been said before
23 and you probably don't want to hear it, but genuinely

1 from the field perspective or at least from my trench
2 level viewpoint, it ain't fixed...I mean, it ain't
3 broke, so please don't fix it.

4 It was reassuring to me, frankly Professor Uddo,
5 when you earlier said that you, coming from an
6 academic setting thought that all law was accessible
7 and that everyone had a duty to exhaust the available
8 legal authorities in search of a case for his client.

9 That was reassuring to me, because frankly I
10 would have inferred from the proposals going around
11 about the fate of the support centers, both the state
12 and national, that there was not a commitment to
13 experts, because that's what they represent.

14 And let me just tell you how I've used them. I
15 have been probably one of the offenders that Bob
16 Sable's staff has had to caucus about and how are we
17 going to deal with this turkey from Tennessee because
18 I have called in the past...I've dealt with every
19 back-up center in the country except migrant and
20 indian and that's just because I've never had any
21 clients in those areas.

22 And I relate to the back-up centers and continue
23 to relate to the back-up centers as is the norm in

1 the legal community in Nashville, which is, I get
2 calls all the time from private attorneys that say,
3 look, I've got a question about health law or I've
4 got a question about federal procedure, can you just,
5 in five minutes give me a basic orientation.

6 Now, that may qualify in some of your minds as a
7 dumb question and deserving of a response of, hey
8 look, you're a lawyer, go look it up. The fact of
9 the matter is, that to lawyers, be they in legal
10 services or be they in private practice, time is a
11 scarce commodity.

12 If you don't have to reinvent the wheel, you
13 don't want to do it voluntarily. At the other end of
14 the extreme, the way I've used the back-up centers,
15 is to call with the most archaic imaginable Medicaid
16 type questions to the National Health Law Program and
17 say, will you please tell me what the implications
18 are of the Pickle Amendment for this widow who has
19 gotten a cost of living increase, et cetera, et
20 cetera.

21 We are talking about a program there which the
22 Supreme Court has aptly characterized as vistine and
23 among the most complex that it ever has had to deal

1 with.

2 So, my use of the centers has run the extreme
3 and it may be that that use of it...of the back-up
4 centers could be criticized from one of either two
5 perspectives. Either I'm too lazy and I'm not doing
6 my homework and I ought to be doing it or that I'm
7 off tilting windmills on some complex matter that may
8 not really be responsive to my client.

9 None of those criticisms, I think, reflect
10 reality. Legal Services is a human services oriented
11 law office. We provide social services. We provide
12 counselling, we provide negotiations. We are
13 advocates for the poor, for our clients. We don't
14 decide who is going to come in the door next week.
15 We don't plan that. We don't go out and scout up
16 clients.

17 Those folks come to us and we try to do our best
18 to respond to them. And part of that means doing it
19 as efficiently as possible. I've got a client in my
20 office who brings something to me that I don't know
21 about, I'm going to...I'm going to shut up.

22 CHAIRMAN UDDO: You've only
23 taken four minutes.

1 MR. BONNYMAN: Okay. I'll
2 tell you the rest of the story of my life in the next
3 minute.

4 If I can make a long distance call to a back-up
5 center and get a basic orientation or a quick answer
6 while that client is in the office, that is the most
7 efficient use of my time, the most efficient use of
8 the back-up center's time.

9 And I think if you force me to make assessments
10 about whether that's been paid for, do I have to put
11 this on a ticket somewhere and reimburse them, you're
12 going to adversely impact the efficiency of the
13 services that we provide to clients.

14 And I'd be glad, during the question and answer
15 period to give you, you know, answer the details of
16 when I last used the back-up center, what it was
17 about, et cetera, et cetera, et cetera, because I
18 think it...the thing that grieves me sitting in the
19 audience is the guy that's just at grassroots level
20 is, that the questions frankly betray, I think, a
21 sincere lack of understanding on the Board's part
22 about what it is we do and how we do it and how that
23 fits into state and national support.

1 Thank you.

2 CHAIRMAN UDDO: Okay, thank
3 you, Mr. Bonnyman. And who else...whose next?

4 Yes, ma'am.

5 MISS SCUSSEL: I'll go next.

6 My name is Jan Scussel. I'm the managing
7 attorney of the Pine Bluff Branch Office of Central
8 Arkansas Legal Services. I've been a Legal Services
9 attorney for over 10 years with six different
10 programs throughout the country. I've been a
11 specialist in urban programs and I've been a
12 generalist in very rural programs.

13 Like Mr. Bonnyman discussed, when I was fresh
14 out of law school, I used the back-up centers
15 primarily as an education type service. Clients
16 would come in with issues with which I was totally
17 unfamiliar, but I needed a quick answer. It was a
18 lot easier and more time efficient to contact a back-
19 up center and get that quick answer. Back-up centers
20 can provide you with those answer far more
21 efficiently than researching the law for hours on
22 end.

23 Of particular uniqueness to my situation, I was

1 in the State of Idaho when I first started practicing
2 law with Legal Services. Up until recently Idaho
3 didn't even have a Court of Appeals. All it had was
4 a Supreme Court. Very little case law with which to
5 glean information from.

6 It was very important for our program to
7 determine what other states had done with similar
8 issues. Those kinds of resources were not available
9 in the geographic areas I was located in and the
10 back-up centers proved invaluable for that purpose.

11 More recently I was a managing attorney with
12 another legal services program in Arkansas and I felt
13 that there was an issue involving due process with
14 Medicaid recipients. By reviewing the clearinghouse
15 review, I discovered that the issue was being dealt
16 with in other states. I contacted the clearinghouse,
17 got their pleadings and then contacted the relevant
18 attorneys that were involved in those cases. These
19 cases had just been filed. There was no judicial
20 determination of the viability of those issues.

21 Based upon that, we made a determination in our
22 program to file litigation. At that point we got in
23 touch with the National Health Law Program who

1 provided invaluable information that we could have
2 never received from any other source.

3 As it turned out, other states have litigated
4 that issue, but consent judgments had been entered
5 that were not reported in the federal reporter
6 system. They had access to inner agency memos that
7 dealt with the issue that we could have not gotten
8 ahold of in time to use in depositions to impeach
9 testimony by administrators of the Medicaid program.

10 I believe we've been the only state to actually
11 litigate the matter and get a reported case and it's
12 primarily due to the support we received from
13 clearinghouse, the national back-up centers and our
14 state support center that we were able to do it in a
15 cost effective way.

16 When I was working in that office, and I think
17 this is important for the Committee to understand, I
18 was the only attorney in this particular branch
19 office. I serviced six counties in rural southeast
20 Arkansas. I was in court constantly in all six
21 counties and carrying a case load in excess of 100
22 and supervising two paralegals with case loads of
23 maybe 50 apiece.

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 Now, if I had had to have researched this major
2 case that had an impact upon our state, statewide,
3 that case would probably still be in litigation. As
4 it is, we've been successful and now Medicaid
5 recipients are receiving notice when their Medicaid
6 aren't paid and have been granted an appeal process
7 on an administrative level.

8 Very important due process rights, rather than
9 forcing Medicaid recipients to argue very complex
10 federal regulations in rural state courts.

11 In terms of issue recognition, the state support
12 and national support centers are also invaluable
13 through their publications. Their publications give
14 the attorneys an idea of when certain issues are
15 applicable to cases. Usually, once I recognize an
16 issue I contact the back-up center to make sure the
17 issue is viable in my particular case to prevent us
18 from getting involved in what may be considered a
19 frivolous defense. I'm certainly not one to file
20 frivolous defenses and if I can get quick advice as
21 to whether or not my case is the kind of case in
22 which to allege a truth in lending defense or
23 whatever, I want to make sure. And the back-up

1 centers are the appropriate source for that.

2 CHAIRMAN UDDO: Miss Scussel,
3 I'm going to have to ask you to come to a conclusion
4 so we can hear from the other people before we start
5 questioning.

6 MISS SCUSSEL: Well, just in
7 summary.

8 The proposal that's been put forth, I think,
9 requires local programs to predict what issues are
10 going to come through the door and I think that is an
11 impossibility. We're surprised every day about the
12 issues that do come in the door and even though we
13 may not use a back-up center this year, that issue
14 may come in next year.

15 And to require the staff and our Program
16 Director to determine the allocation of funds to
17 certain back-up centers, I think would create a great
18 disservice to our clients.

19 Certainly if an issue came in and we hadn't
20 contracted with that back-up center, we'd be stuck
21 with reinventing the wheel, as Mr. Bonnyman states,
22 and I don't think that's the most cost effective way
23 to provide legal services to our eligible clients.

1 CHAIRMAN UDDO: Thank you.

2 Miss Trimble-Norris next?

3 MISS TRIMBLE-NORRIS: Good morning. My
4 name is Mary Trimble-Norris and I'm the Deputy
5 Director of California Indian Legal Services and the
6 Chair of the Steering Committee for the National
7 Association of Indian Legal Services. NAILS, as
8 you've probably heard before, is the ad hoc group
9 representing the interests of the 35 indian programs
10 and components that provide legal services to indians
11 in the United States.

12 I'm appearing before you today to tell you that
13 our member programs are unequivocally opposed to the
14 corporation's proposed plans to privatize national
15 and state support.

16 And I have dispersed to you written comments and
17 attached to them, letters that were sent to you, but
18 maybe not have been received, from programs. And I
19 will depart from my written statement just to come
20 within the time line.

21 But I do want you to carefully read the letters
22 that are appended and I want you to note carefully
23 the postmarks. They come from places like Coolidge,

1 Arizona, Newtown, North Dakota. Indian programs tend
2 to be in rural and isolated parts of the United
3 States. Indian legal services programs are in
4 Alaska, Hawaii, New York, Louisiana, as well as all
5 of the western states that we normally think of
6 tribes as living.

7 And I think that's an important thing to realize
8 when you talk about tinkering with the present
9 support system, you know, the effect that it would
10 have on these programs. I think that you have to
11 listen to them when they tell you that this support
12 system, the Indian Law Support Center, as well as the
13 other national and state support systems provide them
14 with services without which they couldn't provide
15 quality services. That they would turn away clients.

16 That sometimes there are single office, you
17 know, single attorney offices or they have only, you
18 know, tribal court advocates or paralegals serving
19 large numbers of clients.

20 The six points I'd like to make...I mean, I
21 think, we want to reaffirm everything that's been
22 said so far that applies to us as well as the basic
23 field programs...but there are six areas especially

1 how the proposed plan would affect us.

2 Support services are not available in a private
3 market in the field of indian affairs. And if they
4 were, they would be very prohibitive in cost, of
5 questionable quality, they would be sporadic and, in
6 all likelihood would not, you know, assist programs
7 in being able to provide complex litigation or co-
8 counseling. There is just a lack of breadth of
9 services that we do not get through the Indian Law
10 Support Center. And of course, training may be
11 available, but certainly more expensive.

12 The reality for indian programs is that we are,
13 you know, under-funded and any inputs of new monies
14 would likely be absorbed by salaries or maintaining,
15 you know, the current physical plants. Most indian
16 programs spend an inordinate amount of their budget
17 on travel.

18 And to make a decision about, you know, actual
19 services to people versus contracting outwards would
20 work a hardship on the programs.

21 Indian programs and components don't only use
22 the Indian Law Support Center, they also provide
23 poverty law services to their clients and we do use

1 the other support centers and do participate in
2 support where it is available. Indian programs and
3 components need access to services, especially
4 training that's provided by state support centers, as
5 we said earlier.

6 Consolidation is unlikely to provide the
7 services that is uniquely provided by the Need of
8 America Rights Fund and the Indian Law Support
9 Center. No other entity is likely to have the unique
10 expertise that's provided by the Native American
11 Rights Fund. NARF has an extensive library, the
12 National Indian Rights Library which has just
13 thousands and thousands of articles, periodicals and
14 books that pertain to federal indian law.

15 They also have a highly trained staff that has
16 many years of experience in practicing indian law and
17 this staff does provide a full range of services to
18 indian components training legal research, legal
19 pleading, litigation by newsletters, all on a budget
20 of \$250,000 a year. And I doubt whether both
21 services could be provided by any other scheme and be
22 cost effective.

23 The transition from the existing structure to a

1 fee for service will discourage the free flow of
2 information that we now have between each of our
3 programs and the Indian Law Support Center.

4 The support center serves an important
5 clearinghouse function for the indian programs and, I
6 think, that if we began to have to pay for those
7 services, that we would want to barter for the
8 information that we provide, that there is an
9 exchange of briefs, an exchange of research that the
10 Indian Law Center now coordinates, free of charge.

11 The Indian Law Support Center sends out regular
12 articles of interest, as well as their newsletter and
13 I think if they had to start putting their cost on
14 that, that it would certainly have a burden on their
15 budget and we would, you know, no longer have those
16 services, which are very, very useful to us,
17 especially, the very rural programs.

18 There's a special wrinkle that I wanted to point
19 out and that is, as far as the Indian Law Support
20 Center is concerned.

21 Most basic field programs don't have indian law
22 as a priority, but the fact of the matter is, indian
23 people reside in all parts of the United States and

1 in urban settings and it's highly likely that an
2 indian client would go to a basic field provider and
3 have a question or a legal problem that involved a
4 federal indian law issue.

5 Assuming you were to go to the concept of
6 privatization, it's unlikely that a Project Director
7 of, let's say, an urban...large urban program would
8 think that he may need the services of the Indian Law
9 Support Center at the beginning of the year, but a
10 client can come in and need those services. Often
11 this happens in indian law welfare cases if they
12 revise the law in urban settings.

13 So, it's just a special wrinkle that, you know,
14 a strict adoption of your proposal would not take
15 into consideration a problem like that.

16 Thank you.

17 CHAIRMAN UDDO: Thank you.
18 Mr. Morrow, I'm going to have to limit you to about
19 two minutes before we cut you off for questions.

20 MR. MORROW: Okay. I'm the
21 Assistant Director and Litigation Director at New
22 Orleans Legal Assistance and I, like Mr. Bonnyman,
23 have been a very demanding customer of the back-up

1 centers for the last 10 years, basically and I've
2 always gotten really high quality service from them.
3 I really have no complaints at all about the major
4 back-up centers.

5 I've also had experience in the private sector
6 where I worked at Coopers and Liburn on tax law and
7 tax accounting. They use a similar system of relying
8 on back-up people around the country for quality
9 control and cost efficiency.

10 So there, on a regular basis I also had occasion
11 to, you know, consult with nationally recognized
12 experts in tax law and I would have to say that the
13 service that I got...I've gotten in legal services
14 has been comparable to that that I got with Coopers
15 and Liburn.

16 You know, our staff basically is fairly limited
17 in tenure and we really do rely on back-up centers
18 quite a bit to deliver high volume, quality services
19 to our clients. I think there's a very telling
20 example in Louisiana why lawyers in the field need
21 the back-up people.

22 Recently a very prominent Louisiana private
23 lawyer was appointed to represent a welfare recipient

1 in a case before the U.S. Fifth Circuit. This guy is
2 like rated in the top 100 private attorneys in the
3 state. He totally botched it. You know, he did as
4 best as he can, as I understand it, but he did not
5 know the applicable statute and legislative history.

6 And because of that two million welfare
7 recipients in Texas, Louisiana and Mississippi have
8 been denied access to the courts to enforce their
9 rights and if we have to...if we ever have
10 another...when we have a client come in that has a
11 problem in this area, we're going to have to go all
12 the way to the U.S. Supreme Court to get that thing
13 changed.

14 I know that people in Indiana, Florida and other
15 states, even though the Fifth Circuit law doesn't
16 govern their cases, have had total misery trying to
17 get, you know, litigate their client's rights in
18 court because of this one Fifth Circuit decision.

19 If this guy knew enough to call an eligible
20 legal aid specialist or the Food Research and Action
21 Center in D.C., in ten minutes, you know a ten minute
22 phone call to them, maybe three hours work by the
23 Food Stamp Center in D.C., he would have had a

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 complete winner in the Fifth Circuit.

2 But now, well, it's a very unfortunate result,
3 but if that happens to somebody like that who is,
4 like I said, one of the 100 most prominent attorneys
5 in the state here, our staff attorneys with three
6 years experience are...well, you know, they just
7 can't make it without the back-up people.

8 A lot of people have talked about how the back-
9 up centers have helped them with impact litigation.
10 They also help us with routine litigation. Cases
11 that we would not even do if we didn't have their
12 assistance.

13 I can give you some very quick examples. We had
14 a child who was a leukemia patient that was being
15 denied medical coverage that this doctor said he
16 absolutely needed in order to survive. The state
17 wouldn't give it to him. We had two days notice to
18 either settle or litigate. We had no expertise in
19 this area. We called up the back-up center. They
20 gave us assistance. Within the day, it proved very
21 critical in gaining relief for this kid. He would
22 have died, basically, without it and we wouldn't have
23 taken the case, quite frankly, if we hadn't had that

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 assistance from them.

2 Unemployment compensation cases, laws affecting
3 unemployed veterans who have been discharged from the
4 military. A lot of it is governed by a subregulatory
5 law that Mr. Freedman referred to in his specialty.

6 Another case that we would...a perfectly routine
7 case where the guy was really being shafted by the
8 federal government. If you're a veteran you'd be
9 horrified to know the facts, but anyway, I could have
10 done 30 other unemployment cases in the time that it
11 would have taken me to represent this veteran, if I
12 had to do it on my own. If I have to choose between
13 30 clients and one vet with the same basic
14 unemployment comp, I'm going to go with the 30
15 clients.

16 But by, you know, a few phone calls to the back-
17 up center, they zero you right in on the information,
18 all the subregulatory law, they send it out to you,
19 they've collected it from Freedom of Information
20 stuff for years. You can represent the guy in a
21 limited amount of time.

22 I had another routine case involving 60 tenants
23 who were overcharged about \$20,000 rent by the local

1 Public Housing Authority. No apparent solution to
2 the problem. Unreported decision from Alabama that
3 the National Housing Law Project had that contained
4 briefing and policy statements from HUD that
5 indicated a really good theory for the client with
6 the clients winning, settled with a demand letter to
7 the Housing Authority and all this information from
8 an unreported Alabama decision.

9 No way that I could have ever researched that
10 without the assistance of the National Housing Law
11 Project. Because of it I didn't even have to file a
12 lawsuit. A demand letter, small case, \$20,000 bucks.
13 I'd never represent those 60 tenants if I had to do
14 it on my own, because I couldn't afford to do it. I
15 couldn't justify the amount of time it would have
16 taken me to do that. I wouldn't even have been able
17 to evaluate whether it was a winner.

18 CHAIRMAN UDDO: Mr. Morrow,
19 let me ask you, if you would, just to summarize so we
20 can have some time for questions.

21 MR. MORROW: Okay. Well,
22 another thing that I wanted to emphasize was that as
23 Litigation Director I have to budget for our

1 litigation expenses every year. Deposition fees,
2 expert witnesses. I basically have been unable to do
3 that in an accurate way and neither has my boss, Jim
4 Sacker. We try as best as we can. Today I couldn't
5 tell you what our needs would be for any of the
6 national support centers during the next year. The
7 needs for each type of service fluctuate and it's
8 impossible to predict one year in advance. And we
9 have to do our budgets on an annual basis.

10 When I was in the private sector in the
11 accounting firm, we sort of did the same thing with
12 complex tax opinions or tax litigation and even
13 though there were businessmen who were much more
14 shrewd than I am and sophisticated in estimating what
15 it would cost to do something for a client, they
16 could never really do it in an accurate way.

17 Based on that experience and my experience in
18 budgeting for litigation needs, I don't know if I
19 could really accurately predict from year to year. I
20 know we do use them. We use all the major back-up
21 centers on a regular basis, but the amount of time
22 really fluctuates from year to year.

23 CHAIRMAN UDDO: All right,

1 thank you, Mr. Morrow.

2 Let me just ask a couple of quick questions
3 before I open it up to other members of the Committee
4 and the Board.

5 Mr. Bonnyman, which support centers have you or
6 your programs used in, say, the past year?

7 MR. BONNYMAN: I specialize
8 primarily in health law now, although I've done a
9 number of things in 14 years and I've used the
10 National Health Law Program probably I've had contact
11 with them a couple of times a month, personally.
12 The other, I would imagine most of the rest of our
13 staff has not, simply because they would tend to call
14 me.

15 I know that we have used Mr. Freedman's center,
16 that our consumer specialists relate all the time to
17 the National Consumer Law Center...

18 CHAIRMAN UDDO: Mr. Freedman's
19 center is the Center for Social Welfare Policy and
20 Law.

21 MR. BONNYMAN: Policy and Law,
22 right. I don't have a list in front of me. I just
23 know that I, personally...

1 CHAIRMAN UDDO: Did you say
2 the Consumer Law Center after that?

3 MR. BONNYMAN: Pardon me?

4 CHAIRMAN UDDO: Did you say
5 the Consumer Law Center...

6 MR. BONNYMAN: Consumer Law
7 Center. We have housing specialists who relate to
8 the housing law project in Berkeley all of the time.

9 You know, we don't...I think this brings up a
10 point. The Committee was asking the earlier panel
11 about how frequently they were used. We don't keep
12 those records and that's not an invitation to the
13 Board to make us start keeping those records.

14 One of the things that's so nice is that we are
15 able to do it very effectively and very efficiently
16 without having to go through a lot of paperwork,
17 which seems to be the main implication of going to
18 the kind of thing that's been considered here. That
19 it would put a lot of sand in those gears.

20 I can't give you a precise...I mean, I can tell
21 you anecdotally what I've used and how recently...

22 CHAIRMAN UDDO: That's really
23 all I'm asking for. You understand our problem. Our

1 problem is, whether you go to privatization or not,
2 there may be an argument for consolidation, there may
3 be an argument that some centers are not really
4 earning their keep in terms of how much they're used.

5 I mean, it's a legitimate concern of the Board
6 to try to delve into those things and my personal
7 opinion is, that there are certainly a number of
8 centers that I think Mr. Morrow has referred to, and
9 I'm going to ask him which ones he includes in this
10 in a minute, as the major back-up centers. And I
11 think it's a legitimate question. Which are the ones
12 that get used the most?

13 And it's sort of a difficult question to answer
14 because you don't want to keep the records to do it.
15 Mr. Sable and the other folks that talked earlier are
16 going to try to dig out the information as to how
17 often they're getting used.

18 But, I mean, I think it's a legitimate question
19 and I think the Board has an interest in trying to
20 answer that question.

21 MR. BONNYMAN: I guess...well,
22 if I had a list in front of me of the back-up
23 centers, I could go through real quickly and tell you

1 which ones. I mean, I just off the top of my head
2 couldn't tell you which ones we've used.

3 CHAIRMAN UDDO: Well, it would
4 seem to me, the ones you use most often you'd know.
5 And that's what I'm interested in.

6 MR. BONNYMAN: I mean, I know,
7 because I've called...I mean, I've dealt with the
8 National Health Law Program as recently as 48 hours
9 ago. I dealt with the clearinghouse 24 hours ago. I
10 dealt with our state support office within the past
11 week. All of those are very unsexy, unromantic
12 client generated calls.

13 The calls...well, my last contact with End Help
14 was for a 90 year old nursing home patient who had
15 gotten a pension increase of \$20 and was now \$20 over
16 the Medicaid income limit and she was going to be
17 rolled out the door of the nursing home, quickly.

18 I mean, this is not...and I deal with a lot of
19 Medicaid, but that was something where it made sense
20 to call the back-up center.

21 CHAIRMAN UDDO: I understand
22 that. I understand that. I'm just trying to find
23 out which others you're aware of that you've had

1 occasion to use or your program has used?

2 MR. BONNYMAN: The other one I
3 use a lot is Senior Citizen Center, just because,
4 again, it deals with nursing home issues and that is
5 part of my own responsibility.

6 CHAIRMAN UDDO: Do you know
7 how many national support centers there are?

8 MR. BONNYMAN: A dozen.
9 Fifteen? I don't know. I mean, they're in the front
10 of the Clearinghouse Review and I just, when I need
11 one, I call them.

12 CHAIRMAN UDDO: Miss Scussel?

13 MISS SCUSSEL: Yes.

14 CHAIRMAN UDDO: Can you tell
15 me the ones that you've used in the past year or your
16 program has used?

17 MISS SCUSSEL: Well, I've
18 worked for two different programs in the past year.
19 I would say that Employment Law, Consumer, Health,
20 Housing, Senior Citizens. We've been trained with
21 the assistance of representatives from the Youth Law.

22 CHAIRMAN UDDO: You've been
23 trained with? I'm sorry.

1 MISS SCUSSEL: We had a
2 training on juvenile justice and our state support
3 brought in folks from the Youth Law Back-up Center.

4 Now our state support virtually uses every back-
5 up center. I maybe don't have direct contact with
6 them, nor my staff, but we definitely use them,
7 perhaps abuse, our state support folks, who
8 disseminate the information from FRAC, the whole
9 gamut.

10 Now, in Arkansas, probably the least used are
11 the migrant and the indian.

12 CHAIRMAN UDDO: You said you
13 do use the migrant and the indian?

14 MISS SCUSSEL: I've used the
15 migrant in the past, but probably statewide, those
16 are the...probably the least used.

17 CHAIRMAN UDDO: All right.
18 Mr. Morrow, which ones have you or your program used
19 and...that's my first question.

20 My second question would be which do you include
21 in your phrase, major back-up center?

22 MR. MORROW: Well, that's a
23 personal statement. We receive training and

1 brochures and manuals from virtually every project in
2 the country.

3 CHAIRMAN UDDO: Other than
4 brochures and manuals. For technical assistance.

5 MR. MORROW: Yes, technical
6 assistance, we would use Social Welfare and Policy,
7 FRAC, Women...

8 CHAIRMAN UDDO: Wait a minute.
9 Social Welfare and Policy...

10 MR. MORROW: Mr. Freedman's
11 group are very helpful. Food Research Action Center.

12 CHAIRMAN UDDO: All right.

13 MR. MORROW: The Women and
14 Family in New York City. The Youth Law in San
15 Francisco. Consumer in Boston. National Housing Law
16 Project, National Health Law Project, Senior Citizens
17 and we also use Employment, Veterans and Immigrant to
18 a lesser degree.

19 Those first...I think that's seven...the first
20 seven we use quite a bit and more complete
21 information is contained in our annual budget request
22 to the corporation, I think.

23 CHAIRMAN UDDO: Would those be

1 the seven you would include in major back-up centers?

2 MR. MORROW: Eight, actually I
3 guess. But those are the ones that I think most of
4 the problems of our project have been coming up in,
5 but it does fluctuate some from area to area.

6 Like, for example, unemployment is a big problem
7 in the Louisiana area right now, so we're starting to
8 utilize unemployment...the Employment Law Project a
9 little more. Veterans Law Project. We haven't had
10 enough time to serve clients in that area. We'd like
11 to do more in that area, but we haven't had the time.

12 With the pro bono project we're trying to get
13 some of the private bar involved in representing
14 veterans, so I don't know if we'll be utilizing them
15 or not.

16 Mr. Sacker is on vacation in LA or else he'd be
17 here today, but he's out there consulting with the
18 Immigrant Back-up Center in order to get prepared for
19 the eventuality that we might be able to represent
20 some of these people under the new law and how we
21 can, you know, in a cost effective way provide direct
22 services to those people.

23 CHAIRMAN UDDO: I take it you

1 don't want to hold me to your statement, major back-
2 up centers.

3 MR. MORROW: Well, I mean,
4 I'll tell you, you know, those eight that I listed
5 are the ones that we use for technical assistance the
6 most, so far, anyway. And we use Employment and
7 Veterans to a lesser degree.

8 CHAIRMAN UDDO: All right, Mr.
9 Bonnyman, let me go back to you for a second. Would
10 you suggest any change in the way support services
11 are delivered? Let's not talk funding so much right
12 now as, do you see any need for any changes at all?

13 MR. BONNYMAN: I know it
14 sounds smug and resistant, but the honest answer is
15 no. It works very well for me and for my client and
16 the only way that I could see having the same bundles
17 of goods and services available to me, if you were
18 going to give the money to the programs and have them
19 contract, is if you carry with that a mandate that
20 they contract to give all that money back to the
21 back-up centers, which seems to be adding a totally
22 pointless loop.

23 The questions about who do you use for technical

1 assistance? You know, and we all have said, well,
2 but we use all of the materials and you say, well,
3 but no, I want to know who you call.

4 I think maybe that implies...or maybe I'm just
5 drawing the wrong inference...some dismissal of all
6 those times when we use the back-up center services,
7 clearinghouse articles, whatever, without calling
8 them.

9 Sylvia Ivie said they sent all this stuff out
10 and they didn't know. I use their stuff all the
11 time. My mother raised me to write thank you notes.
12 I never learned that etiquette. I don't write thank
13 you notes. I owe Sylvia and her crew thank you
14 notes.

15 But it's not going to appear in any of my
16 statistics or any of hers because, you know, I get
17 mailings about Medicaid on a timely basis. I use
18 articles. It's just...it's integrated into our
19 practice, I guess is what I'm trying to convey.

20 CHAIRMAN UDDO: I understand
21 that. No, don't infer too much from the question.
22 It's just trying to gather some facts and get a
23 little bit better feel for what goes on. I

1 understand the distinction that you're making.

2 Let me ask you another question. If there were
3 another \$50 million dollars in funding available for
4 the corporation, would you support all \$50 million of
5 that going to direct delivery and to the field
6 programs or would you think that the support centers
7 should get a proportionate share of that?

8 MR. BONNYMAN: I would think
9 that support generally should share in that
10 proportionately and...let me explain. On our last
11 evaluation on our project by the monitors, we got a
12 good evaluation generally, but the area that they
13 criticized us on was that we did not have a large
14 enough budget for training.

15 We agreed that was an adequate, you know, that
16 was a fair criticism, but when you look at the
17 reality of legal services in local programs and you
18 look at what we've been through in the past several
19 years with cuts, we're very labor intensive.
20 Anything beyond saving on paper clips and Bic pens,
21 if you're going to cut, you're basically going to cut
22 staff.

23 Training and library are among the few

1 discretionary things, they shouldn't be
2 discretionary, but real world, that's the way it
3 works out if the choice is giving up a case handler.

4 And so, faced with the financial exigencies of
5 the past year, we had cut back. The corporation, I
6 think, properly criticized us for that. It was
7 something we did, but that's the kind of reality you
8 get into.

9 I don't think you should create a situation in
10 which, if you're going to put more money into the
11 field and we all hired more staff and more idiots
12 like me were calling people on a regular basis for
13 help, you don't want to have that all bottlenecked
14 down into a resource center that can't fill those
15 additional demands. You ought to expand it together.

16 When you're talking about back-up, you're
17 talking about excellence, the difference between
18 mediocrity, between opening files and plodding along
19 and resources like continuing legal education for any
20 other law office. That make the difference between
21 mediocrity or just getting by and really providing,
22 as you were saying, doing the best you can by your
23 client who comes through the door.

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 So, if you don't want to just say, we're going
2 to put all \$50 million in and if people want to put
3 it on training or consulting they can, but we don't
4 care. If you really want to make sure there's a
5 foundation for excellence there, you'll put a
6 reasonable amount of it into back-up and that
7 includes state as well as national support.

8 CHAIRMAN UDDO: So you, I take
9 it then that what you're saying is, that any
10 proportionate increase in the funding for the field
11 would necessarily increase the demands on support,
12 even if all you're doing is increasing the number of
13 people served...

14 MR. BONNYMAN: Absolutely.

15 CHAIRMAN UDDO: ...an not
16 necessarily changing the kinds of things you're
17 doing?

18 MR. BONNYMAN: Absolutely,
19 because again, our demands on the back-up centers are
20 directly correlated to our own client demand.

21 If we are serving more clients, a percentage of
22 those are going to be people that we're not able to
23 handle or at least not able to hand efficiently.

1 in-house without some help from the back-up center,
2 either through reading materials...

3 CHAIRMAN UDDO: Well, why
4 would the character of the problems change
5 necessarily because you added some staff to handle
6 more people. I mean, is there a directly
7 proportionate increase in the kinds of new problems
8 you would get by increasing your funding. I mean, is
9 it a dollar for dollar increase? If you got
10 another...if \$50 million dollars for direct delivery,
11 it seems to to me you're assuming that that's going
12 to create a whole new range of demands on the support
13 centers where it also seems likely that it might be
14 all it's going to do is increase the number of people
15 you're representing in the same areas you've been
16 representing them in and there might not be a
17 proportionate need for new support service.

18 MR. BONNYMAN: Our staff is a
19 third smaller than it was seven years ago. We are
20 handling fewer cases. I'm sure we are making fewer
21 demands on the back-up centers. The way we have
22 given the priority setting mechanisms that we and
23 other field programs go through, and the fact that we

1 have many times more financially eligible clients to
2 serve and calling us, than we can actually serve with
3 available staff, we limit our case handling
4 responsibilities by subject area so that we can be
5 effective and so that we don't just spread ourselves
6 across the board.

7 If we had more staff we would take more
8 categories of cases and client problems that we don't
9 now handle simply because we don't have the ability
10 to do it.

11 Yes, the answer is, we would be buying into new
12 areas of problems, but even if you're doing as I do,
13 on an ongoing basis, a lot of Medicaid, that is an
14 extraordinarily complex situation. I mean, it's kind
15 of like, I guess, a tax lawyer, you know. If you
16 handle more cases, are you going to still have to do
17 more research into the tax code. Well probably. You
18 know, nobody ever, you know, stops learning. The law
19 is not static.

20 If we handle more cases we're going to have to
21 have more technical assistance.

22 CHAIRMAN UDDO: If you stay in
23 the areas in which you're already in?

1 MR. BONNYMAN: Even if we...I
2 guess the point I'm trying to make is, even if we
3 stay in the same areas. If we just did...we're going
4 to do more Medicaid eligibility issues, which is a
5 priority.

6 I called about a Medicaid eligibility issue and
7 it's an area I've been to the Supreme Court in. It's
8 an area that I've been working in for six years. My
9 last call to the back-up center two days ago was
10 about a Medicaid eligibility issue.

11 I don't think you want to discourage that. I
12 mean, that's the difference between excellence and
13 just getting by.

14 CHAIRMAN UDDO: All right, let
15 me ask Miss Scussel and Mr. Morrow to answer this
16 question and then I'll let other people ask some
17 questions.

18 You both suggested that the proposed
19 privatization scheme, one reason it would not work is
20 because you would not be able to predict which
21 services you would need.

22 In light of your obligation to do priority
23 setting, why would it be so difficult to establish

1 your priorities, as you have to do anyway every year,
2 and commit your support money to those areas of
3 priority? I mean, why are there surprises, I guess,
4 is what I'm asking you. If you're bound by your
5 priorities, why are there surprises?

6 MISS SCUSSEL: Well, for the
7 example of public benefits, let's say, a lawyer may
8 work on certain aspects, say of AFDC eligibility.
9 And AFDC is always going to be a priority with my
10 program as any public benefits program would be a
11 priority.

12 And you may become quite knowledgeable with
13 regard to that particular issue, but let's say it's a
14 migrant with that problem, an indian with that
15 problem or whatever. It may involve more issues than
16 just that simple piece of priority.

17 Are we supposed to turn that person down or
18 not...we probably wouldn't contract with an indian
19 back-up center or a migrant back-up center in my
20 state. And we'd be stuck working in a vacuum,
21 basically, in a situation like that.

22 Priorities change over time, as well and clients
23 are the ones that really determine what are

1 priorities are. If an issue keeps recurring, we're
2 going to change our priorities in order to fulfill
3 what is an obvious need statewide.

4 We have a task force statewide. We've worked
5 with our state support center that helped determine
6 what are the important issues and it may require
7 using back-up centers that are not very well used,
8 right now, in my state.

9 CHAIRMAN UDDO: Mr. Morrow,
10 I'm not going to ask you to answer that question
11 because I want to get other people involved in this.

12 Mrs. Miller, do you have a question?

13 MRS. MILLER: Yes, do you seek
14 input from non-LSC organizations on what your
15 priorities should be?

16 MISS SCUSSEL: Our program
17 does, yes.

18 MRS. MILLER: Okay, to what
19 extent are the services provided by LSC that are
20 unique and not available commercially at perhaps a
21 lower cost?

22 MISS SCUSSEL: I'm not sure I
23 understand your question.

1 MR. BONNYMAN: Well, maybe I
2 could speak to that, because Mr. Valois was asking
3 about Medicaid materials.

4 There is a CCH service on Medicaid and Medicare.
5 One could say that that's available. That's about
6 an \$800 price tag item. You've got a lot of offices
7 out there that can't afford that and there's no point
8 in having them all spend \$800 to get that service.

9 The other point is, that that is an inadequate
10 service. It is useful. We subscribe to it because
11 Medicaid is priority, but it doesn't begin to meet
12 the specialized needs.

13 Probably nine-tenths of that big volume is
14 directed to the people who usually deal with Medicaid
15 and Medicare, which is lawyers for big hospitals,
16 doctors, so forth and so on. It's concerned with
17 reimbursement.

18 So, yes, even in an area such as that where
19 there is a good commercial service, A, it's expensive
20 and, B, it's still inadequate.

21 MR. VALOIS: I'm interested...
22 two of you, I believe, Miss Scussel and Mr. Morrow
23 mentioned calling about unemployment law questions.

1 I'm curious about what? Give us some illustrations
2 or examples or what unemployment or employment law
3 questions you would call about? Specific areas...

4 MR. MORROW: Most state
5 unemployment laws are all based on the same basic
6 model that arose in 1937. There is some variance in
7 the state statute, but I think it is something that's
8 very...the national back-up center can serve people
9 in the various states on a pretty equal basis, but we
10 have a case...a very unusual case right now where the
11 employment project was quite helpful.

12 It's a man who was employed all of his life. He
13 got laid off after...well, he went to a better job
14 basically and there wasn't even one day of
15 interruption in his employment. Laid off maybe five
16 weeks later. When he applied for unemployment for
17 the first time in his life, he was disqualified
18 because he had left a prior base period within the
19 last six months. Okay?

20 Whereas if he had just been a deadbeat and quit
21 his job and then gone on a Caribbean vacation or
22 something for a few weeks and then been re-employed
23 at this new job for five weeks, he would have been

1 qualified for unemployment.

2 Well, that turned out to be a very complicated
3 statutory constitutional issue, whether this man
4 could qualify for unemployment comp. And the project
5 was very helpful in giving us a rundown on all the
6 similar cases that have been litigated in other
7 states. And they also came up with a good theory,
8 you know, for arguing for relief. It's a very unique
9 case. It's one man's case. One individual client.
10 No big deal, but it does affect a lot of people.

11 The other one would be like a veteran, for
12 example, who the military may have a...you know, they
13 have that rule that you've got to be employed with
14 the military for 180 days before you can qualify for
15 unemployment if they discharge you.

16 So the military has this game of rolling you in
17 and rolling you out every two weeks and then claiming
18 that you can't qualify for the 180 day entitlement
19 period.

20 That sort of an esoteric issue that comes up,
21 but those are some examples.

22 MISS SCUSSEL: Right now my
23 office is trying to determine whether or not to take

1 something to the Court of Appeals regarding
2 unemployment and the issue involved is whether or not
3 the Chairman of our Board of Review, that is the
4 reviewing body, after you have an unemployment
5 hearing, has the right or discretion to automatically
6 remand the case for further hearing when the employer
7 didn't show up at the initial hearing and basically
8 as a basis of appeal say that they disagree with the
9 decision of the appeal tribunal.

10 We believe there ought to be something like the
11 Rules that Civil Procedure provide, that there has to
12 be good cause for an automatic remand to allow an
13 employer to present evidence when they've already
14 been given notification and an opportunity to be
15 heard.

16 One of the things we requested of the Employment
17 Law Back-up Center is to tell us what states have
18 similar statutes with regard to the Board of Review's
19 discretion to remand on its own motion and whether or
20 not this issue has been litigated in other states.
21 It hasn't been litigated in our state.

22 That's the best example I can give you.

23 MR. VALOIS: There is a

1 national employment compensation law reporter,
2 though, isn't there?

3 MR. MORROW: There is and it's
4 often very helpful, too.

5 MR. SCUSSEL: We don't have
6 access to that.

7 MR. MORROW: Yes, she brought
8 up another example. If you have in individual
9 problem and you have a rather unique issue for that
10 individual, you can often call up the back-up center
11 and say, hey, what other states in this country have
12 similar clauses in their unemployment compensation
13 statute? And, you know, they should be able to tell
14 you that, well, you know, Alabama and Georgia and
15 Maine. And they may even be able to direct you to
16 some cases in those states.

17 But at least they direct you and I don't have
18 the time to go out and research the state laws for 50
19 different states. It's just not cost effective. You
20 can't justify it, but if somebody in ten minutes can
21 tell me some of the other states that have the exact
22 same provision and it's never been litigated in my
23 state, well, it's going to be, you know, somewhat

1 helpful to my client in providing a higher service
2 for him, I think.

3 CHAIRMAN UDDO: Mrs. Swafford?

4 MRS. SWAFFORD: Yes, I did
5 have a question of Mr. Bonnyman.

6 I notice that you said you had worked mostly in
7 the area of the elderly and the health program.

8 I guess this goes back to something that
9 Professor Uddo asked about consolidation. If those
10 are the two areas you ask in, and it also comes from
11 something I've read from the clearinghouse that said,
12 I believe, that much of their work was done by the
13 Center for the Elderly, why could there not be some
14 consolidation? Wouldn't it be a lot easier to have
15 maybe three or four or maybe the clearinghouse and
16 have different areas under that. Wouldn't it be a
17 lot easier for you to call one place than to have to
18 pick out a number of centers and try to piece it all
19 together. Wouldn't it be more effective? Wouldn't it
20 be more time effective? Wouldn't it be more
21 economical if you were paying for it?

22 MR. BONNYMAN: Well, I don't
23 know. You know, I think any savings there would be

1 pretty marginal, because if I called the wrong back-
2 up center, and I don't because I have dealt with them
3 and I'm specialized and I know who does what, and
4 their names give you a pretty good idea about them,
5 but they'll quickly say, you need to talk to so and
6 so at such and such a center.

7 They're certainly clear among themselves about
8 who does what and they don't overlap.

9 MRS. SWAFFORD: No, I'm not
10 really talking about that. I'm just saying
11 wouldn't...sure, you know how to do it. You're
12 sophisticated and you know who to call on and when
13 you get somebody that's wrong they tell you somebody
14 else.

15 What I'm just saying, wouldn't it be a more
16 effective use of LSC funds to have some
17 consolidation?

18 MR. BONNYVILLE: Let me tell
19 you, just a real practical problem with that
20 which...I mean, theoretically, I think I might agree
21 with you.

22 I happen to know and have worked with people
23 from the various back-up centers over some years now

1 and not, I mean, health now and senior citizens now,
2 but all of it at one time or another with a couple
3 of exceptions.

4 You're talking about people who are not
5 fungible. You're talking this country's greatest
6 experts on Medicaid are at the National Health Law
7 Program. I mean, that's the truth.

8 And the same goes for the Welfare Back-up
9 Center. Those people have years of experience. They
10 have put down roots in communities where those back-
11 up centers are located. Theoretically, a lawyer is a
12 lawyer. You ought to be able to move everybody to
13 Chicago and house them at the clearinghouse and go on
14 your merry way.

15 The fact of the matter is, you're going to lose
16 those staff because they have roots in those
17 communities and they're not going to be willing to
18 move and that is...I don't want to overuse the term,
19 but that is our margin of excellence.

20 Those resource centers. They talk about their
21 specialized libraries and all that and that's fine.
22 I'll tell you what they've really got going for them
23 that we use is the excellence of their staff. And

1 those folks are not fungible.

2 Now, I don't know how long it would take to get
3 somebody to know as much as Roger Schwartz at End
4 Help knows about Medicaid. But I know he lives in
5 Washington. If you tell him to move to
6 clearinghouse, he ain't going...in Chicago...he ain't
7 going and there's going to be a big loss to the
8 field.

9 But that's a...that's not a theoretical answer,
10 that's just a practical answer, but I think if you
11 understand what you're paying for at those centers,
12 which is really the longevity and the expertise of
13 staff, that you ought to be very wary about
14 disrupting that staff.

15 MISS SCUSSEL: Could I add
16 something to that?

17 I think using Medicaid as an example, there is
18 issues that deal mainly with the actual health
19 aspects of Medicaid and then there's also maybe some
20 consumer aspect to Medicaid when Medicaid doesn't pay
21 the bill and folks are dealing with collection
22 lawsuits.

23 In that situation, I believe I'm speaking

1 accurately, the Consumer Law Back-up Center and the
2 Health Law Back-up Center came together and issued a
3 joint publication dealing with things like Hill
4 Burton defense, Medicaid defenses from the consumer
5 law perspective and from the health law perspective.

6 In other words, I'm thinking where you perceive
7 there to be duplication of effort, they are...what's
8 the proper word...companion to one another, not
9 duplicative of one another and the back-up centers
10 are joining together, when necessary, already to make
11 it more efficient.

12 CHAIRMAN UDDO: Mrs.
13 Benavidez, do you have any questions? Mr. Wallace?

14 MR. WALLACE: I'll forebear,
15 Mr. Chairman.

16 CHAIRMAN UDDO: Okay. Let me
17 just ask one last quick question.

18 Have any of you used the National Social Science
19 and Law Center? You have?

20 MR. BONNYMAN: Yes, sir. I
21 haven't used it in a couple of years. I just haven't
22 had occasion to.

23 CHAIRMAN UDDO: Mark, you...

1 MR. MORROW: Just a couple of
2 times to get statistics which can be helpful, I
3 think, in certain welfare cases. The judges are
4 often concerned about the impact of a certain program
5 on people. How many people are affected? How are
6 they affected? That type of thing.

7 Sometimes they have the information and
8 sometimes they don't, but...

9 CHAIRMAN UDDO: But you've
10 used them how often?

11 MR. MORROW: A couple times,
12 just to get statistics. I've read some of their
13 manuals, too.

14 MR. SCUSSEL: I know our state
15 support people have used them, but I can't tell you
16 how often.

17 MISS TRIMBLE-NORRIS: I
18 believe that some of the field programs have used
19 them, you know, for demographic information, but...

20 CHAIRMAN UDDO: Okay. Thank
21 you all, very much.

22 MR. BONNYMAN: Thank you, very
23 much.

1 CHAIRMAN UDDO: Let me take
2 the Project Director Panel now and there's at least a
3 possibility that if we run too long, we may interrupt
4 this panel, break for lunch and start up again, but
5 I'd like to at least give Mrs. Swafford a chance to
6 be present for part of this panel's presentation.

7 MR. WILTSHIRE: Just a word of
8 explanation. Walker-Lanier was to have been on the
9 last panel. Unfortunately was out of the room when
10 it was called and so, if she may speak on this one
11 and then we'll proceed with Mr. Delkers and then down
12 the line.

13 CHAIRMAN UDDO: I know I said
14 I was going to do it last time, but I really am going
15 to try to keep this within time constraints or we're
16 not going to get to everyone.

17 So please be brief and we will have time for
18 questions and you can expand on your thoughts during
19 the questions.

20 Miss Walker-Lanier?

21 MISS WALKER-LANIER: Yes. My
22 name is Betty Walker-Lanier. I'm the managing
23 attorney for Georgia Legal Services Program, the Farm

1 Worker's Division.

2 I offer my comments as one who has practiced law
3 from three diverse perspectives. As a staff and
4 supervising attorney for the general legal services
5 program, as a private practitioner for two years and
6 as a migrant farm worker attorney for the past three
7 and one-half years.

8 From these perspectives I can unequivocally
9 state that each of these respective types of law, the
10 practices are separate and distinct from each other.

11 In my estimation, the farm worker law practice
12 is the most unique among the three types. This view
13 is confirmed every time I tell a private practitioner
14 or general legal services attorney that I represent
15 the farm workers. Blank stares, mumbles and
16 quizzical looks usually greet this disclosure.

17 The reasons for such responses are compelling.
18 Farm workers are virtually an invisible populace in
19 most communities. They toil silently in the onion
20 fields, peach orchards and orange groves of this
21 country. Their needs are unique, complex and deeply
22 compelling, as are the laws which protect them and
23 the programs which serve them.

1 Like the farm workers themselves, migrant law
2 offices are located in remote rural areas. The
3 Georgia office, for example, is based in a town with
4 a population of approximately 16,000 people. It is
5 100 miles from the nearest full service law library.

6 As a result, the basic make-up of the, as is
7 typical of most small offices in rural areas, the
8 Georgia migrant program has a distinct, significant
9 turnover in it's attorney staff over the years.

10 As a result the basic make-up of the staff is
11 comprised of young, inexperienced law graduates and
12 attorneys who are long on commitment and energy, but
13 relatively short on expertise.

14 Such a staff is also faced with the problem of
15 remaining in contact with a clientele which is
16 constantly on the move. This mobility characteristic
17 of the clientele can create considerable frustration
18 for a staff in that it threatens to thwart the
19 efficient resolution of legal claims.

20 Finally, the peculiarity of migrant issues,
21 themselves, can be a source of consternation for all
22 migrant lawyers, no matter what the experience level.
23 It cannot be overemphasized that migrant issues are

1 unique and in a class by themselves and as a
2 consequence, so are the laws which govern them, such
3 as the Migrant and Seasonal Worker Protection Act,
4 the Wagner Piser Act, the Federal Insecticide,
5 Fungicide...Act and the agriculture provisions of the
6 Fair Labor Standards Act.

7 It must be said that, but for the existence of
8 our support center, the Migrant Legal Action Program,
9 the problems that I have just outlined would be
10 insurmountable for a small office.

11 MLAP provides invaluable services to the field
12 programs, including training, co-counseling services,
13 counseling services and other kinds of technical
14 assistance. For a young, inexperienced staff, MLAP
15 is a place where they can ask those basic questions
16 that only a novice can ask without reprisal or fear
17 of appearing ignorant.

18 It also serves the function of assisting
19 programs and maintaining contact with clients through
20 interstate tracking. This tracking may be done
21 through incident contact with field programs around
22 the country or it may be done through the center's
23 memorandum and publications.

1 MLAP also has the crucial role of interstate
2 litigation coordinator. This function is especially
3 vital since many of the issues raised in migrant
4 litigation may be cases of first impression in a
5 particular circuit. A small rural office with few
6 resources would not have the means to independently
7 retrieve unpublished opinions or even test its
8 litigation strategies.

9 MLAP however, provides this service as a matter
10 of course. MLAP further assists field programs with
11 thoroughly researched publications. Each office
12 recently received a voluminous pesticide manual which
13 is an extraordinarily complex area of the law.

14 I have found that not only legal professionals
15 are bewildered by this growing area of the law, but
16 medical professionals, at least in rural areas, as
17 well.

18 Our office has found the center's litigation
19 manuals very helpful. We also eagerly look forward
20 to its twice monthly field memos which provide us
21 with a brief overview of significant legal
22 developments.

23 The field memo is our lifeline to the current

1 form of the law. Without it we would be greatly
2 handicapped in our efforts to serve our clients
3 effectively and competently.

4 Finally MLAP's sponsors excellent training.
5 I've been privileged to attend two such training
6 conferences in Denver and Tampa. The conferences
7 were not only informative, but inspiring.

8 In sum, MLAP ensures continuity and consistency
9 of quality services for the migrant population as a
10 whole. The existence of MLAP in its present form
11 mitigates the problems of inexperience and lack of
12 resources in remote rural field offices.

13 MLAP's high level of expertise among its
14 staffers and its access to resources are
15 indispensable to migrant offices around the country.

16 I cannot envision any superior model support.

17 Thank you.

18 CHAIRMAN UDDO: Thank you Miss
19 Lanier. Joe?

20 MR. DELKERS: My name is Joe
21 Delkers. I'm Project Director of Acadiana Legal
22 services in Lafayette, Louisiana. We're a basic field
23 program with 11 attorneys, a staff of seven

1 paralegals. We also maintain the statewide migrant
2 component and a small indian grant.

3 I brought to you today several examples of how
4 our staff utilizes national support centers to affect
5 positive results on a day-to-day basis for your
6 clients.

7 A staff attorney represented a tenant of the
8 Housing Authority who was being evicted for failure
9 to pay her rent. The client had several young
10 children and had been cut off from welfare because
11 her husband had been ordered to pay child support by
12 a local court. When her husband did not pay, there
13 was a two to three month lag in the restoration of
14 her welfare payments. During this time the client
15 was unable to pay her rent and eviction proceedings
16 were instituted.

17 After researching Louisiana and federal
18 jurisprudence, it was discovered that there were no
19 cases dealing with the substantive elements of good
20 cause to evict a Housing Authority tenant. The
21 National Housing Law Project was consulted and five
22 examples of written decisions were sent from other
23 states where the issue of substantive good cause had

1 been addressed.

2 These arguments were used both in the trial
3 court and the Court of Appeals. Copies of the case
4 decisions were attached as persuasive authority and
5 the case was eventually settled, in large part due to
6 the information which was received from the National
7 Housing Law Project.

8 CHAIRMAN UDDO: I'm violating
9 my rule and I'm interrupting you. Because of
10 unreported cases?

11 MR. DELKERS: They were
12 reported cases, but it would have been very difficult
13 to find these cases because they were decided in
14 District Courts...

15 CHAIRMAN UDDO: Is that your
16 note?

17 MR. DELKERS: Yes...and
18 Appellate Courts in other states. Instead of having
19 to go to Baton Rouge or New Orleans and spend an
20 enormous amount of time to conduct research at the
21 law libraries there, this valuable information was
22 obtained with one phone call to the National Housing
23 Law Project and made a tremendous difference in the

1 case.

2 Item two. The National Consumer Law Center was
3 contacted in a Chapter 13 bankruptcy case. A client
4 receiving a subsidy to purchase a home through the
5 Farmer's Home Administration lost her job and was
6 unable to pay her notes for a substantial period of
7 time.

8 When the client did obtain employment a Chapter
9 13 proceeding was successfully filed and allowed her
10 to save her home. Farmer's Home objected to the use
11 of Chapter 13 because it alleged that when the client
12 lost her subsidy agreement she defaulted.

13 After contacting the National Consumer Law
14 Center for help with finding out if there was any
15 jurisprudence on the use of Chapter 13 bankruptcy
16 proceedings to save a Farmer's Home Administration
17 financed house, the center referred the attorney to
18 an expert in the field who was teaching in Wisconsin.
19 This expert was able to send helpful jurisprudence
20 and also to provide key information regarding the
21 subsidy agreement which resulted in the client's plan
22 being approved.

23 This is the first case in the State of Louisiana

1 to make use of a Chapter 13 proceeding to save an FHA
2 financed home and without having had access to the
3 National Consumer Law Center, it would have been very
4 difficult to have found this expert or to have
5 obtained the information which was so helpful in
6 getting a favorable decision.

7 Item three. The National Health Law Project was
8 extremely helpful in two successful class action
9 Medicaid lawsuits. In one case the transcript of a
10 preliminary injunction hearing was reviewed and
11 advice on the strategy for proceeding with the
12 lawsuit was given.

13 In the other case, copies of unpublished
14 decisions from other courts...unpublished decisions,
15 I emphasize...were supplied and used in drafting the
16 consent degree. In addition, the National Health Law
17 Project published memos in recent developments in
18 health law which proved to be extremely helpful.

19 The National Senior Citizens Law Center is also
20 a valuable support center to our administrative law
21 unit. Monthly mailings on SSI matters and disability
22 issues reproduce many internal SSA documents that are
23 not easily available to the general public.

1 Information regarding the appeals council and
2 recommendations on writing successful briefs have
3 been useful to the staff as well as analyses of
4 recent court decisions. The Washington, D.C. office
5 of the National Senior Citizens Law Center has a good
6 working relationship with the Social Security
7 Administration.

8 When a client had been erroneously terminated
9 from SSI, his case was referred to the support center
10 which got results when regular channels of appeals
11 had failed. It was obvious that a procedural error
12 had been made and the client was terminated despite
13 prevailing SSA regulations, but these arguments were
14 being ignored by the administrative law judging the
15 appeals council.

16 Intervention by the National Senior Citizens Law
17 Center saved the necessity of filing a federal suit
18 and they've also been helpful in researching Medicaid
19 problems.

20 A final example. Our office was presented a
21 case of wrongful discharge of an employee. Although
22 the case screamed out for justice, the usual legal
23 channels were not available. It was not a public

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 employee case requiring due process, nor was it a
2 case involving racial, sexual or age discrimination.

3 The fact pattern, however, appeared to fit some
4 of the newly emerging, but yet undefined exceptions
5 to the Employment at Will Doctrine. A staff member
6 consulted with the Employment Law Center at some
7 length and over the telephone and was able to define
8 and narrow the issue.

9 The Employment Law Project then supplied the
10 program with appropriate related pleadings and
11 materials that were most useful in framing the
12 complaint and devising a remedy for this unjust
13 firing. The case is now in litigation by a staff
14 member and it is hoped the the case may establish in
15 Louisiana an exception to the Employment at Will
16 Doctrine that has developed in other states.

17 Thank you.

18 CHAIRMAN UDDO: Let me just
19 ask the rest of the panel so that we avoid becoming
20 accumulative in the statements, if you would. We
21 will presume that you will have similar statements to
22 make about instances where national support was
23 helpful in dealing with specific cases.

1 If I could get you to address yourselves to your
2 perceived problem with the proposal that the Board
3 adopted last budget cycle or anything else in the
4 area of alternatives...the kinds of things...we will
5 presume you like it as it is, but if there's anything
6 that you've got to say about the specific proposal or
7 possible alternatives, I'd like to hear that.

8 MR. COOPER: Thanks. My name
9 is David Cooper and I'm the Director of Greater
10 Bakersfield Legal Assistance, which is a small legal
11 services program in California. We have an annual
12 LSC funding of about \$370,000. We are a direct
13 service office in that we, virtually all of our money
14 goes into providing direct legal services to eligible
15 clients. We do little impact work. We receive small
16 amounts of other funding, but the vast majority of
17 our efforts go to that.

18 The specific proposal, the subgrant proposal, as
19 I understand it, would free up about \$22,000 bucks
20 for our program to spend to try to come up with a
21 better support package than we have now. And that's
22 the way I looked at that proposal.

23 It's my responsibility in our service area to

1 assure that our program delivers the highest possible
2 quality legal services to eligible clients and, like
3 any other allocation of resources question, I've got
4 to look at that \$20,000 as to whether I can spend it
5 better on an expert in-house, on picking out two out
6 of 17 or 18 or if I'm better off under the current
7 system.

8 I've been around legal services since 1970 and
9 seen a lot of different support system models. We
10 use state support every day. We use national support
11 every day. Even as a direct service office, I want
12 to emphasize how critical it is to a small project
13 like mine to have high quality, reliable, diversified
14 and accessible state support and national support.
15 And I've got to evaluate any proposal as to whether
16 or not I think it can give that to me as well or
17 better than I'm getting it now. No way do I see that
18 possible under the subgrant proposal.

19 First of all, even though it is my
20 responsibility and the responsibility of our program
21 to set priorities, and we do that and involve the
22 community as best we can and, in fact, have an intake
23 system that assures that the vast majority of cases

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 we see fall within those priority areas, that's got
2 nothing to do with my need for intense back-up.

3 My need for intense back-up in the form of co-
4 counseling, a lot of counseling and advice on a
5 particular case has nothing to do with how I set
6 priorities. It's got to do with the specific client
7 problem that comes in to see me.

8 Housing and eviction defense is a very high
9 priority in my area, in my service area. It turns
10 out that there is only one very small community with
11 just a few thousand people in it that has a rent
12 control ordinance in my service area and it turns out
13 that over the last couple of years, it's in major
14 litigation around that rent control ordinance.

15 A very esoteric area of the law that's got very
16 little to do with whether or not I've got a good
17 housing attorney and I think I do. I think we
18 practice good law and so does the corporation in its
19 evaluations and monitoring. It's got nothing to do
20 with the help I needed on that.

21 Same thing if I pick AFDC and a problem comes up
22 with how to treat a property tax refund. The fact
23 that I've allocated resources is not going to help me

1 in terms of the support I need, which bring me to the
2 third and most critical point I have as a Director of
3 a small program and that is, right now if a client
4 comes in with a serious problem, I can get help from
5 any support center in the country or state support,
6 okay?

7 And the support that I get is going to depend on
8 the needs of that individual client and the needs of
9 the problem. It's not going to depend on my budget.
10 The quality that I can provide in terms of service to
11 that individual client, doesn't depend on the fact
12 that I've got a smaller client base than LA, a
13 hundred miles to the south.

14 Under this it does and, in fact, what I guess my
15 feeling is that my need for support, state support
16 and national support is inversely proportional to my
17 client base. If I had a larger client base I might
18 have some way to incorporate some support into my
19 program that I can't right now. And I don't see how
20 those are problems that can be solved by any of the
21 proposals that I'm aware of.

22 Incidentally, I'm here not just in my capacity,
23 not just to represent the views of my own project,

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 but also I do have a statement, a written statement
2 that represents the unanimous opinion of the Project
3 Directors in the Pacific Region and I would like to
4 submit that at the end and ask that it be included in
5 the record for the full Board.

6 Thank you.

7 CHAIRMAN UDDO: Eleanor didn't
8 bring it?

9 MR. DELKERS: No.

10 MR. BYRD: I'm Robert Byrd
11 from Houston, Texas. I'm the Director of Gulf Coast
12 Legal Foundation, a program serving 17 counties in
13 and around the Houston, Texas community or area.
14 We are a large program.

15 In the recent past we have utilized the services
16 of the Consumer Law Center, the Center on Social
17 Welfare Policy and Law, Clearinghouse, the Housing
18 Law Center and we're engaged now and beginning to
19 get a lot of services of the Economic Development Law
20 Center.

21 We also are very active in our use of our state
22 support center, the Texas Legal Services Center and
23 we are very proud of it and I have spoken to the

1 Board on a prior occasion during your visit to
2 El Paso about how proud we are of the Texas Legal
3 Services Center.

4 We consider it to be a model in terms of the
5 training that it provides to staff and, in fact, I've
6 noticed that it's been picked up in the most...well,
7 in fact, this is in the mail...the most recent Texas
8 Bar journal, the entire issue is dedicated as a
9 tribute to those who provide legal services to the
10 poor and there is, at least, mention of the services
11 of the Texas Legal Services Center in this magazine.
12 I'm sorry I only have one copy of this, but if during
13 lunch you want to pass this around, you're welcome to
14 it.

15 You have asked, Professor Uddo, that we start
16 commenting not just on the uses we have made of
17 support centers, but also highlight some of our
18 concerns with the proposal. I will attempt to do
19 that.

20 One of my concerns is, that in the course of
21 utilizing this new approach, I'm fearful that in many
22 instances in order to engage in the mark...in the
23 necessary marketing activity, there will be a

1 temptation to package things. And packaging brings
2 on some economies and, therefore, it's natural for
3 people to proceed in that direction. But I'm not
4 sure that those packages will necessarily always
5 address the needs that are out there. Let me be more
6 specific.

7 The Texas Legal Services Center is now in the
8 process of planning a client board member training
9 for our local programs in Texas to send client board
10 members to. I think that if one were not very
11 careful, the approach that's being proposed here
12 would have the tendency of creating packages that may
13 not be flexible or sensitive to the needs of one,
14 particular states. The Texas law on the nonprofits
15 may be very different from other states, if this
16 package is being sold by a national support center,
17 for example.

18 And then also, whoever is marketing this, a
19 national center or a state support center, they're
20 going to have to be careful that they are in a
21 position to plan the presentation so that it
22 addresses the needs of those client board members,
23 because in the course of planning this event, what

1 we're working on right now, we have discovered that
2 the needs of the client board members are different
3 from the first time we did this some years ago.

4 And so, I'm concerned about the matter in the
5 sense that there will be a tendency to move in the
6 direction of packaging and I'm not sure that that's
7 all for the good.

8 The second thing is that the Texas Legal
9 Services Center has published, made available to
10 local programs an excellent manual. A desk manual
11 for attorneys and has recently updated that. And for
12 the purpose of covering the cost, solely the cost of
13 reproduction of that manual, not the preparation work
14 or anything, but the cost of copying and binding and
15 all that, they were, at least for purposes of
16 recovery of that cost, sold to local programs.

17 Our program chose to buy one for each of our
18 attorneys who found that our supervising attorneys
19 asked me to see that that happened because it would
20 be very useful to the attorneys.

21 Other programs made the judgment that they only
22 needed one per library. It worked all right, I'm
23 satisfied that some programs chose to buy one and we

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 bought one for each of our attorneys, because we were
2 only talking about the cost of reproduction and
3 therefore, it didn't have any effect, but it becomes
4 quite a different question when the entire existence
5 of the center, if it were to be depended upon how
6 many books were sold, whether or not people had jobs
7 on the basis of whether or not they were successful
8 in selling these books. It would be quite a
9 different question if programs decided they were only
10 going to buy one copy while we decided to buy one for
11 each of our attorneys.

12 And so, in an effort to continue their
13 existence, I suppose that the appropriate thing to do
14 would be to do some premarketing research to find out
15 how many books you're going to sell and then trying
16 to plan what's going to happen and what local
17 programs are going to have to respond. Perhaps maybe
18 if it's during a funding cycle they're not going to
19 know what their level of need is going to be for the
20 books.

21 It just seems to me that it introduces another
22 administrative problem area. Another set of issues
23 that is going to be difficult, even for a large

1 program such as ours and, particularly perhaps,
2 difficult for a small program to deal with. Being
3 able to predict all of these things and for the
4 center to be able to predict how many of these
5 manuals it would be able to market, would be very
6 difficult.

7 And so, therefore, I do have some administrative
8 concerns. I suppose that at some point we could, in
9 terms of our use of national support centers, it's
10 foreseeable that at some point we may have to have a
11 meter somewhere and we could go over there and we'd
12 click a button on the meter to find out how much of
13 our ride has been used up. And colleagues would have
14 to be constantly checking with each other to be sure
15 that they have not used each other's time up yet and
16 I think that that's going to be rather difficult,
17 particularly since you're talking about differing
18 levels of needs with a variety of back-up centers,
19 all of which are very important to the delivery of
20 services in Houston.

21 And it's a complication that we really don't
22 need right now when we're trying to become as
23 uncomplicated as possible in an effort to spend more

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 and more of our time on direct delivery of services
2 to clients and less and less time on administrative
3 issues and problems.

4 We have experienced some time delays in the time
5 it takes to get approval for subgrants. We have a
6 couple subgrants as part of our Private Attorney
7 Involvement Program and I have to say also, however,
8 that the staff has been, at LSC, has been very
9 helpful lately at trying to speed some of those
10 things up. But it still takes them a lot of time.
11 They, from time to time, need more information and we
12 provide that to them and we always seem to get
13 approvals, but it takes time for all that to happen,
14 if only to transmit things to Washington.

15 And I'll tell you that if we now have to also be
16 doing, not just two subgrants, but we have to talk
17 about doing a dozen or a dozen and a half of these
18 things at much, much smaller amounts of money, it's
19 just going to just introduce another set of problems
20 for your staff at LSC and for our staff in Houston to
21 deal with all of that.

22 So, I do see a variety of problems with the
23 proposal in terms that I've described already and I

1 think that it's a problem for a large program and I
2 think they would really be a very critical problem
3 for a small program.

4 CHAIRMAN UDDO: Thank you,
5 Mr. Byrd. Mr. Wiltshire?

6 MR. WILTSHIRE: I'm Ashley
7 Wiltshire. I've been in Legal Services for 17 years
8 and a have been a Project Director for 11 years at
9 national and I'll just take a minute because I think
10 it would be accumulative to much of what Gordon has
11 said, since he's much closer to the work than I am.

12 I spend a lot of my time filling out papers and
13 forms and other things like that, which is one of the
14 reasons why I think this is just an idea whose time
15 has not come and it's mostly an idea that's based on
16 an ideology rather than any hard facts that I can...I
17 have heard yet.

18 It was surprising to me, when we were filling
19 out our refunding application, which our's this year
20 was 152 pages long, plus exhibits. It was surprising
21 to me and I think it was Question 13 asking us about
22 our use of state and national support. When I sent
23 around to a staff and asked them about that, that

1 they came back telling me they used practically every
2 center...and obviously, the exceptions were Native
3 American and the Migrant Centers that we don't deal
4 with.

5 And my first reaction was what are we doing
6 using those places that deal with things that are not
7 in our priorities? You know, why are you people
8 going off doing those things?

9 Well, it came home to me just a few weeks ago
10 when I picked up a call, as I often do when it
11 doesn't fit anywhere else, and it came to me and the
12 question was about something in veteran's law. I
13 hadn't called the Veteran's Law Center in years and
14 we don't routinely handle those kinds of cases, but
15 this was someone who needed some help. It was a
16 referral from another social agency and I made the
17 call to the Veteran's Center, they answered it
18 promptly, they referred me to the places in the CFR,
19 they referred me to someone else who knew even more
20 than they did because he had handled a number of
21 these cases himself.

22 And it's that kind of accessibility that's real
23 important and that a counsel...the fact that though

1 some of these things may not be in our priorities, we
2 do use these back-up centers and they're very
3 important to us.

4 A word about state support, which may have been
5 shunted to the background because of the order here
6 and the importance of that every day to our people
7 and our program and the supply of information, of
8 knowledge about administrative and legislative things
9 in our state, that's irreplaceable. And, I know...I
10 know why we established that center ten years ago and
11 it's because, if that center wasn't there, it would
12 all fall on our program.

13 We're the people sitting in Nashville, we're the
14 people that get the phone calls that say, hey, would
15 you just go over and file this one suit for us over
16 in Chancery Court because it's the Chancery Court in
17 our state that has the jurisdiction over the state
18 agencies and it's mainly the Chancery Court of
19 Davidson County.

20 And we're the people in Davidson County. We get
21 stuck with that if there's not a state support center
22 there to help out the folks in the other agencies.
23 Would you just go over to the Department of Human

1 Services and pick up this new regulation I just heard
2 about? That...the state support center is a back-up
3 for all of these offices off in Johnson City and
4 Jackson and wherever else it is and it's a valuable
5 service to them and very valuable to us, obviously,
6 because they're close at hand. And it's very
7 valuable to us, also because then we don't have to
8 perform that service.

9 We are funded to perform our service for the
10 people in our 14 counties, not to be the state
11 support center. Thank you.

12 MR. WALLACE: Mr. Chairman?

13 CHAIRMAN UDDO: Yes.

14 MR. WALLACE: Can I ask one
15 question and go. They're not going to give us late
16 check-out which means I've got 12 minutes to get out
17 of the room. But I've got one question I want to
18 ask Mr. Cooper.

19 Did I understand you correctly that you said it
20 was your view that in Bakersfield you had a greater
21 need for support services than they do in Los Angeles?

22 MR. COOPER: My suggestion was
23 that a small program might have the same legal

1 problem come in than a large program would, but
2 simply because of the smaller staff, the less
3 opportunity to specialize and so forth, it's very
4 likely that a small program is going to need to
5 utilize support even more, yes.

6 MR. WALLACE: I agree with
7 you. That's an ideology known as economies of scale.
8 It's a basic economic principle. This is my concern
9 drawn from that fact which you and I agree upon. You
10 and Los Angeles have different needs. Nevertheless,
11 you and Los Angeles have the same rights, goods and
12 services. You get the same deal regardless of what
13 your needs are.

14 Now, that's another ideological principle that's
15 economically inefficient. Where people have
16 different needs, but get the same things. Now, there
17 may be no cure for that, Mr. Cooper, but that's a
18 broke system. It may be impossible to fix.

19 MR. COOPER: And there's no...

20 MR. WALLACE: And it's
21 inefficient.

22 MR. COOPER: Well, there's no
23 question that if you looked and we utilized the

1 services exactly the same, that would raise an
2 interesting question. My suspicion is that you will
3 find that that's not true. That local programs use
4 the diversity of state and national support that's
5 available to fashion a system that meets their needs.

6 In other words, right now what we're doing is
7 having that availability. Each program is able to
8 pick and choose to meets its local needs not based on
9 how many clients I've got, but based on the nature of
10 the legal problems that come forward.

11 MR. WALLACE: Well, I mean, I
12 understand if you can pick one from column A and one
13 from column B and not have to pay for any of it, then
14 you can suit your needs reasonably well, assuming
15 that the people that you're choosing from aren't
16 overloaded with superfluous requests from Los Angeles,
17 who could take care of those needs perfectly well by
18 themselves.

19 Now, I'm not saying that that obvious economic
20 problem requires the solution that has been discussed
21 by this Board. It may be one of those things that
22 can't be fixed. But it just seems to me, it's an
23 obvious defect in the system and it's one we ought to

1 be...it's one we ought to be addressing. Everybody
2 has different needs but everybody gets the same
3 rights.

4 MR. COOPER: But not the same
5 utilization. I'm not aware of any evidence that
6 indicates that LAFLA uses support centers or an
7 attorney in LAFLA uses it the same way as an attorney
8 in Bakersfield.

9 MR. WALLACE: That's exactly
10 what the free market is all about. You shouldn't,
11 but you're paying the same thing for it.

12 MR. COOPER: No.

13 MR. WALLACE: Yes, you are.
14 You're paying nothing for it.

15 MR. COOPER: Well, not
16 if...no, no, no. No. You're telling me I'm paying
17 \$22,000 bucks. That's what your proposal tells me.

18 MR. WALLACE: Well, what my
19 proposal would be, instead of giving you \$20,000,
20 \$22,000 bucks because I think you probably need more,
21 maybe what we ought to do is give you \$50,000 bucks
22 and take the difference away from LAFLA because they
23 don't need it.

1 MR. COOPER: It's sounding
2 better all the time.

3 MR. WALLACE: I've got to
4 clear out, Mr. Chairman. I apologize.

5 CHAIRMAN UDDO: We will
6 probably just let Mrs. Swafford ask some questions
7 and break for lunch and maybe have these same people
8 back.

9 Before I do that, Mr. Wiltshire, no doubt you're
10 pleased that the refunding application is so thorough
11 that it helped you find out how much your program was
12 using support centers, right?

13 MR. WILTSHIRE: That's
14 wonderful. I don't think that would have been my
15 answer in the middle of November or in the middle of
16 January.

17 CHAIRMAN UDDO: I will
18 recognize the gentlewoman from Tennessee who has some
19 questions.

20 MRS. SWAFFORD: Well, I am
21 glad to see Mr. Wiltshire here. I don't really need
22 to ask him many questions because we've talked
23 frequently and I think we have an understanding.

1 One of the things, Mr. Wiltshire, have you...the
2 gentleman from Bakersfield, he said that he would get
3 \$22,000 should we go to the subgrant plan and I'm not
4 here to say that I'm convinced that we should, but
5 have you figured out what your program there in
6 Nashville would get in the event that would occur?

7 MR. WILTSHIRE: Based on three
8 percent, if that's the figure, we would get \$30,000
9 if you wiped out national support and \$30,000 if you
10 wiped out state support. So that would be \$60,000.
11 There's no way that that's going to replace what we
12 get from those centers now.

13 MR. VALDIS: Well, how many
14 hours have you spent discussing these inquiries from
15 either state or national support centers? You say no
16 way, I mean, you didn't say that without thinking
17 about it, I suspect. Did you spend 40 hours talking
18 to them?

19 MR. WILTSHIRE: I...I hope
20 that's not on the refunding application next year. I
21 don't know the number of hours. I know that we've
22 used every center and I know that Gordon Bonnyman has
23 probably alone used \$30,000 worth of service from the

1 back-up centers.

2 MR. VALOIS: Tell me how you
3 measure that. I mean, at \$20 an hour or \$10 an hour
4 or \$50 an hour, what? I mean, how do you measure? I
5 mean, you came to a conclusion.

6 MR. WILTSHIRE: Right.

7 MR. VALOIS: I'm asking you to
8 explain how you got there.

9 MR. WILTSHIRE: Well, I think
10 when you ran your survey a couple years ago, some
11 folks answered that on a market basis and you
12 discarded their answers. So, I guess I would have to
13 answer that on the basis of the cost of delivery of
14 services and if that's about \$30 an hour, then that
15 would be the basis.

16 And I'm not talking about just the time that he
17 has spent talking to them, but the time that they had
18 to use to generate the assistance and the answers and
19 the assistance that they gave him.

20 CHAIRMAN UDDO: I'm going to
21 ask that we have you come back right after lunch
22 break for a few additional questions. But in order
23 to have some kind of normal schedule, we are going to

1 break for lunch and we will reconvene precisely at
2 2:00.

3 (Whereupon, a luncheon recess was taken.)

4 CHAIRMAN UDDO: ...only
5 consist of myself, Mr. Valois and Miss Miller, we
6 have a quorum and we are going to begin and as I
7 mentioned, we are going to take the initial testimony
8 from the State Support Panel because Mr. Wallace
9 wants to be present for that presentation and he has
10 a commitment to leave around 3:00, we may not get
11 into all of the questions for this panel because I'm
12 committed to Mr. Whitehurst to have him out before
13 3:00 also.

14 So, I'm going to ask you to make your direct
15 presentations and allow Mr. Wallace to ask a
16 couple questions and then get Mr. Whitehurst in and
17 our Project Directors Panel will probably be asked to
18 come back up to answer a few questions, too. So, the
19 schedule is all screwed up, but we'll try to get
20 everybody in. So, if you would, Allan?

21 MR. RODGERS: Mr. Chairman and
22 members of the Committee, my name is Allan Rodgers,
23 I'm the Executive Director of the Massachusetts Law

1 Reform Institute, which is the state support center
2 in Massachusetts and also Chairperson of the National
3 Organization of State Support Units.

4 We had sent in to Mr. Baker a paper, a
5 statement of position paper, dated February 27 and I
6 understand that that's been distributed to the
7 members of the Board?

8 CHAIRMAN UDDO: It has.

9 MR. RODGERS: As background as
10 to what state support does, I would commend to you a
11 number of documents that have been introduced in the
12 past. One of them is mentioned at the bottom of the
13 first page of our statement and that is a report
14 recommendation to the Legal Services Corporation
15 Board of Directors, which we gave to the Board in
16 July of 1985.

17 That is a document that I think well describes
18 the kinds of state support services that are given.
19 How state support centers are organized and also
20 gives some comments on organizational issues that
21 were raised by the Board at that time.

22 I would like to make a couple of points. I'm
23 not going to try to cover all of the ground. I'm

1 going to focus on, as you have asked, the workability
2 of the privatization proposal that was adopted by the
3 Board last June, from the point of view of state
4 support centers.

5 The first comment I would like to make is that I
6 think the private market analysis as applied to
7 support centers and the legal service generally is
8 really misconceived.

9 Let me give you a couple of analogies to try to
10 illustrate that. We are one service delivery system.
11 Even though in form we are independent, non-profit
12 organizations with grants from the corporation, our
13 system works together and was put together just for
14 that purpose. This includes all the support
15 entities.

16 To put a price on the use by field program
17 people of support services that are given by
18 independent programs, it seems to me to be self
19 defeating. And I'll give you some analogies.

20 For example, take a business organization with
21 branches all over the country or take a government
22 agency, for example, with regional offices all over
23 the country or take a university, for example, with

1 all sorts of departments. Let's assume that that
2 organization has a number of support services that it
3 feels it has to give to the various component parts.

4 Let's take financial services or budgeting
5 services. I take it the decision that's been made is
6 that these kinds of services are essential for the
7 whole organization and that they have to be and
8 should be made available to every component part.
9 And so the services are actually delivered and made
10 available where they are needed.

11 That is, if you see a weakness here or a need
12 here or there are some requests there in the various
13 parts of the organization, you would give those
14 services available. I take it, in those kinds of
15 context, that organization would not charge its
16 component parts for those services because then, it
17 seems to me, you inhibit people from speaking out and
18 from asking for those services where needed.

19 So, I would analogize that to our present
20 system. One of the problems with this proposal was
21 going to be that we think it's going to inhibit the
22 free flow of support services to those who need it.

23 A second point that's been mentioned before, but

1 I would like to give some figures on is how this
2 proposal, we think, will disproportionally affect
3 different sized programs. And this is the small
4 program phenomenon and I think you've heard a lot
5 about this.

6 I know I've gotten copies of the number of
7 letters that have been sent in to the corporation in
8 response to Mr. Bayly's letter from small programs
9 that testified to the fact that they make heavy use
10 of support centers. They feel they need it and they
11 fear that they would not have enough resources to do
12 so if we went toward this system.

13 Last summer, Steve Brown, who is the Executive
14 Director of Greater Upstate Law Projects, sent a
15 letter to Mr. Durant. He went through his records of
16 the support requests that have been received from
17 field programs in New York State and what he said is,
18 that there was something like nine field programs in
19 New York State, with an average LSC grant of about
20 \$190,000 and eight field programs with an average
21 grant of around \$710,000. So, there is quite a
22 difference in the size.

23 What he found was that the nine smallest

1 programs consumed about 23.1 percent of the LSC funds
2 and yet they generated about 44.4 percent of the
3 requests. So, at least in that instance, he felt
4 that the smallest programs were clearly making
5 greater use of the support center than their funding
6 might indicate.

7 The next program...the next point I want to make
8 is the point about either the large matter or the
9 unusual or somewhat unusual legal area. Everybody
10 has spoken about the litigation case, but there are
11 problems if you try to put a price on that kind of
12 case in the context of it arising in a particular
13 program.

14 A number of these cases, I know, in our
15 experience in our state, do arise from the smaller
16 programs. Often the issue is one that is statewide
17 or is going to actually result in a benefit to a
18 large number of clients across the state. If you
19 have a system where the program that first gets the
20 client or first requests the help, is the one that's
21 going to have to pay for it, yet the benefit will
22 actually go across the state, it's a little hard to
23 see why it's fair for that program to have to bear

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 the full burden of the cost of that service and I
2 don't, at the moment, see any way in which you could
3 change the system in order to take that into account.

4 The fact is that the system needs space. It
5 arises because there are certain client needs that
6 come into programs. Those are funded for the most
7 part unpredictable, that is, unpredictable in the
8 sense that the big case of an unusual matter or the
9 important matter often cannot be predicted in
10 advance. And many of these cases come in on short
11 notice.

12 So, we are, I think, a support of very
13 responsive mechanisms and it's hard for me to see how
14 any other system can be constructive that would make
15 it as responsive as we are right now.

16 Another practical problem, I know in
17 Massachusetts with this proposal is, and I think it's
18 probably true of some other state support centers, is
19 that we get many requests for help, calls for advice
20 and the like, from people outside of legal services.
21 And the reason why we do this is very simple. Legal
22 services programs don't have anywhere near the
23 resources to represent the large number of clients

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 who need help in this particular area.

2 We all know from our studies, we have legal
3 needs studies in Massachusetts, we have a major
4 statewide legal needs study underway right now, which
5 we will finish this summer. And all of those
6 studies, that I'm aware of, show that the number of
7 client problems that are being or can be addressed by
8 Legal Services is only a fraction.

9 We encourage people in other agencies in
10 particular, who have clients come to them in various
11 context, social workers, mental health workers,
12 hospital workers, a whole host of places where
13 clients come that have problems and they can help
14 those clients. Particularly if they are able to get
15 help in the early stages.

16 So, what we have encouraged is the development
17 of a network of people who are more experienced and
18 are trained better and know more about these various
19 client problems. We do written materials for them,
20 we do training for them, they participate in our
21 mailings and the like. We get a lot of calls from
22 those people. They are not from Legal Services
23 programs and I cannot conceive right now as to how

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 one would take that into account.

2 We feel that we should not have to say, sorry I
3 can't talk to you because we don't have the money and
4 will only speak to Legal Services programs.

5 Another phenomenon in state support that's not
6 widespread in every state support program, but does
7 exist is that we do represent client groups directly.
8 We have in Massachusetts four statewide client groups
9 that we represent.

10 Now, the legal issues and the importance of
11 those issues are run through our priority setting
12 processes so that the kinds of representation we do
13 provide on those issues, some of them are
14 administrative issues if you are legislative, some
15 are litigation...are actually set in the context of
16 priorities for the use of our time. And the clients
17 participate just like everybody else. But, we do
18 sometimes represent those clients directly and that
19 request does not come from a program, although most
20 of the requests do involve individual class of
21 programs.

22 I can't see any way in the privatization system
23 in which one could provide for our getting money to

1 represent those client groups directly. And that's a
2 very important element of our work in Massachusetts.
3 Those are all the remarks I have now. I'm going to
4 ask Mr. Armstrong and Ms. Burdick to speak to their
5 experience.

6 CHAIRMAN UDDO: Thank you.

7 MISS BURDICK: My name is Mary
8 Burdick. I'm the Executive Director of the Western
9 Center on Law and Poverty, which is the state support
10 center for California.

11 The proposal to give the support funding to the
12 field programs and then allow them to buy our
13 services seems to be premised on the truism that
14 money talks and I understand that. But in this
15 context, I don't think money is necessary for the
16 programs to talk.

17 You, of all people, ought to understand that we
18 are not shy about making our views and our needs
19 known. And I, as a Project Director, am well aware
20 of the needs of the local programs and so I would
21 like to address briefly the existing system for
22 making us accountable to the local programs that we
23 serve. My point being that the subcontracting

1 process is not necessary to make us accountable.

2 First, our program and I believe most state
3 support programs do an annual priority review process
4 which includes getting input from every local program
5 and from their clients about what our general areas
6 of priority concern should be.

7 We then have a Project Directors Association
8 where I go at least two times a year and meet with
9 all of the Project Directors and I can assure you
10 that I hear from them, what their program needs are
11 and how we can adjust the work we're doing and if
12 there's any way that we're off the track.

13 The Directors of Litigation in our state have a
14 similar organization and through this organization we
15 are kept constantly aware of what kind of services
16 are constituents, the local program attorneys, need
17 from us.

18 In addition, we have task forces in the major
19 subject areas of health, welfare and housing. So,
20 our program attorneys are in regular contact by phone
21 and in person with the field attorneys who deliver
22 services to clients in these areas. And we are made
23 aware on a regular basis of what the current needs

1 are in the local programs and how we can address them
2 and how we need to modify our practices.

3 When I first thought of coming here, I decided
4 that I should, in fact, make contact with all the
5 Project Directors in my region and ensure that I was
6 accurately reflecting their views. I did speak
7 personally to all 28 Directors in California and not
8 one of them wants what might seem to be the freedom
9 or the power to have our money and then buy back our
10 services. They have adequate systems to ensure
11 accountability.

12 The second thing I would like to address myself
13 to is the specter of the inappropriate use of
14 services. I have not found that we have the
15 inappropriate use of support services in California.
16 In fact, what happens is that use of services seems
17 to track very closely current and immediate needs,
18 which causes me to address the issues that Mr.
19 Wallace raised, which is, is there a different kind
20 of formula other than allocating support money to
21 field programs based exactly on their current budget
22 that would give them the amount of money they need to
23 buy services, but would allow them to buy what they

1 need in proportion to their current needs.

2 And I don't believe that there is and I can give
3 you one example that might make this point. There is
4 a small county and a small program in California
5 which probably uses our services no less or more than
6 any program. The people come to some of our
7 trainings, they come to some of our task course
8 meetings, they call us on the phone.

9 For many years, their use was fairly static.
10 All of a sudden, in the middle of the year, their
11 county decided to close the only public hospital that
12 served poor people who were not eligible for MediCal.
13 They immediately called us and we've spent a lot of
14 time, which of course means a lot of money, assisting
15 them and bringing a lawsuit, which eventually
16 resulted in their hospital not closing and then the
17 poor people in their community continuing to receive
18 services.

19 If they were allocated our support money based
20 on the size of their program, they wouldn't have had
21 enough money to buy what they needed when that
22 hospital was going to close. If they were allocated
23 support money based on how much they've used us in

1 the past, they wouldn't have had enough money to buy
2 the services they needed when the hospital was going
3 to close (sic). And if they were allocated money
4 inversely proportional to their size, they still
5 wouldn't have had exactly the right mix of dollars
6 and the next year they would have too much money.

7 What they really need is that we're available so
8 that when they need us, we're there ready to hit the
9 ground running to help them. And through their
10 statement that they've presented to you today in
11 writing and through Mr. Cooper, I think they've made
12 that point. They don't begrudge us the money to be
13 available even when they aren't using us one year, if
14 they are really going to need a lot of help the next
15 year.

16 And that's why we think that current system
17 works well and a system of funding reallocation to
18 local programs probably could not work well.

19 CHAIRMAN UDDO: Thank you.
20 Mr. Armstrong, if you would just be brief and to the
21 point, we'll get some questions in before we go to
22 Mr. Whitehurst.

23 MR. ARMSTRONG: I've already

1 provided you with a written statement, so I won't
2 belabor that, but I would like to bring out a couple
3 points that's included in the statement.

4 That is, number one, there is no basis, there's
5 no desire, there's no need to attempt to privatize
6 support services. There has been no demand from the
7 field, there's been no analysis that I've seen of the
8 process that would allow us to move towards
9 privatizing support services.

10 I think that we need to be frank and open and
11 lay the cards on the table. If this is an attempt to
12 defund state and national support, then I think this
13 Committee should come forward and make that statement
14 and move forward defunding us for those reasons that
15 you would perceive.

16 Again, there's no mandate, there's no
17 demonstrative management point of view that would
18 allow for the altering of the present system that we
19 have. I think that the existing system can be
20 improved and I would urge this Committee to challenge
21 the entities toward improving the present system
22 without dismantling it completely as proposed through
23 privatization. The proposed privatization concept

1 will create a bureaucratic nightmare within the legal
2 services community that would, in effect, dismantle
3 the centers through the very fact that the
4 subgranting process as presently established, is so
5 cumbersome that it would be impossible to get funds
6 down to the local level in the time needed to provide
7 the services that are being requested.

8 For example, the Legal Services Coalition
9 receives six subgrants from each of the six Legal
10 Services Corporations in Mississippi in addition to
11 its annualized support. Those subgrants are usually
12 submitted in November or December for approval. It's
13 usually mid-year of the funding year that we receive
14 final approval on those subgrants.

15 We have been going through this process for
16 three or four years now of sending the subgrant
17 request in and having additional information
18 requested using the same subgrant format that was
19 approved the year before.

20 Each year the information request seems to
21 increase and each year the request is sent back for
22 that additional information. So, the process usually
23 takes six months to approve. And if we're going to

1 use that on a national level, we would see the
2 complete dismantling of state and national support in
3 one year because the programs couldn't get funded.

4 The other point I'd like to make is the cost of
5 services. The services that are provided by the
6 state support centers includes training. Training is,
7 in fact, our major service that we provide to the
8 local programs.

9 The cost of training that we provide is three to
10 four times less than the cost of training that is
11 available in the private section, even though the
12 private section training is not customized to the
13 legal services community.

14 In fact, most of the training that we provide
15 has to be customized to the particular needs of legal
16 services programs. For instance, we provide
17 proofreading training event. That event has to be
18 customized to the particular needs of the legal
19 services programs. We provide a Social Security
20 update each year at a cost of about \$55 per
21 participant.

22 That cost in the private sector, in just looking
23 at information that I have available here, will cost

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 approximately \$600 to \$800 depending on where the
2 training is going to take place, per participant.
3 That, again, the cost of privatizing will be
4 prohibitive for legal services programs, if you
5 choose to go that way.

6 Again, if this was an attempt to dismantle and
7 defund and destroy the present system of services
8 that you have, you're going the right way to do that
9 by considering privatization.

10 Thank you.

11 CHAIRMAN UDDO: Mr. Wallace?

12 MR. WALLACE: Thank you, Mr.
13 Chairman. I've got a couple of questions and I'd
14 like to start with Mr. Rodgers analogy when we began
15 this panel that it seems to me, unless I'm mistaken,
16 that the difference between you and the systems that
17 you've already described, university systems, federal
18 agencies, corporations, is that all of those
19 organizations are under common management. A single
20 Board of Directors can decide how much direct service
21 is needed and how much support is needed.

22 That's not what you have in Massachusetts or
23 anyplace else that I know of. You have separate

1 organizations with their own Boards of Directors and
2 you have your organization and the decision as to how
3 much support is necessary in Massachusetts is one
4 that we make here in Washington, or that Congress
5 makes in Washington, depending on what this year's
6 Appropriation Bill looks like.

7 I'm going to ask you and all of you a question
8 that we asked Mr. Whitehurst from Texas some time ago
9 and he didn't answer then and maybe he'll answer
10 today.

11 Wouldn't it be a better system to take all the
12 money from Massachusetts and give it to one provider
13 in Massachusetts, whether it's the State Bar or some
14 other organization and let Massachusetts under a
15 common Board of Directors, make the decision how much
16 state support they want and how much local provision
17 they want.

18 That would bring it right within the analogy you
19 were talking about when you started.

20 MR. RODGERS: Yes, let me give
21 two answers if I can, Mr. Wallace. First of all, I
22 think even though the form of legal services is
23 different than the organizations I described, the way

1 it actually works in practice is very similar. That
2 is, we are one integrated service delivery system.
3 We have lots of cooperation. There is lots of
4 discussion about setting and the course of setting
5 priorities and everything else. So, that I think in
6 practice that it is much more like those others.

7 Do I understand your question to be, in those
8 programs that not only have state support centers,
9 but also have multiple field programs, that your
10 proposal is to put the money out to one place and
11 establish one integrated statewide delivery system?
12 Is that what...

13 MR. WALLACE: You just said
14 that's what you've already got. Why don't we have
15 Massachusetts Legal Services so we'll have one
16 program to audit, one grant to deal with, one program
17 to monitor. Makes our job easier and you just say
18 you already work that way anyway.

19 MR. RODGERS: I don't think
20 it's going to make your job easier because, of
21 course, you'd have to go around the state. That has
22 been done in the past, as you probably are well
23 aware. Back in the seventies, there were a number of

1 occasions where there were multiple programs and
2 efforts were made, particularly out of the LSC
3 Regional Offices to try to consolidate programs, to
4 try to bring them together.

5 As a result we do have, as you're probably
6 aware, a number of statewide programs across the
7 country and, in fact, in those statewide programs,
8 the state support grants are really integrated into
9 the field programs.

10 I think what you've got to do is, I wouldn't
11 necessarily resist the idea in certain circumstance,
12 but you've got a whole lot of history, you've got the
13 development of field programs, you've got various
14 kinds of institutional things that have built up and
15 what you have to do, if you wanted to do that is to
16 persuade all of the field programs in many states,
17 and there are many of them, California has what,
18 twenty whatever it is, Pennsylvania has 25,
19 Massachusetts has 10.

20 You know, if the corporation wants to embark on
21 that, all well and good. Maybe you can do that in
22 some places, but you've got a whole history here to
23 work against.

1 I know, myself, in Massachusetts there was a lot
2 of effort made to try to consolidate programs and, in
3 fact, that happened. We used to have around 15 to 18
4 programs and the regional office did consolidate.
5 It's a big job.

6 MR. WALLACE: It must be the
7 first idea I've ever had that the field wouldn't
8 categorically resist. Would you all categorically
9 resist it?

10 MISS BURDICK: Well, in
11 California I can't speak to the reaction of the
12 individual local programs to what kind of problems
13 they would have if they became part of one statewide
14 local program. I think they would probably have a
15 lot of problems about that kind of a system requiring
16 a lot of travel, not being responsive to local needs,
17 interfering with their local Boards, being the people
18 who give them their local control and input.

19 In the abstract, I think in fact the Directors
20 of the program in California are the right people to
21 decide, how are we going to deliver support services
22 in California and we are, as I said before, in
23 regular contact with them and they are giving us

1 direction all the time and we're responsive to their
2 direction and we're doing more, for example, more
3 training than we used to because that's what they
4 want

5 So, they already speak to us and they already
6 make us accountable and I don't think you need to
7 cause yourself a major political and operational
8 crisis by trying to consolidate the programs to get
9 that kind of input from them down to us.

10 MR. ARMSTRONG: I would just
11 answer that I think it's a practical political
12 problem you would have because these programs do have
13 histories and they do have constituencies that they
14 have developed and they do have particular
15 characteristics based on even some the geographical
16 areas that they're serving, so I think you would have
17 some problems consolidating field programs in that
18 manner.

19 And again, we are a state wide support center.
20 We provide services statewide based on the needs that
21 are generated by the local programs.

22 So, I think it already is centralized.

23 MR. WALLACE: Let me ask you a

1 couple of questions, Mr. Armstrong, because I've got
2 a little familiarity with how your systems works.

3 You mentioned the six subgrants that you get
4 from the programs in Mississippi. Are those
5 voluntary subgrants? Is that...

6 MR. ARMSTRONG: Yes, they are
7 voluntary.

8 MR. WALLACE: All right, so
9 based on your experience it's not likely that the
10 local programs are just going to completely abandon
11 you. They already give you extra money that they
12 don't have to give you in Mississippi, isn't that so?

13 MR. ARMSTRONG: Well, they do,
14 but I've experienced a 50 percent reduction almost,
15 in funding from them just this past year because of
16 the tight budget constraints that they are facing.

17 So I think you would see a possible...certainly
18 a reduction in the services that you're going to be
19 providing and you would see a tension develop between
20 the field programs and the support programs over the
21 question of funding, if it's a not a process where
22 it's centralized and where the funding can go in.

23 But also, they realize that state support is

1 underfunded as it is and they need the services. So,
2 they're contributing because it's cost efficient to
3 provide the additional funds and I have justified the
4 cost efficiency of it to the corporation, at least
5 the past three years, so it is cost efficient and
6 they realize that so they would opt the subgrant
7 process in that particular instance.

8 MR. WALLACE: And you've
9 complained to me before about our slowness in dealing
10 with those subgrants and I've passed it on and I
11 don't know whether it's getting any better or whether
12 it isn't.

13 MR. ARMSTRONG: Not yet.

14 MR. WALLACE: Not yet. I will
15 still try.

16 I've got one other concern that you can address
17 and it's tied in with something Mr. Sable said this
18 morning. I have some concerns about duplication of
19 services.

20 Mr. Sable mentioned at one point that his firm
21 is...that his center is not often lead counsel, which
22 suggests me that they are in a lot of case where
23 somebody else is already doing at least some of the

1 work.

2 Now, I know that has been the case in
3 Mississippi. The first case I litigated when I came
4 home was the Congressional Redistricting case. They
5 had the Lawyers Committee for Civil Rights under law
6 that was representing one set of Plaintiffs and North
7 Mississippi doing the same thing in the same case
8 with another set of Plaintiffs.

9 One of the cases you talk about in your speech,
10 that we didn't talk about here, is the rate case
11 that's going on right now in Mississippi where your
12 organization is allied with the Attorney General.
13 And you talk about laying cards on the table. You
14 know and I know that my wife represents our company
15 in that case, so I'm not asking you to go into any
16 detail about it, but I wonder why...I wonder if there
17 is anything you can say about what it is that legal
18 services coalition adds in a case like that that's
19 already not being taken care of by the other parties
20 in the case?

21 MR. ARMSTRONG: I can
22 certainly add something.

23 If the Attorney General's Office first became

1 aggressive in handling consumer energy cases, after
2 the legal services coalition had begun filing
3 lawsuits challenging the rate cases and winning, just
4 the case that you mentioned that was just overturned
5 by the Supreme Court regarding the Public Service
6 Commission's granting of a rate increase to
7 Mississippi Power and Light Company, the major
8 argument put forth by the...in the brief from the
9 Supreme Court was that the first question prudence,
10 the question of whether the plant should have been
11 built in the first place was in question.

12 We raised that issue throughout the case. The
13 Attorney General's Office did not want to pursue the
14 issue, but we forced the issue, we forced it in the
15 record and that was a major issue that the Supreme
16 Court considered in overturning the case.

17 So, our presence there was very important
18 because the prudence question was, who's going to pay
19 for it? The consumers, poor folk who are already
20 overpriced, who are already being priced out of the
21 market are being asked to pay for a plant that
22 shouldn't have been built in the first place and our
23 position was, the investors should take the burden

1 and not the consumer, not the poor folk who were
2 already priced out of the market.

3 We won on that. That's just an example of the
4 need to continue to have a legal services coalition.
5 And we really considered whether we should continue
6 to be involved in light of the establishment of the
7 Energy Litigation Division within the Attorney
8 General's Office.

9 That division was established only after we had
10 been to court, after we had won cases, after the
11 outcries from consumers required that that office be
12 established. But yet, they are still not as
13 aggressive, they're still not dealing with some of
14 the basic issues of the problems that poor people are
15 facing throughout the state in regard to energy.

16 MR. WALLACE: Let me ask you
17 one other question and then I'll forebear.

18 Mr. Armstrong, I've never asked you, but I don't
19 think you are a lawyer, are you?

20 MR. ARMSTRONG: I'm not a
21 lawyer, no.

22 MR. WALLACE: All right. So,
23 you wouldn't necessarily categorically resist

1 Chairman Durant's suggestion that there are some
2 things non-lawyers can do to be effective advocates,
3 would you?

4 MR. ARMSTRONG: I certainly
5 support him on that particular position. I might not
6 agree with all of his...

7 MR. WALLACE: I thought so.
8 Thank you. No more from me, Mr. Chairman.

9 CHAIRMAN UDDO: Thank you, Mr.
10 Wallace. If I could just ask you folks to step down
11 for a moment and we'll have Mr. Whitehurst because he
12 has to be away from here by 3:00 o'clock. Mr.
13 Whitehurst? Whenever you're ready.

14 MR. WHITEHURST: Thank you.
15 Let me first tell you I appreciate your taking me out
16 of order. I do have a plane to catch and I was
17 anxious to come down and visit with you today. Even
18 though you're not in Texas, you're close by.

19 CHAIRMAN UDDO: Glad to have
20 you here. Welcome to New Orleans.

21 MR. WHITEHURST: I appear
22 today on behalf of the State Bar of Texas and also
23 the national organization, Bar Leaders for the

1 Preservation of Legal Services to the Poor, which is
2 made up of 31 State Bars and numerous local Bars.

3 I have testified in front of the LSC Board
4 before and although the results have not been
5 immediately apparent, I remain optimistic that you
6 have at heart the basic mandate of the Legal Services
7 Corporation Act, which is nothing less than the
8 delivery of legal services to the poor in an
9 effective and efficient manner.

10 As always, I enjoy watching the proceedings
11 before I testify. I had the opportunity to do that
12 in El Paso and it was no less interesting this
13 morning as I watched the different groups come up
14 before you and give their best in telling you what
15 they do and how they use the state and national
16 support.

17 But I can't help thinking that this is like
18 being told you're going to be shot at sunrise and now
19 we're going to give you your trial. And I worry
20 about that.

21 The topic you are discussing today is one about
22 which we feel very strongly. Let me first say that
23 the State Bar of Texas is 48,000 members, has gone on

1 record by Board resolution supporting our legal
2 services state and national support programs.

3 It is our belief that state and national support
4 is and must continue to be an integral part of the
5 delivery of legal services to the poor. If such
6 centers did not exist, we would be here today urging
7 this Board to invent them.

8 I say this because it is through continuing
9 legal education and interaction with other
10 professionals that we individually and collectively
11 enhance not only our professional development, but
12 the profession as a whole. And more importantly, we
13 thereby better and more effectively serve our
14 clients.

15 We all know that law, like medicine has become
16 increasingly complex. More and more reliance is
17 placed on specialists in all disciplines. The field
18 of poverty law is no different. All competent
19 practitioners recognize the need for access to
20 experts. The national support centers provide this
21 expertise to legal services attorneys and their
22 clients in an efficient and cost effective way.

23 When I last testified before you in December of

1 1985 you were considering a budget that had zero
2 funding allocated for state and national support and
3 for the clearinghouse. I expressed my concern then
4 as I do now about doing away with these programs and
5 about the important role state support plays in
6 Texas.

7 In a state as large and diverse as Texas, with
8 11 different field programs, state support prevents
9 them from each continually reinventing the wheel. It
10 further provides the specialized training in poverty
11 law issues needed by legal services practitioners to
12 comply with the State Bar MCLE requirements.

13 My statement today to you is not a new one and
14 it is not one that our State Bar has prepared simply
15 for this proceeding. Back in 1982, Chris Doherty,
16 our President then, spoke to the National
17 Organization of State Support Units. he asked at
18 that time for their help in getting our pro bono
19 attorneys up to speed in areas of poverty law where
20 we would normally have limited experience.

21 State support programs answered that request
22 with new manuals, litigation guides, training, access
23 to brief banks and through co-counseling in new and

1 complex cases. Even before LSC imposed the transfer
2 in resources to private attorney involvement
3 activity, they consulted with us and voluntarily
4 developed materials and programs so we would work
5 together in serving the growing number of America's
6 poor.

7 It has been through those joint efforts that we,
8 the organized Bar, have learned of the vast resources
9 provided by state and national support programs.
10 Certainly if district attorneys, county attorneys,
11 insurance lawyers and trial lawyers can network and
12 access publications in clearinghouses, why should
13 lawyers representing the poor, in often remote
14 offices, not have access to similar support services.

15 It is my impression, that if you wanted to
16 systematically dismantle the Legal Services
17 Corporation, as Chairman Durant seems to have
18 suggested at the ABA midwinter meeting, you would
19 first take away the national support centers and the
20 clearinghouse, which is exactly what is proposed by
21 the Board in previous years budgets. Only
22 Congressional intercession has prevented the LSC
23 Board from directly defunding state and national

1 support.

2 In August of 1982, Mr. Doherty also made the
3 following comments to the annual conference. State
4 support staff know better than any group how to train
5 lawyers, paralegals and staff to embrace quality
6 representation for the poor. How to keep track of
7 emerging legal problems in the community and how to
8 determine which of these are most critical and which
9 require legislative as well as temporary judicial
10 solutions. How to link clients to community
11 education and self efficacy materials. How to
12 present the problems of poor people and poverty law
13 issues to administrative and legislative bodies. And
14 how to coordinate and work with LSC field offices,
15 regional and national support centers. And the pro
16 bono efforts of the private Bar.

17 Additionally, some of you know how to conduct
18 complex litigation on poverty law issues. How to
19 locate expert witnesses and how to perform all the
20 discovery and trial paths that such litigation
21 involves. All of you know how to conduct litigation
22 on a shoestring.

23 Those words are as true today, if not more so,

1 as they were in 1982. I wish to reconfirm and
2 reassert this deserved praise.

3 As I understand it, the LSC Board voted last
4 year to terminate the funding of 17 national support
5 centers, 66 state support units and the clearinghouse
6 and is currently considering turning these funds over
7 to field programs with no requirement that they be
8 used for support services. A concept called
9 privatization.

10 This comes at a time when LSC directs that
11 status quo funding or actual reductions take place in
12 basic field funding. I believe that this action
13 would be the death nail for many if not most support
14 centers. I say this not because any of the centers
15 lack merit or are performing inadequately. In fact,
16 I know that the most recent LSC survey conducted in
17 1983 indicated a high degree of field satisfaction
18 with services provided by state and national support
19 centers.

20 Indeed, I am reminded that at the end of 1981,
21 LSC's top managers sent a memo to regional offices
22 and field programs stating that, quote, we believe
23 that state support is an essential function that must

1 remain as a key component of any system of delivering
2 legal services to the poor.

3 Rather it is because the system you propose for
4 funding them is simply unworkable. I have some
5 personal experience with LSC approval of subgrants in
6 Texas. While I will not belabor the point, it is
7 that experience that leads me to the conclusion that
8 we cannot rely on the corporation's ability to
9 expedite approval of subgrants if we expect to
10 preserve even a remnant of the existing state and
11 national support system.

12 Even if LSC were capable of expediting the
13 process, it would require approval of something in
14 the magnitude of 5,457 separate subgrants to continue
15 the current national support network. An additional
16 321 contracts would be necessary to maintain existing
17 state support units.

18 The logistics of negotiating such a large volume
19 of contracts and getting the necessary approvals is
20 overwhelming, not to mention the incredible and
21 costly waste of time and effort on the part of field
22 programs, support centers and LSC staff that would be
23 involved in such an undertaking.

1 LSC's track record is not good and, in my
2 opinion, has and will be abused. One LSC Board
3 member, Thomas Smegal, has expressed this same
4 concern with regard to LSC monitoring procedure.
5 In a letter to Chairman Clark Durant, dated November
6 4th, 1986, Mr. Smegal said, "As we are all aware,
7 that process continues to be the subject of
8 substantial inquiries from concerned members of
9 congress.

10 It is my understanding that the Legal Services
11 of North Carolina have been subjected to over 400
12 personal days of monitoring. I can appreciate that
13 that program with several other offices in addition
14 to its main offices in Raleigh, may require a
15 somewhat more extended monitoring visit. However, it
16 is incomprehensible that monitoring any of our LSC
17 field programs in accordance with the Legal Services
18 Corporation ct and regulations would require such an
19 incredible expenditure of corporation resources."

20 Mr. Smegal concluded in his letter that without
21 further information being provided to Board members,
22 I can only conclude that there is a witch hunt being
23 conducted in North Carolina as part of a hidden

1 agenda of which I am not aware. I assume it is only
2 coincidental that this particular excessive and
3 abusive monitoring activity is occurring in a state
4 with a Senator who has been critical of the
5 corporation.

6 : Witch hunts are what we are seeing in Texas in
7 both LSC's monitoring activities and subgrant
8 approvals. I am concerned that we will see an
9 increase in such activity as it relates to state
10 support programs given LSC's attitude and state of
11 desire to do away with them.

12 We know too well that what the Board and staff
13 have been unable to achieve through congress, they
14 will attempt through the back door. As I said
15 earlier, if you wanted to systematically destroy
16 legal services programs in this country, the first
17 thing that you would do would be to dismantle the
18 state support centers and the national support
19 centers. They are the continuity. They are the glue
20 that helps hold it all together and makes it work and
21 I think you know that.

22 The measure of a strong and viable legal
23 profession is a degree to which we, as professionals,

1 pursue our obligations to the larger community. This
2 includes assuring that all persons are guaranteed
3 equal access to our system of justice. It includes
4 the individual lawyer's responsibility to participate
5 in pro bono publico activities. And it includes the
6 lawyer's professional obligation to constantly strive
7 to improve both the legal profession and his or her
8 own professional abilities.

9 We accomplish this latter goal through
10 communicating with our colleagues about issues of
11 mutual concern. We accomplish it in the context of
12 delivering legal services to the poorest among us.
13 Through a strong network of state support centers
14 providing litigation support, local training and
15 program coordination. And on a national level we
16 accomplish it through a strong, federally funded
17 system of national support centers in areas of
18 subsidy legal specialization.

19 You know, when I was preparing for this
20 testimony, I wanted to approach it as a businessman
21 and not just as any businessman, but as a lawyer
22 businessman because I would assume that's what a
23 Board of stature and in this position would do.

1 But then I was reminded that the end result was
2 unilaterally stated and introduced last year. And I
3 looked for studies and I looked for analysis and I
4 tried to do my homework, but I tell you, I couldn't
5 find any that would have supported the actions or the
6 attitudes of this Board.

7 Indeed, everything I saw was to the contrary. I
8 understand and appreciate the concept of a free
9 market approach, but I think in any kind of economic
10 approach you need to look at the type of business
11 you're regulating or introducing or administering.

12 I worry about the creation under your system of
13 an incredible, bureaucratic nightmare. One, which we
14 do not need because we have so many other existing
15 problems and matters that need your desperate
16 attention.

17 In conclusion, I concur with the July 11th, 1986
18 resolution of the Project Advisory Group's Steering
19 Committee. As a result of the Board's decision to
20 terminate direct funding for national and state
21 support and the clearinghouse is without any basis in
22 reason or fact and can only be seen as intended to
23 dismantle the entire legal services support system.

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 Furthermore, as PAG states, to do so would
2 undermine and harm the actual representation of
3 clients and impair the ability of legal services
4 lawyers to meet their ethical obligations to their
5 clients.

6 I urge you not only to reconsider, but to reject
7 that decision and to continue the existing system of
8 legal services support. To do otherwise, would be
9 contrary to the mandate of the LSC act.

10 Finally, let me add that I have for some time
11 been very concerned about the Legal Services
12 Corporation Board. I am concerned because I think
13 what's happening, that the things that I observe
14 affect all of the programs. It affects the very
15 basis of what we're trying to accomplish in the legal
16 services program.

17 So, for that reason, if no other, I am concerned
18 about the health of this Board and its credibility
19 and I believe that there is a significant credibility
20 problem. My concern is not so much that it may be
21 fact, but that it is perceived, if not, a fact.

22 We've had a bad year for legal services in my
23 opinion. We've seen the situation with President

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 being done with the national and state support
2 centers.

3 CHAIRMAN UDDO: Well, I'd
4 appreciate it if you would just taylor your comments
5 to that particular question.

6 MR. WHITEHURST: I'm almost
7 finished.

8 We've seen a year where there has been fighting
9 with Congress, there has been fighting with Bar
10 leaders, there has been fighting with field programs,
11 with national and state support centers, where now we
12 have the President of the ABA calling for your
13 Chairman's resignation and the proposal that we're
14 talking about today represents the continuation of
15 that confrontation of the destructive approach.

16 My concern, Mr. Chairman, is that even if the
17 proposal is valid, it is being perceived as a method
18 of doing from within what has been unable to be done
19 from without and that is a systematic destruction of
20 the legal services system. Even if it's very valid.

21 And all I'm asking, all I say is, whether you
22 care or not, it looks bad. We talk about appearances
23 of impropriety in our Code of Ethics and I will tell

1 you the perception of what's going on in this Board
2 in regards to state and national support centers has
3 an appearance problem and it is concerning the Bar
4 and the Bar leaders and it is concerning Congress and
5 it is concerning the public.

6 And so, I mention that to you because I think it
7 has to be and should be a real consideration of this
8 Board, especially in light of the year we've had.

9 Thank you for the opportunity to make these
10 comments and I'll respond to questions.

11 CHAIRMAN UDDO: Any of the
12 Committee members?

13 MR. VALOIS: Are you prepared
14 to answer Mr. Wallace's question which was asked in
15 El Paso?

16 MR. WHITEHURST: Yes. In fact,
17 I thought I answered that in El Paso and I...

18 MR. VALOIS: I thought I asked
19 it, actually.

20 MR. WHITEHURST: I think you
21 did.

22 MR. VALOIS: I can remember
23 you not answering it.

1 MR. WHITEHURST: Well, I
2 thought I did answer you and I think what I said is
3 that, we'll be glad to consider anything, just don't
4 underfund us.

5 But I'll tell you what. I've given some
6 additional considerations to Mike's proposal...

7 MR. VALOIS: I don't know
8 whose it was.,

9 MR. WHITEHURST: Or whoever's
10 it was. And let me tell you my problem. I don't
11 think we could...the State Bar could afford the down
12 time for monitoring. You know, if we could work out
13 some way of reasonably monitoring what the State Bar
14 was doing and we could work out a reasonable relation
15 that it would be a benefit to legal services for the
16 poor and a benefit to you, I've said all along that
17 we're willing to sit down and work that out with you.
18 Any time.

19 MR. VALOIS: I may or may not
20 attribute this to you correctly or not, but I think
21 there was...you used some Texas homily about the
22 people walking in other folks moccasins. Do I
23 attribute that correctly to you?

1 MR. WHITEHURST: You attribute
2 that correctly. Actually I took that...that's not my
3 original saying though.

4 MR. VALDIS: I didn't think
5 so. But I've heard some more of that today. I think
6 everybody on this Board takes his job and his
7 appointment quite seriously and I don't think any of
8 us are running for anything in particular and didn't
9 really expect to have any great applause to what we
10 do or didn't always expect to be right.

11 But I think what we do, every member of this
12 Board, does sincerely, even though we disagree
13 sometimes and we all have moccasins, too.

14 MR. WHITEHURST: I understand
15 that and I truly appreciate that and I'm not...you
16 know, I probably could make some accusations and
17 maybe there are some facts to support them, but I
18 don't think that's really what we need to dwell on
19 because it really doesn't make any difference.

20 There are some perception problems that I think
21 you need to be sensitive to, whoever's moccasins
22 you're walking in. And I am concerned...I am
23 seriously concerned as to...and maybe it's the desire

1 of certain people, I don't know. If it is, you're
2 accomplishing it, but I will tell you there is
3 serious concern outside looking in on what is
4 happening with this Board, with its policies, with
5 its administration of the legal services program.

6 Now, that may be real or it may be perceived,
7 but the result and the effect is the same and I think
8 more than any other topic, this issue of national and
9 state support centers brings it to a head because I
10 think if you look at it, most people...most people
11 who are, in the business, who work with
12 organizations, who work with structures can
13 understand and I think make a good case for the fact
14 that if you do want to dismantle the system then take
15 away their national and support centers and you'll
16 accomplish it.

17 MR. VALOIS: You start from
18 the wrong premise, Mr. Whitehurst. You talk about
19 zero funding state and national support, taking away
20 national and state support and so on and that was not
21 what...not what I voted for and it's not what I think
22 the Board did. I think what the Board did was to ask
23 the programs, which we directly fund, to accept the

1 funds which we have made a decision...our
2 predecessors have for years...that would be allocated
3 in a certain manner and asked them to allocate that
4 using the benefit of several hundred years of free
5 market of supply and demand and so forth and so on.

6 So, that's really what we did. We didn't vote
7 to zero fund them, as you put it.

8 MR. WHITEHURST: All I'm
9 saying is, that in the real world, regardless of
10 theories, the result is what I said it would be.

11 MR. VALOIS: Well, that's your
12 opinion and that, of course, is why...one of the
13 reasons we're here today is to take some information
14 on that. Not all of us agree with that opinion. It
15 may be that that's the ultimate finding, but I can
16 assure you that it is something far from a foregone
17 conclusion.

18 MR. WHITEHURST: Well, you
19 know, I have a brother...a twin brother who is a
20 doctor and I'm always goading him a little bit by
21 telling him that while your professional forefathers
22 were bleeding patients with leeches, my professional
23 forefathers were writing the Constitution and the

1 Bill of Rights.

2 And the thing that concerns me is that while we
3 sit here today, teething on the free market theories
4 of economics, the people that we are hearing from
5 today are working with real people and real problems
6 and to deny them access to the state and national
7 support centers, in my opinion, would simply return
8 them to the day of leeches.

9 MR. VALOIS: Well, again,
10 isn't that some rhetoric, to deny them access
11 to...we're not talking about that, are we?

12 MR. WHITEHURST: That's the
13 end result of what you're talking about, sir.

14 MR. VALOIS: That's your
15 opinion.

16 MR. WHITEHURST That is my
17 serious opinion.

18 MR. VALOIS: And what we're
19 trying to do is determine which, perhaps by dollars
20 and perhaps some other ways, which of the centers
21 ought to be supported.

22 MR. WHITEHURST But you see,
23 the problem is, what you're stating is good and

1 should be done, but you're approaching it with an
2 attitude that's already been set. If this was a jury
3 or an impartial panel looking at the quality of our
4 programs and whether they ought to be continued or
5 not, that would be something that no one could argue
6 with.

7 But that's not what we have here. We have a
8 panel that has already announced its decision and now
9 you're looking for ways, from my observation, to
10 justify it. And I don't believe that is a proper
11 approach to administer a program of this magnitude.

12 And that's where I get my conclusions.

13 CHAIRMAN UDDO: Let me just
14 say a couple of things, Mr. Whitehurst. One is, I
15 voted against that proposal, so maybe I'm in the best
16 position to say this.

17 I have to agree with Bob that I think you
18 mischaracterized what, in fact, the Board did. I
19 think the proposal was to transfer the money from
20 direct funding to the field programs to make
21 decisions about how to spend that money.

22 The complaints about subgrants are well taken,
23 but I think also that subsequent to that decision

1 there was a subgrant form that was proposed, that I
2 saw, that was a simple one-page grant that presumed
3 approval unless there was some denial within a
4 certain period of time. An attempt to streamline.

5 (Chorus of no's.)

6 CHAIRMAN UDDO: Well, that is
7 what it says. I mean, I saw the thing and it
8 presumes approval and I'm sure that that's what it
9 said and I think that if it was misinterpreted, that
10 could be corrected, but the intention was to create a
11 subgrant document that presumed approval and it would
12 only be denied by affirmative action of the
13 corporation. If that's not what went out...I mean,
14 I'm certain that that's the thing it was supposed to
15 say.

16 My point though, whether it said that or not,
17 the point is, that I think that what the Board
18 proposed was different from the suggestion of
19 defunding or dismantling. That \$17 million dollars
20 or whatever it was, was not taken out of the budget,
21 it was transferred from national and state support to
22 the field programs for their use in determining which
23 national and state support they would like to

1 purchase.

2 I voted against it, because I didn't think it
3 was a good idea. So, I think it is a little unfair
4 to characterize it as an attempt to dismantle. And I
5 think the subgrant that was proposed was an
6 additional attempt to try to make it a system that
7 could work and would give the program a chance to
8 actually decide what support they wanted to purchase.

9 I didn't see a scheme being set up that was
10 going to make it impossible for national and state
11 support centers to exist.

12 I didn't think it was a good idea and I voted
13 against it, but I don't think it's fair to
14 characterize it as an attempt to dismantle national
15 and state support.

16 And, in addition to the suggestion that these
17 hearings are to justify the decision. I don't think
18 that's true, either. You may also know that it was a
19 very close vote. I believe it was a vote of 6 to 5,
20 if I recall correctly. Probably one of the closest
21 votes we ever had.

22 I think that was an indication, particularly
23 after Congress made it clear that they were not going

1 to accept that decision, that if that was going to
2 continue to be an issue that the Board was going to
3 be interested in, there had to be open discussion
4 like this.

5 So, you know, I wouldn't Chair this if I thought
6 it was just an attempt to justify the decision. It
7 wouldn't make any sense. I voted against it, so I
8 wouldn't be here Chairing this Committee just to
9 justify a decision that I voted against.

10 So, I would prefer that you take this as an
11 attempt, in good faith, to hear people out and to
12 gather more information so that the Board can decide
13 whether that particular proposal should be revisited,
14 whether it should be ignored, whether some variations
15 should be proposed.

16 So I, you know, I tend to agree with Bob and I
17 think that some of your rhetoric makes accusations
18 that I don't think the record supports.

19 MR. WHITEHURST: Well, I would
20 hope that you could at least appreciate from someone
21 who is looking from the outside in's perspective,
22 when you realize that this issue has never been
23 brought up by the individual field programs.

1 No one...there's no data that I can find in which
2 they are coming to the Legal Services Board of
3 Directors complaining about the money that's being
4 spent on national and state support or complaining
5 about how it's done or complaining about their
6 quality or their assistance to them. Where is this
7 coming from?

8 MR. VALDIS: Mr. Whitehurst,
9 we have sort of taken a pledge to do what we can to
10 improve the delivery of legal services and if we had
11 to sit around and wait for somebody to come up with
12 an idea, I don't believe we would be doing out job.

13 MR. WHITEHURST: I guess my
14 point is, that there are so many other things that
15 need to be done, that you do not need to be waiting
16 for ideas. You know, if the time that we're spending
17 here today, could be spent on the monitoring
18 problems, it would be so much more worthwhile in my
19 opinion.

20 I mean, we don't have a problem here. We're
21 creating a problem. In the monitoring, we know we
22 have a problem and nothing is being done about it.
23 Nothing.

1 (Applause.)

2 MR. VALOIS: I hope that you
3 will be very specific. I mean, you have made a
4 fairly specific allegation about witch hunts in Texas
5 and I don't want to take up Basile's Committee time
6 talking about that, but I hope you'll be quite
7 specific about that to President Bayly.

8 MR. WHITEHURST: I already
9 have.

10 CHAIRMAN UDDO: I don't want
11 to take up too much time with it either, but I,
12 personally, met with representatives from the ABA
13 SCLAIID Committee to discuss monitoring and there has
14 been a very serious ongoing dialogue about dealing
15 with monitoring problems and I, frankly, think that
16 there have been some improvements. There may be
17 problems in Texas that I don't know about, but I
18 think there has been some improvements and I think,
19 there again, are attempts to try to solve the
20 problems as we've become aware of them.

21 I liked the meeting with Bert Stromberg and Mr.
22 Horsky of the SCLAIID Committee. I think we impressed
23 them that there were improvements and changes and I

1 think the data that they saw indicating what the
2 results of most monitoring visits were and that sort
3 of thing impressed them that there is progress being
4 made and that monitoring is not a witch hunt, even
5 though there have been abuses and things that need to
6 be improved on.

7 So, I think the whole picture is a little bit
8 different than you're suggesting, but again, that
9 gets us off the point of why we're here today.
10 Unless anyone has any other specific questions...

11 MR. WHITEHURST: Let me just
12 say that I tended to agree with you, especially when
13 I saw the letter...the comprehensive letter that was
14 sent to Senator Castameyer. And I felt like we
15 really had made some headway. And even though we
16 didn't have guidelines, perhaps this could be
17 considered some type of policy or guidelines, until I
18 received a letter...or was furnished with a letter
19 that was sent to one of our programs on a monitoring
20 request that violates, right down the line,
21 everything that's in that letter. And that's in the
22 last few weeks.

23 So, I do have those concerns and I believe they

1 are legitimate and I'd be glad to sit down and I
2 think I can testify to everything I've said.

3 CHAIRMAN UDDO: You have
4 discussed it with John Bayly?

5 MR. WHITEHURST: I have and
6 we're working on it.

7 CHAIRMAN UDDO: All right.
8 Thank you, Mr. Whitehurst.

9 MR. WHITEHURST: Thank you.

10 CHAIRMAN UDDO: I'd like to
11 get the Project Directors back up for a few
12 questions, if we could.

13 MR. WILTSHIRE: Bob Byrd had
14 the catch a plan, so he had to absent himself and
15 asked to be excused.

16 MR. VALOIS: Mr. Wiltshire,
17 you made a couple of statements early on in your
18 statement and I won't claim to be able to quote
19 exactly what you said and you tell me if this is not
20 what you said or this was not the essence or effect
21 of it, then I will accept your statement.

22 You said something to the effect that we had no
23 hard facts to justify what it was that we were doing

1 and it seemed to you to be based upon some
2 ideological decision.

3 Is that...

4 MR. WILTSHIRE: Yes.
5 That's...roughly, roughly that.

6 MR. VALOIS: Roughly. Again,
7 I guess I'm troubled by your departure from what I
8 perceived to be a fairly uncomplicated sort of idea
9 that is done in private practice and, although I
10 haven't worked for the government, I guess as I am
11 today, I haven't worked for the government in the
12 past, I am now in private practice and have been for
13 a long time and I don't see anything ideological
14 about the way we do things in private practice.

15 When I have an attorney in another part of the
16 state who doesn't know anything about my specialty
17 area...or not enough he thinks...picks up the phone
18 and calls me and says, look, here's my fact
19 situation, so and so and so and so, what do I do or
20 not do or where do I look or have you got a case on
21 this point or whatever and I charge him because he
22 passes it along to somebody else, my hourly rate.
23 And I send him a bill for giving him that advice.

1 I don't see that that's an ideological system of
2 doing something. I think that's just a market
3 system. I have a friend, lawyer friend that
4 whichever end of North Carolina is calling me at the
5 time, he's got a practical problem and he needs to
6 call on somebody. It seems to me it's very
7 comparable to what you all have and what you describe
8 as you haven't had a veterans problem in two or three
9 years or whatever it was and you had one, you picked
10 up the phone and called somebody.

11 I guess my question is, to you, would you expect
12 to pay somebody for the advice he's giving you in
13 that situation?

14 MR. WILTSHIRE: You mean if I
15 call a lawyer across town? I don't pay them and if
16 they call me...we've got one lawyer in our office
17 that in his evaluation, I had to tell him to stop
18 taking so many calls from private lawyers because he
19 spent so much of his time giving advice to them for
20 free.

21 No, we don't charge private lawyers for that and
22 no, we don't pay for it. When I call across town, we
23 don't pay for it.

1 MR. VALOIS: But I mean, is it
2 an ideological thing to you or is that just...

3 MR. WILTSHIRE: Here's
4 what...here's what has occasioned that remark and
5 then there are two things that I think were touched
6 on in the last remarks.

7 My point was that we are not presented with any
8 hard facts or data saying that the centers or the
9 clearinghouse are doing this, this and this wrong.
10 Or this, this and this is the problem or these are
11 problems. There are no facts there. This...we did
12 this proposal which must be based, if it's not based
13 on facts and I could be wrong, if it's not based on
14 facts, then it's based on some ideas.

15 I mean, we've either got a theory or we've got
16 facts and the ideas that seem to be caught are the
17 ideas of entrepreneurship, privatization, the
18 marketplace must rule. And we don't have anything to
19 substantiate that that is the appropriate system for
20 our dilemma, or need for support.

21 MR. VALOIS: I don't see how
22 you can come to that conclusion. I guess that's my
23 problem. I mean, we have had a more or less free

1 enterprise system in this country since its founding.
2 More or less, I say. There are some parts of it
3 which are more and some parts of it which are less.
4 And what is it about what we do in private enterprise
5 in respect to the sale and exchange of legal services
6 which is so different from what you all in the
7 government funded market of legal services...I mean,
8 how do those things lose ideological parallels, I
9 guess, where...

10 MR. WILTSHIRE: Well, I don't
11 know how long we want to carry this on and I
12 certainly don't want to be put in the position of
13 being against the market economy and against
14 entrepreneurship. I, you know, have interest in the
15 economy other than just drawing a paycheck, myself,
16 and so I'm not here saying that privatization or our
17 capitalist system is wrong.

18 I'm just saying that in this situation...I mean,
19 we have something that has worked. I mean, for 17
20 years it has worked for me and the people that I've
21 worked with and we come up and start talking about
22 changing it based on nothing but an idea.

23 If somebody would tell me what it's based on

1 other than the idea that it sounds good, then...or
2 there's got to be something wrong. I mean, we've got
3 Mrs. Bernstein saying that the burden of proof is on
4 us to show that there is nothing wrong. And we've
5 got somebody saying that we ought to all be defunded
6 and we ought to be entrepreneurs and that the
7 marketplace ought to rule. Now, where is it coming
8 from?

9 MR. VALOIS: In the last two
10 or three administrations, it's been my recollection,
11 we went from the Interstate Commerce Commission
12 setting rates for tariffs and basically monopolizing
13 empty trucks running back and forth because of
14 certain rules and on a scale sort of deregulated that
15 and then in another administration we did some of
16 that with the airline industry and so we didn't have
17 empty planes flying back and forth from Mass. Law
18 Institute to your program and so forth.

19 I mean, that's, I think, what we're talking
20 about. Those are not foreign to...

21 MR. WILTSHIRE: Absolutely,
22 but there's no empty trucks. That's what you've
23 heard today.

1 MR. VALOIS: I don't know
2 whether there are or not.

3 MR. WILTSHIRE: You've had a
4 public hearing, you've been dealing with this for
5 goodness knows how long and nobody's come up with the
6 empty trucks.

7 MR. VALOIS: Well, I'm not so
8 sure about that.

9 MR. WILTSHIRE: Well, where
10 are they?

11 CHAIRMAN UDDO: Any other
12 questions for this panel? Joe, let me just ask you
13 one quick question I had in my notes here. Several
14 of the examples that you used and I think not all of
15 them, but several of the examples that you used and
16 it's the reason for my question about published
17 opinions...would computerized legal research have
18 achieved somewhat the same end on discovering certain
19 cases even through state systems?

20 MR. DELKERS: If we had access
21 to computerized legal research, they might have. I
22 don't have enough experience with it to say yes or
23 no. The point of illustration that I gave was that

1 we secured those opinions in the course of one
2 telephone call that lasted about 10 minutes. I would
3 expect that computerized legal research, even if we
4 had coded in the right words to get to the cases
5 would have taken considerably longer than that. It
6 would have been more expensive, too.

7 MR. WILTSHIRE: I think the
8 thing that needs to be re-emphasized there is that
9 computers do not take the place of Sylvia Ivie and
10 people who have experience in the field. I'm sure
11 you appreciate that even in asking the question.

12 MR. VALOIS: But Sylvia Ivie
13 also has some limitations and whoever gave him the
14 advice about the Employment at Will Doctrine also
15 have some limitations and I know those are very, very
16 fine people and I know that they are very expert at
17 what they do. I don't question that, but what we
18 have when we require or put somebody in that position
19 to give us the very latest word on that subject
20 is...may or may not be as latent information as a
21 West Law system.

22 MR. COOPER: Exactly. And I
23 don't think it's a replacement. What we're trying to

1 get across, I think, is that it's not just looking
2 things up for us. It's the judgement from working in
3 a particular field.

4 MR. VALOIS: I understand but
5 in a couple of specific examples...what is the latest
6 word on that and we called a person and as expert as
7 we all are in our little special fields, we can't
8 possibly read every single word that's uttered. A
9 lot of that stuff can be entered by non-lawyers into
10 the computer bank and retrieved through something
11 like Lexus or something.

12 CHAIRMAN UDDO: Thank you. I
13 think that's all the questions I have. Before I get
14 the State Support Panel back up I would like to
15 clarify on the record the reason why I believe that
16 the subgrant, the proposed subgrant form that was
17 promulgated after the Board's vote back in...what
18 month? June. Dealing with existing support centers.
19 Now, there was a different grant for new support
20 providers that were not among the 17 that were being
21 funded by LSC.

22 But as I read this, and it was a one page form,
23 support subgrants described in this form and any

1 attachments hereto will receive final approval upon
2 receipt by LSC of this completed form and validly
3 executed agreement containing the following language,
4 and the language is an agreement to be governed by
5 LSC statutes, regulations, instructions, guidelines,
6 et cetera.

7 As I read that, as I understood it when it went
8 out and as I believe Mr. Bayly will confirm, that
9 means that it is approved upon receipt. That there
10 is no discretion before approval. That if it's
11 received and that language is in the subgrant
12 agreement, it's approved upon receipt.

13 So, again, I think Mr. Whitehurst misunderstood
14 that and I think that that particular approach was an
15 attempt to deal with some of the criticisms of the
16 delaying of the subgrant process.

17 All right, Allan, would your group come back up,
18 please? This is really just sort of for my own
19 information, Mr. Armstrong. Did I understand you to
20 say that you had training on proofreading? Is that
21 what you said?

22 MR. ARMSTRONG: Yes.

23 CHAIRMAN UDDO: What is that?

1 Proofreading what?

2 MR. ARMSTRONG: Basically,
3 it's part of a clerical training that we provide to
4 local clerical staff.

5 CHAIRMAN UDDO: Program?
6 Program clerical staff?

7 MR. ARMSTRONG: Yes.

8 CHAIRMAN UDDO: For
9 proofreading pleading and...

10 MR. ARMSTRONG: Right. We
11 train clerical staff, the paralegals as well as the
12 attorneys and we are a continuing legal education
13 certified agency for the State of Mississippi.

14 CHAIRMAN UDDO: Okay. I guess
15 the one question that I have for this panel and I
16 know Mike has touched on it with Mr. Armstrong, but
17 I'm not sure that I understand the answer to it.

18 State support in one sense would seem to be an
19 argument that a subgrant process can work because
20 overwhelming state support is funded through
21 subgrants. Now, I think you gave something of an
22 answer to Mr. Wallace, but I'm not completely clear
23 on why, if it's worked to the extent that we have 67

1 state support centers...I think all but six of whom
2 are funded through subgrant procedures...why is it
3 that subgrants would not work for national support
4 and why is it a threat to state support if that's the
5 way they are being funded already?

6 MR. ARMSTRONG: I would just
7 like to answer a portion of that. The Legal Services
8 Coalition, and this is just my personal experience,
9 receives an annualized subgrant. Then we see the six
10 small subgrants for the local programs. The annual
11 grant is what we use to continue operations after
12 we...we go through our planning process, we go
13 through our priority setting, we begin our program
14 year without the use of the subgrants because of the
15 difficulty in getting them approved.

16 So, we have to operate basically on the
17 annualized grant until we received the approval for
18 the subgrants. So, therefore, the problem of
19 planning...it would be very difficult to plan and to
20 provide the services based on that planning if the
21 subgrants are not approved and then, of course, it
22 comes down to the point of fewer programs not knowing
23 in advance the kinds of problems that they are going

1 to encounter in the course of the program year. The
2 kind of clients that are going to come to the door
3 and the kind of problems they're going to have.

4 So, they really cannot basically plan for all of
5 the contingencies that they would encounter and
6 therefore, we cannot again provide those services
7 that they would need.

8 CHAIRMAN UDDO: Where does
9 your annual subgrant come from?

10 MR. ARMSTRONG: It comes from
11 the corporation. It's a subgrant through one program
12 to the coalition. Then we have the additional
13 subgrants through all the six programs.

14 CHAIRMAN UDDO: But you still
15 exist exclusively on subgrants through the grantees
16 and the State of Mississippi, right?

17 MR. ARMSTRONG: Yes.

18 CHAIRMAN UDDO: I get
19 that...now, you know, maybe what you're saying is, is
20 that if something like this were to be adopted
21 for national support, there would have to be a
22 procedure whereby there would be a certain amount as
23 an annualized subgrant from the field program and the

1 rest to be done on a periodic basis.

2 I'm just trying to find where the distinction
3 is between how you manage to survive under that
4 system and how other state support centers manage to
5 survive and why there is a sense that national
6 support would not be able to survive. And I put
7 aside the logistical problems of, you know, the
8 number of subgrants and that sort of thing, but
9 I mean the idea that funding can go through subgrants
10 seems to be validated by state support centers.

11 MISS BURDICK: I think,
12 perhaps, the...you can't put aside the logistical
13 problems. In California, we cover a tremendous area
14 of land. I've got 28 individual programs that I
15 serve. If I could get ahold of all the directors at
16 the appropriate time to make the subgrants, we could
17 get the paperwork done, we've got the approvals and
18 we had 28 subgrants, my bookkeeper, for example, has
19 got to track on a monthly basis, 28 subgrant
20 payments, make sure they're coming in on time, send
21 the notices out to the folks who forgot, dun the
22 folks who get behind.

23 The logistics are a serious problem and I don't

1 think that we should take on that burden unless
2 there's a benefit that makes it worthwhile and what
3 the Project Directors told me when I called them was
4 that the benefit doesn't outweigh the burden to them.

5 CHAIRMAN UDDO: How are you
6 funded in California? A single program subgrant?

7 MRS. BURDICK: A single
8 subgrant...no subgrants at all. A single grant comes
9 to the Western Center from the Legal Services
10 Corporation. That's our primary...

11 CHAIRMAN UDDO: You're are one
12 of about six that are funded directly by the
13 corporation?

14 MRS. BURDICK: I'm not sure of
15 the number, but we're one of the free standing
16 centers, yes.

17 CHAIRMAN UDDO: Okay. All
18 right.

19 MR. ARMSTRONG: I think the
20 direct funding might be more appropriate if you're
21 going to try to improve the system as opposed to
22 decentralizing it and providing the funds to the
23 field programs that would then be sent back to the

1 state support. One grant per state, to me, made more
2 sense.

3 MR. RODGERS: I have one other
4 observation. That is, even if you simplified the
5 subgrant process, that is, the subgrant process was
6 automatic approval so that the paperwork of the
7 corporation could be minimized, you still have the
8 problem that each individual program has got to
9 decide what it wants to do with that money. And that
10 is not something that can just be tossed off in a
11 very short period of time. That decision is a major
12 decision about an amount of money. It has to...

13 CHAIRMAN UDDO: Are you a free
14 standing state?

15 MR. RODGERS: We are free
16 standing, yes. We have no subgrants.

17 MR. VALDIS: I don't suppose
18 the system was...a decision was made when the need
19 for advice for services was made, i.e. an hourly
20 basis system, which is a little different from this
21 proposal. Suppose I decided I had to make the
22 decision every time I called you up whether or not
23 your services were worth \$80 an hour or whatever it

1 s? Whatever we agreed was the rate.

2 MR. RODGERS: That, I think,
3 would be totally unmanageable. First of all, you
4 would have to bill for those services on some sort of
5 periodic basis. The number of calls that I get
6 myself, and I'm a Project Director and I do some work
7 in substantive areas, I give 30 to 45 requests per
8 month, just myself, for advice, help for one thing or
9 another and my staff gets many times over that. That
10 would be just totally unmanageable.

11 Furthermore, in that kind of situation, I would
12 be afraid that people would not call or at least they
13 would be reluctant to call because of the financial
14 implications that that has on their program for
15 reasons that have nothing to do with the value of the
16 services because what you're talking about is field
17 programs with limited money that have lots of
18 different needs and priorities and even though they
19 may objectively have the need for the service, they,
20 their project directors in various ways, have got to
21 take those other priorities into account.

22 And, you know, what I'm afraid of is that that
23 would inhibit the willingness to call where it is

1 truly needed.

2 CHAIRMAN UDDO: But Allan, you
3 and Miss Burdick are in a distinct minority among
4 state support centers. There are only six state
5 support centers that are funded the way you all are
6 funded, directly from the corporation.

7 So, I guess I feel like I would like to hear
8 from some people more in the position of Mr.
9 Armstrong because you're making an argument that it
10 can't work and yet roughly 61 state support centers
11 are funded exactly that way.

12 MR. ARMSTRONG: I must...

13 CHAIRMAN UDDO: Aren't they?
14 I mean aren't they...

15 MR. RODGERS: No...all right,
16 Mr. Armstrong's situation, I think, is fairly unique
17 in the sense that he has subgrants that go beyond the
18 one subgrant that is necessary because the LSC
19 funding goes through a field program.

20 In every other state that I know of that gets
21 LSC funds, there is one subgrant because...or
22 sometimes none at all...because some are simply co-
23 directed to the program, but there is only one

1 subgrant involved in those states that I know of.

2 MR. VALOIS: Let me...

3 CHAIRMAN UDDO: Go ahead.

4 MR. VALOIS: Once again,

5 Allan, the system you described and I guess the only
6 thing I've got to compare it with, personally,
7 because I personally answer questions all day myself
8 and my phone rings and clients call and they say
9 what's so and so and so and so and I have a little
10 notebook over here and write down their file number
11 and the amount of time, .25 or .50 or 1. whatever the
12 time is. At the end of the month we round up that
13 time and spit out a bill and send it to them totally.

14 They are making exactly the same choice that
15 you're telling me the legal services community can't
16 possibly make. Should I spend a dollar to call or
17 should I forego trying to get that answer? I mean, I
18 don't understand what is different, I guess, so
19 radically different that you look at this idea as
20 though somebody were about to impose from Mars or
21 someplace. It's the same system we've got in the
22 rest of our country.

23 MR. RODGERS: I suppose the

1 major difference is lack of money.

2 MISS BURDICK: I think that's
3 correct.

4 MR. VALOIS: I'm not sure I
5 agree with you on that either. I mean, lack of
6 money, I don't think you mean to think that
7 corporations or private businesses have got
8 inexhaustible supplies of money. In fact, it's
9 government that's got inexhaustible supply of money
10 and not businesses.

11 MISS BURDICK: In...

12 MR. RODGERS: I think you
13 should ask the field program that question, Mr.
14 Valois.

15 MISS BURDICK: In private
16 practice, you've got clients with money who can
17 decide whether to buy your services and I think the
18 key is that the people we serve are people who are
19 hurting, but don't have any money to make that
20 decision.

21 I would go back to the example I gave before of
22 the small county where the public hospital was the
23 only facility for poor people who didn't have MediCal

1 was going to be closed.

2 The local program, if they called us up, didn't
3 have the money to buy the hours they needed on a fee
4 for hour basis and the clients had no money.

5 MR. ARMSTRONG: I would just
6 like to point out, too, one example. In 1982 and
7 '83, the Legal Services Coalition at the request of
8 numerous clients got involved in a rate case. We
9 contracted out to a private attorney. Over the course
10 of those two years, we spent \$60,000 on that rate
11 case. We won.

12 In the same instance, I decided when I became
13 director in '84, mid '83, that that was not the way
14 for us to go. We had to get more bang for our bucks
15 so I hired a staff attorney to do litigation 50
16 percent of the time.

17 On the last case which Mississippi State Supreme
18 Court reversed, I've estimated that we spent
19 approximately \$15,000 on that case and it's been in
20 litigation since '85.

21 So, the cost effectiveness of the system that
22 we're using now has already been demonstrated. The
23 private sector, we cannot compete. If I go to the

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 private sector seeking the kind of training that
2 legal services staff requests through the support
3 center, it would cost three to four times as much as
4 it costs through the system that we're providing now.

5 CHAIRMAN UDDO: Am I hearing
6 this panel correct that if there were a way to
7 determine the amount of money or a figure that would
8 represent the amount of money that field programs
9 spend on support services and that amount of money
10 were made available, it would increase the budget,
11 let's say...if that were necessary. If the figure
12 showed that putting a dollar figure on the amount of
13 the time field programs use support services required
14 an increase in the budget so that there would be
15 enough money, in answer to your response to Mr.
16 Valois, would this system then make sense?

17 MR. RODGERS: You're talking
18 about the privatization...

19 CHAIRMAN UDDO: Yes.

20 MR. RODGERS: Well, again, I
21 was starting to say before, it's not just a question
22 of the subgrants, it's a question of a whole bunch of
23 individual decisions which are granted less in the

1 cases of state support then they are national
2 support, which is just compounded all over the place.

3 But each program has, even if it gets that
4 amount of money, even if it's larger, has to make a
5 decision as to what to do about that money. That's a
6 budget decision that has to go through the staff,
7 through the Board and it requires some planning.
8 Maybe it fits into their priorities, maybe it does
9 not.

10 So, it's not a simple thing. That takes a long
11 process. Then, once that decision is made to make
12 that money useful, then there's a negotiation and an
13 agreement.

14 Now, if you do an agreement in advance and you
15 try to make a contract for an amount of money, you
16 have to decide, I think you probably would and the
17 Board's programs would feel that they would then to
18 spell out exactly what kinds of services they were
19 going to get. Again, you get into the anticipation
20 problems, you get into the question as to whether you
21 want to spend it all on that or only some or whether
22 you ought to hold some back.

23 So, what it requires is even in the case of

1 state support, is a lot of time and effort and that
2 says nothing about all of the paperwork that would
3 have to go back and forth, but if we take Mr. Valois'
4 system where you only bill when you do it or when you
5 have a contract, you're going to have to set up some
6 sort of bookkeeping system in order to keep track of
7 this. The programs are going to have to go through
8 the same system.

9 So, we're talking about a lot of administrative
10 and a lot of financial time in order to keep track of
11 this system and again, we come back to the question,
12 if that's so, if...and again it's multiplied many
13 times over for national support centers...if that's
14 so, what is it that makes that system better and more
15 effective than the present system? And again, I
16 think a lot of us are saying, we haven't got an
17 answer to that.

18 MR. VALOIS: One of the
19 analogies, Mr. Rodgers, that you've talked about this
20 morning, I thought that you...maybe I misunderstood
21 you, but I understood you to say that under our
22 system we basically didn't have any way to charge
23 services back and you said no corporations and no

1 governments and so forth would do it, and my
2 experience is that corporations which have central
3 offices and have units of their operations elsewhere
4 in the country expect for those units to be free
5 standing to a large extent, and very frequently will
6 charge the free standing unit a certain management
7 fee, for instance, for handling the central
8 administration or whatever it is. We really do have
9 a system like that in private enterprise in which we
10 handle the charges which are common to all of the
11 units done by a central body.

12 MR. RODGERS: Yes, but I think
13 the analogy is exact. I take it that what's usually
14 done is that an administrative fee is charged on some
15 sort of allocation that's made at the outset and it's
16 not based on use. Am I wrong about that?

17 MR. VALOIS: It probably is
18 done both ways. I will submit that. It's probably
19 done both ways but I know in particular, for
20 instance, when my counterparts in corporate law go
21 down to work on a fairly discreet labor matter in a
22 particular unit of a corporation, their time gets
23 charged to the unit rather than to the corporation.

1 So, it probably works both ways.

2 CHAIRMAN UDDO: One last
3 question and that is we've heard several times that
4 if it ain't broke, don't fix it. It would seem that
5 state support, no matter what approach is taken,
6 could use some changes. Currently, of the 67 state
7 support centers, only six of them are funded directly
8 by the corporation. The rest, the overwhelming
9 majority of them, I think 40 some odd or maybe more,
10 are funded through subgrant procedures. The staff
11 tells me it is not just Mr. Armstrong's state that
12 has multiple subgrants. That there are a number of
13 other states that have that same procedure.

14 Some programs are component programs, seven
15 states have no state support at all. So, obviously,
16 some states have more than one state support unit.
17 It seems that there's obviously room for improvement
18 here. Whether this proposal is it or not, it is
19 obviously still subject to debate. But this does not
20 look to me like a system that is carefully thought
21 out and well planned and is functioning in such a way
22 that it needs no improvement.

23 MR. RODGERS: All right. We

1 have recognized and we've told the corporation in a
2 very comprehensive way what it is that we think needs
3 to be done to address those problems.

4 It's true that this system in state support is
5 largely a matter of history. There were some serious
6 attempts by the corporation in the late '70's and
7 early '80's to try to rationalize the system to try
8 to encourage a development of more state support
9 centers and that happened.

10 There was a plan that the corporation had at
11 that time, to gradually get state support units in
12 all states and to raise the funding and to address
13 the disparities in funding.

14 NOSSU, our organization came before the Board in
15 July of 1985 and submitted a long and comprehensive
16 plan to the Board...this Board...at that time. That
17 plan and recommendation still stands and, again, it's
18 the same document that I suggested that you read as a
19 kind of a background description of state support.

20 MR VALOIS: This statement has
21 been made so many times, I guess, during this hearing
22 of, it ain't broke, don't fix it. I've heard that
23 before, also, and none of us made that one up either,

1 but I'm not really sure it fits because I can just
2 imagine some government agency like us, sitting
3 around a few thousand years ago, looking at a sled
4 being dragged across the prairie and a couple of
5 other fellows said, well, look, if we take an axle
6 and string it under that sled and then we'll take
7 some of the round deals that will maybe roll along
8 and make a little less friction for that horse and
9 somebody is sitting around saying, well, if it ain't
10 broke, don't fix it.

11 I look at that...I will say to you that I have
12 resisted a lot of changes in my own law firm when
13 somebody wanted to go out and spend an awful big pile
14 of money on some kind of word processor and I said,
15 what's the matter with the typewriter? And they
16 said, well, this thing will go 150 words a minute.
17 So, we buy that and then a couple years later and not
18 even that long, unfortunately, somebody would come
19 along and say well look, we found this new one and it
20 will go 250 words a minute and I said, if it ain't
21 broke, don't fix it.

22 So, I think we have to get off the notion that
23 there has to be a destruction of an existing system

1 before we can look for ways to improve it and that's
2 my interest.

3 MR. RODGERS: We would like to
4 improve, of course, and we are improving,
5 particularly in the technological area, I can assure
6 you.

7 CHAIRMAN UDDO: One final
8 question.

9 It's suggested that there is significant overlap
10 or duplication of efforts between state and national
11 support in the sense that sometimes state support
12 serves maybe as a conduit for some things that could
13 go directly to national support or that there's a
14 different configuration that would not require quite
15 so much overlap.

16 Is that a fair characterization of the two
17 systems?

18 MR. RODGERS: Well, I wouldn't
19 distinguish state support and field program expertise
20 and support in that.

21 Of course, there are people at the state level,
22 sometimes in the field program, many times in the
23 field program, sometimes in the state support

1 centers, that are experts and they can serve as
2 experts for their state in a very real way. And that
3 may lessen the need, at least to some extent to use
4 national support centers.

5 But what you ought to bear in mind is that there
6 is a lot of residual value of what national support
7 does that filters down to programs through state
8 support. So that, for example, the experts in the
9 state support program read all the publications, they
10 are in touch with the national support people. They
11 may not need or ask for their help in large case
12 litigation very much. They may not need to call them
13 as much, but they then take that information and
14 material and filter it down to the programs.

15 So, it comes out as state support when, in fact,
16 it's national support. Just as among national
17 support, I think, the state support programs are very
18 familiar with what the national support people do,
19 particularly in the areas that they work in. They
20 work closely with them. I haven't noticed any waste
21 or duplication in that area at all.

22 MISS BURDICK: In fact, what
23 we've found is that the existence of the national

1 support centers lets us focus our expertise on the
2 state law matters that are of particular importance
3 in our region.

4 For example, in California, we know that the
5 Health Law Center and Senior Citizens have expertise
6 in Social Security and MediCal. And so our health
7 law person has focused her area of development on the
8 county's obligations under California state law to
9 cover health care and what this has allowed us to do
10 is catch the folks that have fallen through the
11 federal safety net.

12 We find this in areas of training. We find it
13 in areas of delivery of co-counseling and we find it
14 in areas of subject area expertise. That they help
15 us focus our own efforts on state law and free us up
16 from having to learn federal law.

17 MR. ARMSTRONG: I'd just like
18 to point out one example of how the national support
19 centers support the work that we do and the
20 information that's then deciphered at the state level
21 and filtered down to the field program.

22 Recently the Consumer Law Center provided us
23 with some information regarding the stripper well

1 funds that have been made available. We then did an
2 analysis of the information provided to the field
3 programs in a way that they would understand it and
4 then we ended up providing it to the local community
5 services programs, the local Welfare Department and
6 various other state agencies throughout the state.

7 So, I guess that the free rider effect would, in
8 this instance be valid. But the information that we
9 got from the national support center, in order to...
10 provided information to us, in order for us to filter
11 that down and I think they help us become experts in
12 our own states in areas that otherwise we would not
13 have the information available.

14 CHAIRMAN UDDO: Well, thank
15 you. I was going to ask you, if you would, however
16 you want to do it, I would like something submitted
17 in writing on this question of those state support
18 centers that are existing under subgrant procedures,
19 particularly in states like Mr. Armstrong's and, as I
20 say, there are apparently several of them, a little
21 bit about their experiences and about why their
22 experiences don't suggest that that system has some
23 merit. That it's apparently a function for state

1 support in some states.

2 And since only one of you is from a state with
3 that experience, I'd appreciate it as the
4 representative organization, if you would submit
5 something to us in writing with a little discussion
6 about that.

7 MR. ARMSTRONG: I'd like to
8 say just one thing about that, for the record, is
9 that we really operate in a quasi-subgrant state. I
10 mean, it's really difficult, but we receive
11 annualized funding from one program. It's a conduit.
12 It simply comes to the program and it's provided to
13 the state support center. So, it's very similar, in
14 a sense, to what happens for the independently funded
15 programs.

16 But the subgrants, the problem is that the
17 subgrants that we get, the six individual subgrants,
18 which would be similar to privatization, if we had to
19 depend on those subgrants, we would be out of
20 business today.

21 CHAIRMAN UDDO: Well, that may
22 be the case, but if those programs had the money that
23 you get through your annualized grants, they may

1 think your services are important enough that they
2 would subgrant it to you. I mean, I don't know the
3 answer to you, but the fact that it's existing in
4 some states seems to suggest to me that we ought to
5 know a little bit more about how it's working in
6 those states and why that couldn't be pointed to as
7 an indication that it's not impossible.

8 MR. RODGERS: Professor Uddo,
9 on that one I would have to take a survey and it
10 would be, you know, quite time consuming and I...

11 CHAIRMAN UDDO: To find out
12 which states do it that way?

13 MR. RODGERS: Yes, what their
14 experience is.

15 CHAIRMAN UDDO: We can tell
16 you which states do it that way, but you mean, if
17 you...

18 MR. RODGERS: What I would
19 have to do is take my own survey and get some
20 feedback for you, because what you asked for was our
21 view as a result of that experience, about the
22 subgrant experience. And so, I'd have to talk with
23 each of the programs.

1 And I guess, my concern is, that I don't see any
2 way that I'm going to get that by March 21st.

3 CHAIRMAN UDDO: That's all
4 right. I don't see that as indispensable if it comes
5 later than that.

6 MRS. LeFLEUR: He can take
7 Jamie and I's testimony and we can give you specific
8 examples of how the subgrants agreement worked or
9 didn't work in Louisiana.

10 CHAIRMAN UDDO: Step up to the
11 table.

12 MRS. LeFLEUR: I'm Catherine
13 LeFleur and presently I'm the Acting Director for the
14 Louisiana Legal Consortium and State Support
15 Program...

16 CHAIRMAN UDDO: Excuse me just
17 a second. Are there still people here from Texas
18 Legal Services and West Texas Legal Services?
19 Okay. Because they were on the schedule and it will
20 give me a better idea of how much time I've got to
21 deal with here.

22 If they're not here, then my records show that
23 Louisiana Consortium and then Clearinghouse would be

1 the only other people who were intending to testify?
2 Okay. I'm sorry?

3 MR. MARK: My name is Robert
4 Mark. I'm from Legal Services of Northeast Missouri.
5 I made telephone calls. I was supposed to be...

6 CHAIRMAN UDDO: Yes, yes, yes.
7 You're on the schedule. You didn't make it to the
8 index cards that I got from the audience so...

9 MR. MARK: I didn't get an
10 index card.

11 CHAIRMAN UDDO: You should
12 have. Somebody didn't represent your interest with
13 the index card.

14 Yes, ma'am. You're with the Clearinghouse,
15 right?

16 VOICE FROM AUDIENCE: Right.
17 And I have a plane at the moment at 5:30. I can try
18 and reschedule it...

19 CHAIRMAN UDDO: How long do
20 you think you need, Catherine, to tell us what you
21 all want to talk about?

22 MRS. LeFLEUR: Mine should be
23 about two...about three to four minutes, at most and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

then...

CHAIRMAN UDDO: I think maybe in 15 minutes we'll finish that. A 5:30 plan today, if you left about 4:45, I think you'd be...

VOICE FROM AUDIENCE No, no, no.

CHAIRMAN UDDO: Who said that? Well, on Saturday, there's not that much traffic. I mean, I think you'll make it out there in 20, 25 minutes. Now, you're with the Clearinghouse Panel? Okay. Why don't you go ahead, Catherine.

MRS. LeFleur: There has been a state support program in Louisiana since 1976 when the New Orleans Legal Assistance Corporation received a special grant from the Legal Services Corporation to to fund a legislative advocacy unit. The unit was renamed the Louisiana Legal Services Association, moved to Baton Rouge and became a state support program.

Until 1981, the program was supported by contributions from each field program based on the poverty population each served. The contributions were mandated by the Legal Services Corporation

1 through grant conditions placed on the grants to each
2 field program.

3 In 1981 the Legal Services Corporation awarded a
4 grant for state support activities to Southeast
5 Louisiana Legal Services Program with the
6 understanding that the grant was to be used for state
7 support activities and was to replace the mandated
8 contributions from each program.

9 LLSA had been closed in 1980 and in 1981
10 Louisiana Legal Consortium was formed. The state
11 identified training...I'm going to give you some
12 background and then go back into it...the state
13 identified training as the primary purpose of the
14 state support program for Louisiana in 1981, since at
15 that time no entity in the state was offering
16 training in poverty law issues and national or
17 regional training in issues such as consumer law was
18 often not relevant to Louisiana, which is not a
19 commonwealth state.

20 Since 1981, the Consortium has trained 1,769
21 persons at 70 training events. Of those trained,
22 1,024 were clients and 745 were either staff members
23 or private attorneys. In 1986 alone, 453 persons

1 attended 26 training events sponsored by the
2 Consortium. In addition to the training events, the
3 Consortium has produced brochures on a variety of
4 topics and supplied at least 500 copies of each
5 brochure to each program.

6 The Consortium has also responded to individual
7 requests for information on a variety of topics,
8 provided specialized training to individual programs,
9 produced a quarterly newsletter entitled Resources,
10 sent weekly mailings to the programs to keep them
11 updated on new developments in the law, changes in
12 LSC personnel and policy, ongoing litigation and
13 other topics of interest and provided a form for
14 resolution of statewide problems, such as case
15 referrals between programs.

16 All of these were carried on by a staff of two
17 or three persons. That's the background of state
18 support in Louisiana.

19 I believe that the proposal to terminate direct
20 funding of state and national support and
21 clearinghouse funding and to redirect some of the
22 funding to field programs to be used for support
23 would be unworkable. I can speak on this point from

1 experience with such funding for state support here
2 in Louisiana.

3 Prior to 1981 the funding for state support
4 activities in Louisiana came from contributions by
5 individual programs to a statewide program known as
6 Louisiana Legal Services Association. The existence
7 of that program was marked by a constant argument
8 among the programs as to how much each should
9 contribute, when the contributions should be made,
10 accusations that the program did too much for its
11 major funder, accusations that it did too little for
12 its major funder and constant threats to pull out of
13 the program.

14 The program always had cash flow problems and it
15 sometimes could not predict what its quarterly or
16 monthly funding would be, although contractual
17 arrangements existed with the field programs,
18 specifying dates and amount of payments. The program
19 was hesitant to sue to enforce these rights, since
20 the suit could take up to three years to be settled
21 and because the suit would alienate the field
22 programs that was the Defendant.

23 The only reason that LLAS could operate under

1 the contractual arrangement was the fact that its
2 governing Board was made up of all the program
3 directors in the state as well as clients and staff
4 members.

5 This Board met every month and managed to
6 arbitrate disagreements between funders, though it
7 could never completely eliminate delays in payments
8 to the program.

9 This type of meeting would be impossible on the
10 national level and yet a subgrant system for national
11 support could lead to the same delay and charges of
12 favoritism, because under a subcontract system
13 support programs would be forced to be more sensitive
14 to the needs of their larger contributors in order to
15 ensure that the majority of their funding arrived
16 without interruption.

17 A second drawback to the redirection of support
18 funds is the potential loss of direct services to
19 clients by the back-up centers. In Louisiana, even
20 with a specific grant for state support activities as
21 exists today, there is disagreement on the advisory
22 board as to how much of that grant should be spent on
23 services to clients.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

With a subgrant arrangement, it is likely that statewide client activities will be greatly reduced as each field program is likely to want to subcontract only for services to its own clients or staff and be unwilling to support statewide activities.

In support programs that actually represent clients, the loss to clients will be even greater as that representation will only be available to programs that specifically contract for the attorney time.

If, as is contemplated in this proposal, the back-up centers charge the fair market value of such time, many smaller programs will be unable to pay the price and the larger programs will be reluctant to dedicate money to serve clients other than their own, if they would legally be able to do so under the geographical restrictions of their grants.

Finally, I must state that there has been no call for a complete change in the delivery of support services by the clients or staff in Louisiana.

Candidly, there is dissatisfaction over the current funding arrangement for state support in

1 Louisiana and, as a result, the Consortium has
2 applied for direct funding from the corporation with
3 the blessings of the current recipients.

4 However, aside from these local problems, there
5 is no public sentiment in Louisiana to be rid of the
6 clearinghouse or national support centers or to
7 change the method by which they are funded.

8 For these reasons, I would urge that the Board
9 not change the current funding structure for support
10 centers or reduce the amount of money allocated for
11 those services.

12 Let me further comment that one of the reasons
13 we are going for direct funding is that the current
14 recipient of the program, Southeast Louisiana Legal
15 Services, in 19...at the end of 1984, because of
16 their disgruntlement with the whole subcontract
17 process, the delays in the subcontracts and the lack
18 of direct control by their Board of Directors over
19 the physical policies of the state support program,
20 demanded that we be treated as a branch office which
21 gave their board final authority on the state support
22 activities.

23 This has essentially meant that the other

1 programs in the state and the clients were reduced to
2 an advisory position as regard to state support
3 funds. While the funds are spent for state support
4 activities, the final say-so on the allocation of
5 those funds belong to one Board of Directors in this
6 state.

7 This problem may not have occurred in other
8 states, but it is very possible for it to occur under
9 a subgrant arrangement and that's the main reason
10 that we are going for direct funding and I think that
11 probably letters have been received by the
12 corporation over the dissatisfaction with people in
13 this state over the current arrangement.

14 In the LLSA arrangement when it was, I think at
15 that time, eight programs in the state that were to
16 contribute, the charges of favoritism and the charges
17 of neglect by the programs around the state were
18 rampant and the big thing is, if you're not doing the
19 work I want, I'm pulling the money back.

20 And frankly, with New Orleans Legal Assistance
21 being the largest program in the state, obviously
22 looking down the line if the new funding goes
23 through, then our largest subcontract would

1 undoubtedly be with New Orleans Legal Assistance and
2 the majority of the funding would have to happen...or
3 the majority of the services would be delivered to
4 that program. And I can see that happening both
5 nationwide and statewide in a variety of programs.

6 And it's going to cause real problems and
7 divisions and I don't see the mechanism, if you're
8 expecting, for example Mr. Valois, suppose you do go
9 on a pay as you go basis where if somebody calls up a
10 national support center or a state support center,
11 you then write down your time and bill for your time.

12 Well, what happens if they don't pay? Spending
13 some time...

14 MR. VALOIS: Next time they
15 call you, you don't give them any services, is what
16 happens.

17 MRS. LeFLEUR: That's what
18 happens and the problem with that being is, though,
19 suppose they've already run up a bill in one month of
20 quite a bit of money and you then have to sue and it,
21 for example, okay, it is the Community Economic
22 Development Center in Berkeley and then they have to
23 come to Louisiana to sue me. I mean that's...

1 MR. VALOIS: What happens if
2 they don't pay their rent?

3 MRS. LeFLEUR: You get thrown
4 out.

5 MR. VALOIS: What happens if
6 they don't pay their light bill? I mean, I don't see
7 why this is altogether different.

8 MRS. LeFLEUR: Well, what I'm
9 saying is, it's going to put an intolerable burden
10 and that's the burden of having to collect the bad
11 debts or the late payments or whatever. You're going
12 to have to increase what you charge for your
13 services. The price that you charge for your
14 services. And that's going to increase the cost of
15 delivering.

16 At the same time you...the Board's proposal, as
17 I understand it, is to cut \$6 million dollars out of
18 the money given and give that to the national
19 corporation for its management and just put \$11
20 million of the current \$17 million dollar funding
21 back into the field programs, which also cuts the
22 money that's available for delivery of services.

23 MR. VALOIS: I can't confirm

1 or deny those numbers.

2 Did Allan Rodgers leave? I was going to call
3 on him for his expertise about my own state. I think
4 that the situation you have described is about what
5 has happened in North Carolina.

6 The LSSC, which is sort of a...it's a slightly
7 different arrangement, I guess than North Carolina,
8 apparently from anyplace else in the state, has
9 become the dominant group and has more or less taken
10 in-house the state support unit and more or less gets
11 the money from the other large units, but it may be a
12 peculiarity or something.

13 MRS. LeFLEUR: I just can see
14 a real problem happening. I mean, maybe not in every
15 state. I know some states...

16 MR. VALOIS: I don't think
17 it's all important...I don't think it's the end of
18 the world that New Orleans Legal Services ends up
19 having a state support unit that's a constituent part
20 of its organization, if it happens to be the largest
21 group and has the best organization and so forth and
22 then supplies services to everybody else in the
23 state.

1 MRS. LeFLEUR: Well, I'm not
2 saying that it would supply services to everybody
3 else in the state.

4 MR. VALOIS: Well, I mean, if
5 you're saying they would then cut off everybody
6 else...

7 MRS. LeFLEUR: Well, but
8 that's the question. You know, how much services or,
9 you know, you pay for what you get...

10 MR. VALOIS: I'm saying to you
11 and I think in my own state, the result of that
12 situation, I think Raleigh being the capitol, even
13 though it's not the largest place in the state and
14 the largest program in the state is Piedmont and
15 Charlotte, which is in the largest city, I should say
16 and the other two units basically end up using the
17 state support unit services, even though they're
18 physically located under the umbrella association in
19 Raleigh.

20 MRS. LeFLEUR I understand
21 that, but what I'm saying now is that under the
22 program that we have now, there is resentment among
23 other project directors and other...and clients

1 I also remember very vividly the domination by
2 NOLAC at that time. North Louisiana, as Professor
3 Uddo will gladly tell you, is very different from
4 South Louisiana and we have many different problems
5 in North Louisiana.

6 For example, housing. Our housing problems are
7 generally very different from NOLAC's problems. A
8 lot of our clientele, because of forced air shift in
9 Louisiana, own a small portion of the property that
10 they're living on. So we're talking different types
11 of housing problems than you see here.

12 So, our needs are different from NOLAC's.
13 NOLAC, because they contributed the most money,
14 dominated the very services that were offered. In
15 essence, our feeling was, we wasn't even getting our
16 money's worth that we were contributing, even though
17 Castache paid regularly, and I do pride myself on
18 that.

19 I was around when LLSCI was formulated and the
20 reasons behind the restructuring at that time. Since
21 LLSCI came into existence, they have offered us many
22 services, including training, specifically directed
23 to our individual program. They have furnished us

1 with lots of materials and, I might mention that
2 we're a very isolated area. We're centered in our
3 major city of population which runs 15,000 people.

4 We have over 60 private attorneys in our town,
5 which is unusual for a town that size. We have the
6 largest law library in that town. Most of the
7 private attorneys utilize our law library.

8 MR. VALDIS: Do you charge
9 them for it?

10 MRS. CAMPBELL We have an
11 arrangement where they handle some of our cases pro
12 bono in exchange for the use of our library.

13 So, we...even us, with the largest law library
14 in our area, do not have access to all these
15 materials. In fact, because of the funding
16 constraints, we have had to discontinue some of our
17 library subscriptions because we simply can't afford
18 it anymore. We just do not have the money.

19 And so, LLSCI has been extremely helpful and the
20 national support centers have been extremely helpful
21 in furnishing us with those materials.

22 In addition, LLSCI has been very helpful as a
23 resource center and, I guess, I'm a living example of

1 the trickle down theory. We frequently call LLSCI
2 and ask the names of persons in the state who have
3 had a similar problem in their program and who might
4 have some expertise in the problem case that we have.

5 We then found the in-house or in-state person
6 and received information. And I know, from talking
7 to them, that they received a lot of their training
8 and a lot of their materials from the national
9 support center.

10 We directly, also, have contacted some national
11 support centers for use in our area. They also
12 provide us with a lot of general information. They
13 have been particularly helpful in working out some
14 problems of interaction between the various programs,
15 particularly, I think one of the big successes was
16 the referral between programs in the state. So we
17 now have a uniform system of referral. They have
18 reduced the isolation that my program faces, because
19 of our sheer isolation.

20 We use the clearinghouse materials. We read
21 that. Our attorneys, staff persons in the office
22 utilize that. We actually read those materials and
23 utilize that and that makes it a very large

1 educational tool for us.

2 We have participated in training...our employees
3 have participated in training put on by both the
4 state organization and also by the national
5 organization and I would specifically want to mention
6 the issue of adding in an extra bureauracacy and what
7 effect that's going to have on my program.

8 If I have to negotiate with state support, with
9 national support...if I have to negotiate a
10 subcontract with those people, that's going to take
11 extra time. I already, as of the 1st of this month,
12 I have over 90 cases. I handle a large number of
13 cases. Any additional work that I do means that
14 fewer clients in my area get represented because it
15 takes up my time on this bureaucratic matter.

16 I'm already stretched to the limit, frankly,
17 with the demands that have already been made on my
18 time and it has already resulted in a reduction of
19 cases that I can actually handle and the types of
20 cases that I handle.

21 So, I would urge you not to add on an extra
22 level, because it's going to mean that in my service
23 area fewer clients are going to be represented and I

1 also fear that the old matters I've experiences with
2 LLSA would occur regularly on a national basis or on
3 a state basis where the concerns of maybe small rural
4 areas would not be addressed and we simply would not
5 have the buying power to obtain that type of
6 assistance that we're receiving at the present time.

7 CHAIRMAN UDDO: Thank you. I
8 stepped out of the room for a few minutes while you
9 were addressing the Committee, Catherine. I know the
10 substance of what you said, but did you indicate why
11 some programs resisted paying their commitments? I
12 mean, is there any reason why?

13 MRS. LeFLEUR: I wasn't on the
14 board. At that point I was a staff attorney with the
15 program, so I wasn't on the board. From reading the
16 materials, when I took over as Director, the
17 complaints basically were, you know, we're
18 paying...this was from the then Director of New
19 Orleans...you know, we're paying the lion's share of
20 this, so why should I have to go to Alexandria or why
21 should I have to send staff to Alexandria to be
22 trained? Why aren't we being trained here in the
23 city?

1 And then it was...from North Louisiana it was
2 well, we pay on time an NOLAC is always late. Why do
3 we have to send people to New Orleans? Or why isn't
4 the housing training basically on Section 8 housing,
5 you know, and just...you know, or one session on
6 rural housing issues when, you know, the other four
7 hours of the day or six hours of the day or whatever
8 it was, is on urban housing issues.

9 Some of it, I think, is probably territorial, as
10 I said, very jealous that they didn't...some programs
11 perceived that maybe New Orleans was trying to take
12 over the rest of the state and they didn't want that
13 to happen, which gets back to, I think, it was Mr.
14 Wallace's question, or maybe it was yours, Mr.
15 Valois, of the previous panel of, why don't you just
16 go to one statewide program?

17 Some of that is history and some of it may be
18 peculiar to Louisiana which, I think, I indicated to
19 Mr. Baker, we're feisty and we're very territorial in
20 Louisiana, which is very weird, I suppose, in a lot
21 of situations, but...

22 MR. VALOIS: I have two
23 suggestions. One, we can send Mr. Armstrong over to

1 do a seminar on interpersonal relations.

2 MRS. LeFLEUR: We pass.

3 MR. VALOIS: The second thing
4 is a serious matter, and that wasn't so unserious, is
5 that maybe your criticism or concerns for the future,
6 imply that we need some kind of regulations...Mr.
7 Wallace won't be happy to hear this..to work out
8 these problems.

9 MRS. LeFLEUR: Well, I don't
10 know. I know that in the current situation, the
11 domination by...or what has seemed like the
12 domination...of one program over the state support
13 fund or the control that the recipient program
14 exercises, people think that state support funds
15 ought to be controlled, if you will, by a statewide
16 board, which is why we're going for direct funding
17 and where everyone has input.

18 I have to say that we have been helped in
19 Louisiana with training through the grant to the
20 Gillis Long Center who has very graciously now, as I
21 indicated in 1981, we concentrated on training,
22 because you couldn't get training in poverty law
23 issues from any of the universities or from the State

1 Bar Association.

2 Well, the Gillis Long Poverty Law Center is
3 doing training and does provide aid free slots to
4 programs around the state on different issues.

5 However, even that, which would give our program a
6 chance to reassess and see what needs to be done.

7 For example, I'm working right now on a proposal
8 that would utilize the computers given to each of the
9 field programs by the corporation utilizing that to
10 build up the computerized state brief bank. Again,
11 there are peculiar issues in Louisiana law that you
12 are not going to find coming up around other states
13 such as use of FRUKS and how they affect the AFDC
14 grants and how they affect SSI grants and what the
15 fair market value of the life, you know, of the use
16 of FRUKS held by a widow and, I don't know.

17 All of these issues come up and they are very
18 peculiar. We are concentrating now more on both
19 cooperating with Gillis Long to provide the
20 training...and by the way, Gillis Long called on the
21 national law centers to provide trainers for some of
22 training events in poverty law issues...and going
23 further to provide very specialized training beyond

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 the general beginning training.

2 The other thing is, is that our cutoff for
3 holding a training event is 15 participants. If you
4 can get 15 participants, we'll hold the training
5 event. I know from talking to Pam at the Gillis Long
6 Center, the university's cutoff for holding a
7 training event is 30 to 50, depending on the money.

8 So, there is a time to meet the scale again.
9 There are 80 attorneys serving in legal services
10 staff around the state and private attorney, even
11 those that we are just beginning to develop statewide
12 pro bono or pro bono on a statewide basis in
13 different cities, they are not going to be as
14 amenable traveling away from their cities to receive
15 this training even with the 15 hour requirement
16 that's going to come up. Especially in poverty law
17 issues, which they may only use for one or two cases
18 a year. They regularly use security's law, obviously
19 they're going to try to do their 14 hours or 15 hours
20 of training in security issues.

21 So, we're also looking at that and perhaps
22 expanding and offering more services around the
23 state. So, obviously, you know, I still think with

1 Jamie that another bureaucratic level of having
2 again, to obtain nine subgrants, when it was very
3 hard to obtain one and then that program decided it's
4 too much trouble to have a subgrant, we're just going
5 to treat you as a branch office.

6 I just can see programs saying it's too much
7 trouble and then if you have to...from a national
8 perspective...if you have to provide 321 programs
9 with copies of your audit under the requirements
10 that, you know, you have to audit to make sure that
11 the programs are...the money is being spent
12 correctly. I mean, that's an added burden to them.
13 I mean, that's just a small added burden to the
14 national programs for administering a subgrant.

15 I can't see it as being economical or efficient.
16 I'm sorry.

17 MRS. CAMPBELL: Well, my
18 program has a commitment to training employees and a
19 good bit of that is necessarily dictated by the fact
20 that we must be generalists because we're such a
21 small program. And so we attempt to train our
22 employees as much as is possible.

23 Our attorneys participate in training events

1 National Anti-Hunger Coalition. And I want to make
2 it clear that things are not well with the support
3 center in this state.

4 We as clients are very unhappy because of the
5 takeover by the Southeast Legal Services which is not
6 supposed to be. My question is, at this point to
7 this committee, when you talk about questioning
8 cause, how could those things change right in our
9 eyes and nobody do anything about it?

10 Now, what I'm saying is, is that we started out
11 very well with the clients, directors and all working
12 together with the support center and then all of a
13 sudden we find that we have a one man army and his
14 Board, whom I've never met, and if he asks you to
15 come he'll tell you he probably won't change the
16 thing, but you come.

17 So, I wouldn't go out in that area and I won't
18 tell you what that area is, unless I was ready to,
19 you know, defend myself. But anyway, what I'm saying
20 is, is that I am for the support center. I really
21 wouldn't want to lose the money. Reverend Cain says
22 we can't get the changes deleted. But we did that
23 once with Capital Area Legal Services.

1 We had to work like hell to get that money back.
2 It was on a month to month basis. We had to do a
3 reorganization and everything. We finally made it.

4 So, what I'm saying here is, I would like to see
5 the status quo. You don't like it because you don't
6 understand it. What I would like to see this Board
7 push is that not only do clients need training, but
8 look, I'm the Chairman of Board of Capital Area Legal
9 Services and I have to deal with all of those lawyers
10 on that Board and those lawyers need to know about
11 the regulations of LSC and they don't know it. If
12 they know it, they won't do anything about it. It
13 makes it hard on any champ who has to write as many
14 procedures as I've written since I've been at Capital
15 Area and I've been out of school a long time. And
16 so, what I'm saying is that these are the kind of
17 things I wish the Board would look at.

18 On the monitoring, now, I really admire the man
19 for what he's saying. The monitors is not going by
20 their own guidelines. They are coming in doing other
21 things other than. So, that needs to take a look at.

22 Those are the issues that I think the Board
23 needs to be very concerned with. But changing the

1 clearinghouses and all of these things, you know what
2 happened to our region. I don't know what happened
3 to our region. I want to ask you what happened to
4 the region. You know we consolidated. Everybody
5 went for it.

6 CHAIRMAN UDDO: Regional
7 offices?

8 MRS. SMART: The regional
9 offices. We had nine, now we have four and we don't
10 hear from the four. You know, I don't know what
11 they're doing. So, tell me what they're doing. If
12 they don't consolidate this, we won't hear from this
13 if we have no program. So, what we're saying as
14 clients, and I'm representing also my State
15 Chairperson, Mrs. Coleman, who is not here, that we
16 would like to see the program go on.

17 It has helped us to develop and train other
18 clients in our locale. Capital Area Legal Services
19 has 12 parishes, which has a number of clients who
20 was not in Baton Rouge, who is in our line of
21 parishes.

22 Well, what we call ourselves now, the
23 Consolidated Client Counsel, is in order to let those

1 parishes know that they are included in Capital Area
2 Legal Services program.

3 But that's not going to work unless we get the
4 training and be able to hold those programs and the
5 kind of support and workshops in those areas to train
6 those clients how to help themselves and that's what
7 we're talking about.

8 If you want clients to be good and self-
9 sufficient, you've got to educate them. So, what I'm
10 saying is, the support centers are good. The
11 information I get from the clearinghouse, I'm on that
12 mailing list, is very good for us. We pass out the
13 information, we pass it on and it does a good job.

14 But, if you delete that, I'm afraid our program
15 won't be able to pick up the ante. But I'm not
16 saying leave this program where it is. I want you to
17 get that perfectly clear.

18 CHAIRMAN UDDO: I understand.

19 MRS. SMART: Read my lips.
20 They are saying it for you.

21 CHAIRMAN UDDO: You're not
22 endorsing the current state support system.

23 MRS. SMART: No. Status the

1 way we are.

2 MRS. LefLEUR: That's why you
3 could give us the direct grant, Mr. Bayly.

4 CHAIRMAN UDDO: It sounds
5 like, you know, it sounds like there's some local
6 problems that we need to deal with, but I appreciate
7 Mrs. Smart's comment. We did get a written
8 submission from Mr. Bell, I believe and his comments
9 are going to be incorporated into the ongoing process
10 here...

11 MRS. SMART: And you got one
12 from me and also one from Reverend Cain. I hope you
13 got one from Mrs. Coleman.

14 CHAIRMAN UDDO: Have we got
15 those letters?

16 MR. BAKER: I have Reverend
17 Cain's and I believe I have Mrs. Smart's.

18 MRS. SMART: I don't know if
19 Mrs. Coleman got hers in in time, but I think she got
20 it in.

21 MRS. CAMPBELL: If I might add
22 to that, I echo Mrs. Smart's opinion about the
23 present status of state support funding in the state

1 and I would like to see it direct funded. And my
2 feeling is that if what you're proposing goes into
3 effect, you're going to see what's happened here in
4 this state all over the U.S. because in essence, one
5 program, whoever has the most clients, is going to
6 totally dominate and control what the state support
7 unit does.

8 And so, for the benefit of all the poor people
9 throughout the various areas, I feel that what you're
10 proposing, which is give them all Louisiana's problem
11 and I echo the issue about wishing we would get
12 direct funding.

13 CHAIRMAN UDDO: I appreciate
14 all of your comments. We've got people who have to
15 catch planes, so I'm going to ask you all, please,
16 just to relinquish the microphones.

17 MRS. SMART: And one other
18 thing...

19 CHAIRMAN UDDO: You're not
20 going to relinquish the microphone?

21 MRS. SMART: I'll only give
22 this one thing.

23 CHAIRMAN UDDO: Okay.

1 MRS. SMART: One other thing.
2 And we are not saying that NOLAC would be the entity.
3 I gave you all one entity on the program but it's up
4 to you. I'm not going to tell you what to do.

5 CHAIRMAN UDDO: I understand.

6 MRS. SMART: I'm not going to
7 tell you what to do.

8 CHAIRMAN UDDO: Thank you,
9 Mrs. Smart. If the Clearinghouse people would come
10 to the table, we will try to move you along as
11 quickly as we can. Your comments, the briefer they
12 are, the quicker we get to questions.

13 MR. LEONARD: Thank you.
14 First of all, I would like to thank Professor Uddo
15 and Mr. Bayly for inviting us here. My name is
16 Michael Leonard. I'm the Director of the National
17 Clearinghouse in Chicago. With me on my left is
18 Linda Catalano, Director of Legal Assistance of North
19 Dakota and on my right is Phyllis Hollman, Director
20 of Litigation of Georgia Legal Services.

21 I would like to turn it over first to Mrs.
22 Hollman, since she has a plane to catch and in
23 introducing her, in 1985, the Clearinghouse Board,

1 not having been monitored by LSC for at least five
2 years, determined that it should conduct its own
3 independent evaluation of the Clearinghouse and my
4 performance. And the Board put together a panel and
5 Mrs. Hollman was the team...excuse me, the captain of
6 that monitoring team and I'll turn it to her now.

7 MRS. HOLLMAN: Thank you, very
8 much for your consideration. As Mike said, I am the
9 Director of Litigation of Georgia Legal Services. We
10 are a big program, particularly in comparison with
11 some of the programs you've heard from today. I've
12 got 13 years with Legal Services and have lots of
13 different perspectives on these issues.

14 Today I'm going to talk about, and I'm going to
15 make myself very brief, two of those perspectives.
16 One is as a member of the evaluation team that did
17 visit the clearinghouse a couple years ago and the
18 other is as a consumer of the clearinghouse services.
19 And I want to talk about those briefly first and by
20 consumer, I mean as a staff person of the legal
21 services program, obviously.

22 And I want to say unequivocally to you that as
23 poor and as desperate as we are for funding and by

1 we, I mean the legal services community, we do not
2 want you to reallocate these resources to us. We
3 like things the way they are.

4 In particular with respect to the clearinghouse.
5 The clearinghouse services, and in particular the
6 review are unique, invaluable tools to us as legal
7 services lawyers. The review and the documents that
8 the clearinghouse collects are very specialized
9 research tools. Nothing else in the field comes
10 close to this as a resource for us. It's a true
11 clearinghouse service, collecting documents,
12 distributing them to us as we need them.

13 Articles in the journal present strategy. They
14 are timely, they present updates on specialized areas
15 of the law that are available nowhere else. They
16 present analysis. I, in my job as Director of
17 Litigation, rely heavily on the analysis of all of
18 the changes in federal procedural issues, which, as
19 you know are...come day by day these days. In
20 particular as they relate to poverty law issues. For
21 instance, governmental sovereign immunity,
22 implication of private rights of action and so forth.

23 We appreciate the independent editorial policy

1 of the clearinghouse, we appreciate the efforts that
2 the clearinghouse does to bring multi-disciplinary
3 focuses on problems such as the homeless issues, the
4 farmer issues, housing issues and generally as you
5 know have occurred from the special issues of the
6 clearinghouse which you have seen.

7 Also, from my point of view as a Director of
8 Litigation, the clearinghouse, both the journal and
9 the document services are invaluable in my job as a
10 supervisor of other lawyers in helping them to learn
11 how to do research and helping them to learn to
12 think, to analyze and to develop cases where I don't
13 have the ability to work with every individual lawyer
14 on an individual basis.

15 Now, a few comments from my perspective as a
16 member of the Evaluation Team in 1985. We were asked
17 to come in by the Board of the Clearinghouse which
18 was concerned about the operation of the
19 clearinghouse and wanted to know whether changes
20 needed to be made.

21 We came in and spent three days, interviewed
22 almost all of the programmatic substantive staff. We
23 didn't talk with the secretaries and so forth. And

1 we wrote a report which is available. I don't know
2 if it's been sent to you all or not, but it's
3 certainly in the public domain.

4 We found that in comparison with earlier
5 evaluations and studies that had been done of the
6 clearinghouse that the operation had vastly improved
7 since 1980 in particular. That the clearinghouse
8 staff and board had made a conscious and constant
9 effort to improve its offerings to the field to
10 improve its core operations. And by that I mean the
11 journal and the document collection and distribution
12 operations. And were constantly concerned with
13 improving those services.

14 Indeed, if anything, we found that the staff was
15 probably stretching itself a little thin in an effort
16 to deliver more and more and more important and
17 valuable services to the field and we suggested some
18 ways that they might think about restructuring their
19 staff or adding to their staff.

20 We reviewed the new services that the
21 clearinghouse had developed such as the index of all
22 the articles and cases that had been published over
23 the 15 years of its existence. Computer assisted

1 legal research project, the special editions that the
2 clearinghouse had published and the publication of
3 training manuals.

4 On the whole, I think I can summarize my own
5 views of the clearinghouse review having used that
6 document over a period now of 12, 13 years. That it
7 is an invaluable communication tool for legal
8 services. It is invaluable in the delivery of high
9 quality legal services to poor clients and I don't
10 know what we would do without it. Thank you.

11 CHAIRMAN UDDO: Thank you,
12 Mrs. Hollman.

13 MR. LEONARD: If possible, if
14 you could direct any questions you have for Mrs.
15 Hollman so she could, kind of make her plane and then
16 we'll continue.

17 MRS. HOLLMAN: I could
18 probably wait another ten minutes.

19 MR. VALOIS: If we were all to
20 agree with you that it's invaluable and you say it is
21 invaluable, I've said publicly before, I think it's a
22 fine publication. I get it in my office as a
23 courtesy. I read it. I circulate it when I think

1 there's things of interest in it to other members of
2 the firm. It's stored in our library by our
3 librarian and so forth.

4 I think I'd be willing to pay for it if it was
5 all that invaluable to me. Aren't you willing to pay
6 for it if it's invaluable?

7 MRS. HOLLMAN: Well, the
8 difficulty in answering that question is that it's
9 not simply a matter of subscribing to a magazine. The
10 clearinghouse is more than that and its value is more
11 than that. It's the collection of the documents,
12 it's the communications among the field, it's the...

13 MR. VALOIS: I assume they
14 would build all that into a private organization, and
15 they are, to a large extent, then build that into a
16 fee. For a fee you'd get their compiling of
17 documents, their delivery of the magazine to you on a
18 regular basis and their answering your inquiries and
19 so forth.

20 MRS. HOLLMAN: Well, I haven't
21 seen any of the cost estimates on how that would work
22 out. I would wonder who would capitalize that
23 effort, to begin with, if it would be a stock company

1 or how you would capitalize that before you would
2 have subscriptions.

3 MR. VALOIS: I don't know. It
4 would be necessary to form it into a private
5 corporation. Yes, you'd be willing to pay for it
6 because it's that invaluable?

7 MRS. HOLLMAN: If it were
8 delivered precisely the way it's delivered now, but I
9 don't see any proposals that would suggest how that
10 could be done.

11 CHAIRMAN UDDO: Any other
12 questions of Mrs. Hollman?

13 Thank you, Mrs. Hollman.

14 MRS. HOLLMAN: Okay. I might
15 wait a few more minutes.

16 CHAIRMAN UDDO: You've got
17 time, I think.

18 MR. LEONARD: Last year at
19 just about this time, the clearinghouse Board
20 Chairman, Gregory Delair and I met with you in
21 Mississippi to respond to a proposal by the staff
22 that the clearinghouse be immediately defunded.

23 Mr. Delair in opening his remarks said that the

1 standards that the LSC Board should use in looking at
2 the clearinghouse question is that the clearinghouse
3 is doing a very good job for the legal services staff
4 and LSC, itself, but that if you could determine that
5 someone could do a better job and field programs and
6 clients would benefit from that, then that change
7 should be made.

8 The clearinghouse board and I adhere to that
9 view today. You know, that's the standard you should
10 use. Is there a better system and have you a basis
11 to determine that?

12 In Mississippi last year, we went through a
13 lengthy presentation on the value of the
14 clearinghouse. Mrs. Hollman has referred to some of
15 that. I'm not going to reiterate all of it. I'd be
16 happy to provide any of the materials from that or,
17 again, if you need them, but I want to make a few
18 points.

19 First, the clearinghouse provides three main
20 services. The Clearinghouse Review, our monthly
21 magazine, the brief banking order department
22 functions and third, computer assisted research plus
23 we have manuals and newsletters.

1 Second, by all measures, the clearinghouse is
2 doing an outstanding job for LSC and its programs.

3 In 1985 we had a comprehensive reader survey, 1,300
4 people responded. As far as accuracy, virtually all
5 evaluated the accuracy as good to excellent with, for
6 example, 95 percent evaluated case developments as
7 extremely accurate. The quality was similarly judged
8 to be outstanding.

9 Second, the University of Chicago National
10 Opinion Research Report in 1983 on national support
11 did not really cover the clearinghouse, but it came
12 up spontaneously enough by enough respondents that it
13 was added in and received high marks.

14 Third, you received numerous testimony today and
15 from people in El Paso in December of '85 and last
16 March, plus you have a number of letters that have
17 been written last year to the LSC Board members about
18 the clearinghouse.

19 And fourth, there is the independent evaluation
20 that Mrs. Hollman Chaired.

21 A third point that had been discussed by others
22 earlier, for example, Mr. Sable, is that the
23 clearinghouse is like a public good. It's a public

1 library, if you will, which functions best when the
2 people that receive it have complete access to its
3 materials and can check out what they need when they
4 need it. You might also analogize the support system
5 to the interstate highway system which is federally
6 funded.

7 Fourth, LSC does have experience in the area of
8 privatization of support. In 1979 or 1980, LSC
9 discontinued its contract with the Congress
10 Clearinghouse to publish the Poverty Law Reporter.
11 Shortly thereafter, the Congress Clearinghouse made
12 the business decision to cease publication of the
13 Poverty Law Reporter.

14 As you may know, CCH is a Fortune 500 company
15 and surely has the financial wherewithal to develop a
16 market in that if they thought there was a private
17 market for it.

18 Fifth, the proposal today has not considered the
19 needs of law school clinics or PAI attorneys. In
20 fact, the letter from Mr. Bayly was not received by
21 any of the law school clinics. However, they all
22 receive the Clearinghouse Review. They all order
23 documents from us and they all have access to all the

1 other support services and many of them use that.
2 And I think that their views need to be considered,
3 as well.

4 PAI attorneys receive the Review and they
5 receive many other support services and I think
6 privatization would affect negatively the services
7 your PAI attorneys provide when you expect them to do
8 it on a pro bono basis.

9 Fifth, as to what might happen, I think if the
10 privatization goes forward, from the Review's point
11 of view, we might shift our focus from concentrating
12 on poverty law to, perhaps, concentrating on a more
13 generalized topic and, as Mrs. Hollman said, they
14 need the service the way it's provided now and if we
15 change our focus to attract a larger readership from
16 different areas of the country, we might disserve the
17 legal services community and the clients that they
18 ultimately serve.

19 And sixth, finally, the support system that LSC
20 has now is basically one of master contracts. The
21 contract that LSC has with the clearinghouse requires
22 that we provide a copy of the Review to each and
23 every attorney and paralegal in the legal services

1 program and offer our order department service to
2 them without charge.

3 And by doing that we have achieved many
4 economies of scale which has been referred to today.
5 To change that, I think would affect the economy of
6 scale and cause the price to the programs and
7 ultimately to you, to rise.

8 I'll conclude my remarks now and let Miss
9 Catalano speak.

10 CHAIRMAN UDDO: Thank you, Mr.
11 Leonard.

12 MISS CATALANO: Thank you. My
13 name is Linda Catalano. I'm the Project Director for
14 Legal Assistance in North Dakota. I've been involved
15 in legal services for about 12 years and in the early
16 '80's I was on the Management Editorial Board of the
17 Clearinghouse Review for about a year.

18 And after the special monitoring that Mr.
19 Leonard referred to a few minutes ago was done in
20 1985, clearinghouse called together a group of people
21 in the field, project directors, staff, support
22 people, to provide input to him on many of the issues
23 that were raised in that monitoring visit and to seek

1 ways of improving the circulation of the
2 Clearinghouse Review outside to better reach the
3 people and hit more timely topics, the formats that
4 people find easiest to read and that would be most
5 useful to the people using the Clearinghouse Review.

6 I know from my program, and we are virtually a
7 statewide program in a very rural area, that if an
8 issue of the Clearinghouse does not come in, our
9 staff notices it right away and we hear about it.

10 I can't always say that about all the
11 publications we get and we use that as a way of
12 trimming our library budget, which we've done
13 severely in the past few years.

14 Right now, the Clearinghouse Review doesn't cost
15 anything, thank God, so we've got what we consider
16 the Bible of the generalists in poverty law with us
17 every month.

18 To get, particularly because I guess I would
19 endorse everything...I know I would endorse
20 everything that Phyllis has said to you about the
21 necessity, the importance and the excellent way in
22 which the Clearinghouse addresses the clearinghouse
23 function for legal services communities.

1 So, I don't want to take my time to go into that
2 again, except for a few anecdotes. But I want to
3 address the privatization question. I know
4 it's...Mr. Valois has asked some very good and some
5 very probing questions about that in the national
6 state support arena and I think it can even be more
7 probing and applicable when you basically have a
8 poverty law publication. There are lots of
9 organizations that sell periodicals and they make
10 money doing it.

11 MR. VALOIS: There also are
12 some...I mean, there are some law reviews that
13 attribute some time to those issues, maybe not all in
14 one volume.

15 MR. CATALAND: That's true.
16 There are. There are certain reviews that do
17 symposia on poverty law, think pieces, if you will,
18 and I'll be addressing that in just a few minutes.

19 With regard to using the subgrant process. If
20 the money were given to the legal services programs
21 to provide subgrants back to the clearinghouse for
22 services, I guess I'm very, very unclear on how that
23 process would take place and I know the Board doesn't

1 seem to have one idea of how that subgrant process
2 would take place. So, it's very hard for me to
3 comment and say it would be totally unworkable.

4 But I can tell you, based on the subcontracts
5 that we've had with the corporation, some of which we
6 would have supposed would be really cursorily applied
7 that have taken an average of four months for
8 approval, that I don't think this would...the
9 subgrant process would flow as smoothly as everyone
10 is expecting it to do.

11 First of all, there's going to have to be a rate
12 determined. The clearinghouse is going to have to
13 determine what kinds of rates it's going to be
14 charging. Is there going to be a membership rate and
15 for a member you'll get certain services for a
16 certain amount? Is there going to be a subscription
17 fee? How much is that going to be? Are there going
18 to be classes of subscription fees? What about the
19 computer assisted legal research which is being
20 provided at a very reduced rate now because it's an
21 organizational approach rather than an individual
22 approach and what pass through charges are those
23 going to be? Are they going to be able to remain at

1 the rate they are now or are they going to have to
2 increase?

3 All of these things are going to have to be
4 included in the contract and all of these things are
5 going to have to be reviewed by people in Washington.
6 People have called on very standard language
7 contracts that we've been bickering over for three or
8 four months. I can't see that the streamlined form
9 that was presented back in September is going to
10 answer these types of issues.

11 What about the amount of money? The amount of
12 money per program per attorney or however you're
13 going to figure it out that each program is going to
14 get back for these types of services.

15 Perhaps you can do a little extension on your
16 own and apply some of these things I'm saying to
17 state and national support, too, because I think they
18 are applicable.

19 Are we going to get a flat amount of money and
20 then say to the clearinghouse, we got \$500 from Legal
21 Services Corporation because that's what they think
22 they've been contributing on your behalf to the
23 clearinghouse for the...on an annual basis for all of

1 their services. And then we're going to turn around
2 and say to the clearinghouse, for \$500 we want seven
3 copies of the Clearinghouse Review, we don't have
4 many staff attorneys in our statewide program, five
5 copies of the...seven copies of the Clearinghouse
6 Review and we want a reduced rate CALR, computer
7 assisted legal research, and we want access to your
8 pleading and brief banks and copies of all of your
9 articles and just, you're getting our \$500 and that's
10 what the corporation says it costs and that's all
11 we're going to give you.

12 That's what's called an open ended contract. I
13 mean, you give them \$500 bucks and you ask them for
14 the world. I can tell you, in North Dakota that
15 approach has been taken with the public defender
16 services in the State of North Dakota and, as a
17 result, you find very, very few attorneys...only
18 those just starting out in practice who will make any
19 kind of bid for a public defender contract because
20 they have to bid, and you are very well familiar with
21 the bidding process, one fixed amount and do an
22 unlimited amount of work for it.

23 It's been extremely criticized in the justice

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 system in North Dakota. Before the private
2 involvement initiative came out, we were
3 asked...consulted the State Bar and they said, the
4 one thing you don't want to do with any of your
5 contracts is, you don't want an open ended contract.
6 You don't want to say, I'm going to give you \$500 and
7 you do everything you're doing for me now. Because
8 that's not the way the system works.

9 What's going to happen is the clearinghouse is
10 going to say, it's really going to cost me \$1,000
11 now, because I'm not sure I'm going to be getting 321
12 programs subscribing and 321 programs subscribing at
13 the level that they have been subscribing to before.

14 And because of that, they're going to have to
15 build in the factoring for the subscriptions they
16 don't expect to get and they're going to have to
17 build in factoring for some of the services and
18 publications uncertainty, where they have a fairly
19 certain amount right now.

20 In addition to just staff program utilizing the
21 clearinghouse, we have private attorneys and for our
22 private bar involvement attorneys, which are contract
23 attorneys. We can't afford them for all our pro bono

1 attorneys, we do pay a subscription fee. We'll have
2 to take a much larger amount of our money to cover
3 subscription fees for private attorneys, because
4 there is a charge to private attorneys right now for
5 the Clearinghouse Review, which will take a larger
6 amount of money out of our budget for direct delivery
7 of services.

8 The attorneys who have started receiving the
9 Clearinghouse Review, the private attorneys have
10 found them very useful. They've used them to know
11 that there are national back-up centers and they've
12 been calling them...one of the gentlemen this
13 morning, I think it was Mr. Freedman said that he had
14 gotten a call from North Dakota.

15 I know for a fact that one of our private
16 attorneys has used the National Senior Center Law
17 Center...Senior Citizens Law Center on an issue also,
18 because that person subscribed to the Clearinghouse
19 Review, saw some articles and then called the author
20 of the articles.

21 Private attorneys who are doing some public
22 benefits work, and in North Dakota they're a pretty
23 brave and they're a rare breed, find that this is

1 very valuable. It's going to increase our costs and
2 decrease the amount of money we have for direct
3 delivery if the clearinghouse is going to go private
4 and the rates are going to be raised, which I'm sure
5 they will.

6 It's going to have a chilling effect if we have
7 to subscribe and say, we only have this amount of
8 money and the clearinghouse will only do this for
9 this amount of money. We're going to have to tell
10 our staff, instead of encouraging them to use the
11 facilities of the clearinghouse, we're going to have
12 to tell them, now watch it. Only use it in critical
13 circumstances. Don't feel free to call it. Don't
14 feel free to represent your clients the way they need
15 to do.

16 And this is after you orient staff and say here,
17 this is the Clearinghouse Review, this is the
18 computer assisted legal research, they're really
19 fantastic people. They'll respond to you. They'll
20 give you connections you never believed you would
21 have sitting out in the middle of North Dakota, the
22 third strongest nuclear power in the world, and then
23 you turn right around and you say now, but boy, just

1 like everything else, we've got to ration it because
2 it's getting too expensive to be able to afford.

3 I know your analogy of deregulation. We've
4 deregulated the trucking industry. We've deregulated
5 the airline industry, but they're all industries that
6 can charge rates. They're all industries that have
7 paying customers.

8 In legal services we've only got as much money
9 as we're given. We don't have the capacity to go
10 outside and generate funds. Maybe some of the big
11 programs do, like LAS in Chicago and people in the
12 Legal Aid Society for New York, but I tell you, in
13 North Dakota and South Dakota and some areas of
14 Wisconsin and Missouri, New Orleans...excuse
15 me...Louisiana, all over the country, that just is
16 not the case. We can't go out and generate those
17 dollars.

18 We've been trying to raise outside funds. I
19 believe that was President Durant's big push as
20 President.

21 MR. VALOIS: Do you have IOLTA
22 in North Dakota?

23 MISS CATALANO: We're trying

1 like heck and we had months and months and months of
2 just getting the Bar to consider the idea. We had
3 strenuous negotiations with them this summer, just to
4 get them to say the highest priority for those IOLTA
5 funds is the delivery of legal services. They wanted
6 to put us on the same ground as a broad phrase called
7 the Administration of Justice and the Education of
8 the Public for the Justice System or something like
9 that.

10 And it was a very hard and almost got to be a
11 bitter fight. And one of the reasons, quite frankly,
12 that some of our strongest allies in the private bar
13 didn't want to put any kind of phraseology like that
14 in the regulations and in the proposed Supreme Court
15 rule, and he'll probably tell you this if you call
16 him, he's our ABA delegate, is that Legal Services
17 Corporation is going to turn around and say North
18 Dakota, you've got \$60,000 from IOLTA and that's
19 going to go to you so you don't need our federal
20 funds any more. We can cut \$60,000 out of...and I
21 haven't talked to him about legal services...

22 MR. VALDIS: We've been
23 accused of that as long as I've been on the Board.

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 We haven't done that yet...

2 MISS CATALANO No, no. I know
3 you haven't, but I've seen it, you know, in some
4 comments that have been discussed by the Board...

5 MR. VALOIS: I don't think
6 anybody on the Board has ever proposed we do it...

7 MISS CATALANO: No, it hasn't,
8 but this goes back to what Mr. Whitehurst was saying
9 about...

10 MR. VALOIS: I'm responding in
11 this area to your statement that...to the effect that
12 in North Dakota it was either us or nothing and
13 you've said you've had some difficulty raising the
14 money from private sources...

15 MR. LEONARD: Of course,
16 you're addressing a clearinghouse question.

17 MISS CATALANO: I only got off
18 on IOLTA because Mr. Valois asked me the question. I
19 will get right back to clearinghouse...

20 CHAIRMAN UDDO: Ignore him.

21 MISS CATALANO: No, I don't
22 think I'd better do that.

23 What will probably happen is that as the

1 price...as there is a price for subscriptions
2 instituted as there probably would be at the
3 clearinghouse, we'd have to cut down the number of
4 subscriptions because we wouldn't have the money to
5 pay for it.

6 The other thing is, if in order to become
7 marketable the clearinghouse has to broaden its range
8 of topics, it may not be as critical. It just may
9 not be a critical and because of that we wouldn't
10 order as many subscriptions as we otherwise would
11 have and we would be losing a very valuable tool at
12 the same time.

13 There are very few things in the legal services
14 community other than we feel as if we're really
15 helping humanity by representing clients and giving
16 them access to the justice system.

17 The Clearinghouse Review and the way it's being
18 distributed now and the access people have to it and
19 its services is universal throughout the legal
20 services community. You can be a small program, a
21 big program, specialist or generalist, but you've got
22 a subscription there. You've got a publication and a
23 service that you know is there. That it's going to

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 be there to help you with the core of your legal
2 services in delivering the best quality services
3 you can.

4 If you turn it into a private enterprise type of
5 an approach where you have to pay for dollars, we're
6 not going to have the dollars to pay for it. It
7 won't be there. It won't be that core any more. It
8 will lose the sense of continuity and equality that
9 is really important in delivering services.

10 People feel disenfranchised. It's almost an
11 ownership of the Clearinghouse Review now. I don't
12 know if you're aware of it, but staff people critique
13 articles, they write articles, they
14 critique...there's a reader's survey that is done.
15 They help solicit articles. It's national support,
16 state support, it can be secretaries, it can be
17 management, it can be trainers. That's all because
18 it's their publication. It comes to them by virtue
19 of the fact that they're legal services people.

20 You take that away and make it like another
21 subscription, and it shouldn't be this way, but
22 people aren't going to feel the same ownership that
23 they do now.

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 If their project director makes the decision I
2 really need that extra \$500 or whatever it is in-
3 house, those people aren't going to receive that.
4 They're going to lose that kind of participation.
5 You know what they're going to lose? They're going
6 to lose the access to the general knowledge of what's
7 going on in the poverty law world and what the key
8 issues are and where the contact people can get them
9 without having to make calls to the back-up centers,
10 if they're there all over the country.

11 CHAIRMAN UDDO: I'm going to
12 have to ask you to summarize a bit, Miss Catalano.

13 MISS CATALANO: Okay. I don't
14 know really what privatization is getting at, other
15 than to take the system right now and put it in the
16 private context. I mean, I don't see any dollar
17 savings, because what you're doing is taking the same
18 amount of money and taking it from direct grants to
19 the clearinghouse to the national support centers and
20 whatever mechanism is used in the state support
21 centers, putting it in the programs so it will go
22 back out to those other entities again.

23 So, I don't see any dollar savings that you're

1 talking about. And I thought what this Board wanted
2 was the most bang for the buck, which is doing things
3 effectively, efficiently in a cost effective way and
4 make the most mileage of your services.

5 If we take the same money, put it back into the
6 system, what's going to happen is the national and
7 state support centers and the clearinghouse are going
8 to have to start charging, they're going to have to
9 start operating on the open market, but it's not
10 going to be the same. It's not analogous to the
11 trucking system where there's competition and it's
12 not analogous to the airlines situation where there
13 is a trucking system.

14 They are really the only game in town for us.
15 You know, there isn't other Women in Family Law
16 Center. There isn't any other Clearinghouse Review.

17 MR. VALOIS: Sounds like sort
18 of a monopoly on those sort of...

19 MISS CATALANO: You can say
20 that and you can say, well great, there should be
21 more competition and twist what I'm saying around,
22 but they do it and they do it really well and if you
23 were to take the money and make three centers for

1 One, I think Mrs. Bernstein said that we should
2 use more technology. Technology costs money. Even
3 if we were to have access to Lexus and Westlaw, we
4 wouldn't get what the clearinghouse has, which is a
5 fantastic rate because they service so many people,
6 they're a large organization. Individual programs
7 wouldn't have that. As you all know, laws are
8 becoming more and more complex, more and more time
9 consuming to do that research.

10 In the private attorney context, our private
11 attorneys who are pro bono at a very reduced rate,
12 don't want to take the time. They really want to
13 avail themselves of the Clearinghouse Review, the
14 computer assisted legal research and the back-up
15 centers. That's very important to them. They're not
16 going to take the time to use the Social Security
17 Reporter or the Medicare, Medicaid Reporter, which
18 even sometimes our staff can't handle.

19 So, it's more complex and it really isn't
20 economically feasible on a one-to-one basis. I know
21 this is not nice to do and I criticize other people,
22 but we are one of 18 or 20 programs that haven't seen
23 the first piece of our computer equipment from LSC

1 yet. We've been told to call back every week since
2 the 1st of January, which we have done devotedly, but
3 we haven't...we've got the screwdrivers. We've got
4 the manuals and I know, somewhere along the line
5 we're going to see the computer.

6 Secondly, the North Dakota law question, I think
7 that you asked, Mr. Valois, there really are so many
8 areas of law in North Dakota that haven't been
9 litigated within and without the poverty law context,
10 so in just researching state law, particularly in
11 areas that involves poverty law, there is virtually
12 no precedent. We run into that all the time.

13 That's one of the reasons why we use the
14 Clearinghouse Review and we use the back-up centers
15 and why we tell our private attorneys to do that,
16 too, because we can take their knowledge of what's
17 going on in other states and states that are similar
18 to North Dakota and plan...I mean, they know. We
19 call the Consumer Law Center and they say, fuel
20 assistance programs? North Dakota is, you know, one
21 of the top three in the country. You've got a good
22 deal there. Work with them and continue to work with
23 them. On AFDC, you've got a long way to go, these

1 are the issues.

2 Saves us a lot of time and energy, but the law
3 isn't there in North Dakota, so that's why we use the
4 back-up centers to find out, you know, where things
5 are analogous, to save us research time.

6 So, I just wanted to respond to those two
7 things, very quickly, even though it's not directly
8 on the clearinghouse.

9 CHAIRMAN UDDO: Thank you,
10 Miss Catalano.

11 MR. VALOIS: Mr. Leonard, are
12 you presently, with respect to your computer assisted
13 research, I mean, what do you use in-house? Do you
14 have Westlaw and Lexus?

15 MR. LEONARD We have access to
16 both and then we have our own computer system as a
17 large portion of what's in this private LSC private
18 library stored on it.

19 MR. VALOIS: And when programs
20 call in, do you charge them at a fixed rate or an
21 hourly rate or how do you charge them?

22 MR. LEONARD: We charge
23 programs for the Lexus and the Westlaw time and we

1 charge them a standard hourly rate that's based on
2 the rate that eventually is passed on to us from LSC
3 and, as Miss Catalano said, it's at a bulk rate
4 through Lexus that comes through the federal
5 government.

6 MR. VALOIS: It's passed on
7 from us to you?

8 MR. LEONARD: Right. The
9 Lexus bill goes directly to LSC.

10 MR. VALOIS: I see.

11 MR. LEONARD: And the
12 bookkeeping staff figures some things out and then
13 sends it on to the individual programs.

14 MR. VALOIS: And the other
15 part you determine yourselves?

16 MR. LEONARD: Well, the in-
17 house computer services, we will search our own brief
18 bank without charge to programs.

19 MR. VALOIS: But you do charge
20 other people?

21 MR. LEONARD: We charge
22 people...we charge non-LSC people for the purchases
23 of the magazine and the purchases of pleadings and so

1 on.

2 MR. VALDIS: But not for
3 computer research?

4 MR. LEONARD: We don't really
5 provide that to non-LSC people. It's not clear to me
6 if that's allowable under the Lexus LSC bulk rate.
7 It may be and so we probably would do that, but I'm
8 not sure.

9 CHAIRMAN UDDO: Mr. Leonard,
10 let me just ask you one question.

11 What would you think if the Board appropriated
12 \$7 or \$8 million dollars for clearinghouse and the
13 clearinghouse became the national support center and
14 took all the requests for support services and the
15 clearinghouse made the determination as to how they
16 would develop those services? Now that's got to at
17 least interest you a little bit, \$7 or \$8 million
18 dollars.

19 MR. LEONARD: I think that
20 that question had been raised back around 1982,
21 probably when Mr. Dumas and Mr. McKee were on the
22 Board and one of them said, let's get rid of all the
23 national and state support centers, but keep the

1 clearinghouse. The clearinghouse can be sent all of
2 the papers, for example, the subregulatory material
3 at the Welfare Center that Mr. Freedman spoke of that
4 we don't have and, frankly, we don't have the staff
5 or expertise to know really what's in it.

6 If you were to give us the \$7 or \$8 million
7 dollars that goes to national support, we would have
8 to develop all of that staff and expertise. I'd have
9 to go to New York and try and persuade Mr. Freedman
10 and his staff to move to Chicago or find other people
11 and get them to move to Chicago or recruit the local
12 legal staff that are already in Chicago and convince
13 them that working for us is a promotion and that they
14 should avoid direct delivery of service to clients.

15 Basically, we'd have to replicate the services
16 that are already there.

17 CHAIRMAN UDDO: You could open
18 it up to anyone who wanted to compete with the
19 supplying of the services, couldn't you?

20 MR. LEONARD: I'm sorry?

21 CHAIRMAN UDDO: Anyone who was
22 willing to develop the expertise or to supply the
23 services could compete to do that. I mean, you'd

1 have a certain amount of money, instead of the
2 programs buying the services, the clearinghouse would
3 buy the services, be they from established support
4 centers or from private industry or law schools or
5 anyone who wanted to set up a service.

6 MR. LEONARD: Do you mean
7 that if one of the attorneys in North Dakota has a
8 welfare problem they would call me and I would
9 contact someone to provide welfare support and
10 contract with them? Is that what you mean?

11 CHAIRMAN UDDO: I'm saying
12 that when you got requests for certain kinds of
13 support services, it would be up to the clearinghouse
14 to decide how to deliver those services, whether to
15 contact Mr. Sable in Boston who would contract with
16 you to supply him through clearinghouse or whether
17 you put it out for bid for private legal research
18 groups that wanted to bid on supplying consumer
19 research services or whatever.

20 MR. LEONARD: Well, I think
21 that's establishing a bureaucratic roadblock. The
22 people would have to call us and then we would figure
23 out who to pass it on to. It would also require us

1 to develop a lot of substantive legal expertise and
2 to make sure that we're making the right referral.
3 We make general referrals now. We'll have clients,
4 seemingly poor clients write us for materials and for
5 legal advice and we'll refer them to the local legal
6 service program, to the local Bar Association and if
7 it seems relevant, a national or state support
8 center.

9 But we do not try and provide legal advice.

10 CHAIRMAN UDDO: Thank you and
11 I appreciate your taking the time to give us your
12 thoughts and I think that leaves with Mr. Mark. You
13 get the last word.

14 Yes, ma'am. Yes? You wanted to testify? Well,
15 why don't you let Mr. Mark go because he's on the
16 schedule. I don't think...were you on the schedule?

17 MRS. WILLIAMS: No.

18 CHAIRMAN UDDO: Oh, okay.

19 Right after Mr. Mark.

20 MR. MARK: I'd just like
21 to say that when I first started with legal services
22 in a rural area, I became aware that there were
23 certain counties where the judges would, no matter

1 how you got on the docket, would call the cases for
2 legal services last. And I used to be very effected
3 by that until I realized that on certain instances
4 the reason the judge called the case for legal
5 services last is because he wanted to rule the way I
6 asked him to, but he didn't want the private bar
7 there all watching him do it.

8 So I became very mellow to the subject of being
9 last because I liked to win.

10 MR. VALOIS: So, maybe you'll
11 win today, too.

12 MR. MARK: I don't know. I'd
13 like to change the focus here today. First of all
14 I'd like to thank you all for having me. I'd like to
15 introduce myself. My name is Robert Mark. I'm
16 primarily a country lawyer. I am also, since 1984,
17 the Executive Director of Legal Services in Northeast
18 Missouri, a \$221,000 grantee, serving over 25,000
19 eligible clients in 14 rural Northeastern Missouri
20 counties.

21 At the present, we are providing services to a
22 region of this nation, like our host state Louisiana,
23 which is most crippled by the overseas flight of jobs

1 and capital, as well as the sagging and disaster of
2 corn economy. To a family in Northeast Missouri, a
3 few hundred dollars a year only separates the
4 eligible client population from the general
5 population.

6 Our clients are served primarily from our
7 principal offices in Hannibal, Missouri, a farm
8 community which is probably most famous to you as the
9 boyhood home of Mark Twain.

10 To make my point this morning, it is important
11 to discuss a little bit of the history of legal
12 services in Northeast Missouri. Our firm was
13 originally funded in 1980 as primarily a staff
14 attorney provider. We opened our doors to clients in
15 May of 1981. We were one of the last field programs
16 funded in the United States by the Legal Service
17 Corporation.

18 In laying our plans for delivery of services,
19 great care was taken to honor the public trust that
20 the corporation and the public had placed on us. We
21 rented our office space from the Federal Office
22 Building in order to fully utilize the federal law
23 library maintained by the U.S. District Court which

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 sits in Hannibal twice a year.

2 We purchased used office furniture and basic, by
3 no means extravagant, office equipment. Where
4 possible, to show our good faith and interest in the
5 community, we purchased our goods and supplies from
6 businesses operating within our 14 county service
7 area.

8 However, as a result of our frugality and our
9 long range planning, in 1982 we accumulated a surplus
10 of over \$80,000 in legal services funds. With this
11 surplus we developed a five year plan to expend it.
12 A plan that included the implementation of adjudicare
13 components. It was our feeling that our clients, in
14 certain types of cases were more economically served
15 through the utilization of adjudicare. We also saw
16 adjudicare as a means by which to educate our small
17 and rurally isolated private bar to the legal needs
18 of the poor.

19 Our adjudicare component was developed after
20 months of in-house study. Very little outside
21 support was either in existence or made available for
22 an integrated delivery system.

23 Shortly thereafter, the corporation saw fit to

1 mandate private attorney involvement and also to
2 restrict the carryover of surplus LSD funds. As a
3 result, legal services in Northeast Missouri was
4 required to reduce our surplus to below 10 percent of
5 our annualized budget.

6 With corporate approval we implemented a
7 stepdown program which included the purchase of
8 expensive word processor equipment and the
9 accelerated referral of cases through our adjudicare
10 component. However, effectualization of this plan
11 caused our agency considerable problems. We had no
12 data or support to guide us when we referred
13 adjudicare cases, but the very short history of our
14 own adjudicare experiences.

15 In allocating cases, we used our average cost
16 per case per date to estimate how many cases we had
17 to open in order to spend down our surplus.
18 Unfortunately the estimated expense was grossly in
19 error. As a result our annual audit revealed that
20 the program had gone from an \$80,000 surplus to a
21 \$54,000 LSC deficit from fiscal 1982 through fiscal
22 1983.

23 I was appointed interim Executive Director in

1 March of 1983, just about the time that someone from
2 the corporation realized we were in deficit and
3 called me, an employee who had never in the past been
4 involved in fiscal considerations, nor had I had any
5 training in that area, to fix the problem as soon as
6 possible.

7 After two very painful years of total austerity,
8 salary give-backs by staff attorneys and layoffs, our
9 program now enjoys a very modest LSC and non-LSC
10 funding surplus.

11 My purpose this morning...it's not this morning,
12 as you can see and I didn't think we'd be here this
13 long...my purpose this afternoon is not to second
14 guess the wisdom of either the regulatory
15 impositions...of either of these regulatory
16 impositions, but to advise this Committee and the
17 Board of the devastating effect that rapid and
18 unsupported policy changes have upon smaller
19 grantees.

20 Please remember that before you is not just the
21 Executive Director of Legal Services of Northeast
22 Missouri. You have also before you the Chief Fiscal
23 Officer, the Fund Raising Officer, General Counsel,

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 Training Coordinator, Litigation Director, PAI
2 Coordinator, Chief Personnel Officer, Managing
3 Attorney, Public Relations and Community Education
4 Director of Legal Services of Northeast Missouri.

5 These functions are all performed in addition to
6 that function for which I was primarily hired, that
7 of being a simple country lawyer providing quality
8 legal representation to over 25,000 low income
9 individuals in Northeast Missouri.

10 As a committee of one, we, the Committee, urge
11 this Committee to consider patience, caution and most
12 importantly, planning in effectuating any policy
13 change, in this instance, the changing of the
14 structure, of state, national and clearinghouse
15 services.

16 Speaking as a small program director, and I
17 think my experience here this morning, underpins my
18 concern as a small program director in that an ad hoc
19 committee of large program directors determined who
20 was going to speak when, this morning without calling
21 me.

22 It is my feeling that the proposal would
23 virtually eliminate the availability of the many

1 dozens of experts in substantive areas of the law
2 that the various national support centers provide.

3 Almost daily we make available to our staff, our
4 adjudicare and our pro bono counsel clearinghouse
5 articles, practice manuals and case assessments and
6 developments. I do not believe that the cost to me
7 of all these collective services would be dollar for
8 dollar equal to my increased funding under this
9 proposal.

10 The basis of this belief is founded in my belief
11 that large urban programs would use additional
12 funding to develop or subsidize existing in-house
13 support services. Because the bulk of the funds
14 would not be subgranted, national support centers
15 would have to raise their price in order to make
16 services available to me.

17 By way of an example, in 1986 our program
18 requested a training event in consumer law from a
19 sister agency, a field program. The sister agency
20 was a large urban project. We were required to pay a
21 daily rate for the trainer, plus his expenses. The
22 cost to us was over \$220 per day for two days of
23 services.

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 Please compare this two-day event expense with
2 the multitude of practice volumes, clearinghouse
3 articles, NCLC newsletters and individual case
4 assessments provided by the National Consumer Law
5 Center. In addition, National Consumer Law Center
6 attorneys attempted training at the NLADA new lawyer
7 training and annual meeting which members of my
8 program attended.

9 If NCLC charged us a sum even close to the fees
10 charged by our sister field program, the national
11 support for consumer services alone would far exceed
12 our present annual budget for training and travel in
13 1987. Now please multiply the cost to me of this one
14 service by 17, representing the 17 national support
15 centers.

16 Another example. In 1983 and 1984 the
17 corporation with little or no direction granted
18 almost \$4,000 in unsolicited special grant funds for
19 client board training. Though our staff had numerous
20 conversations to discuss the use of these funds, the
21 truth was that we could not effectively cut time out
22 of our case loads to plan and effectuate a training
23 event.

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 In 1985 I made a commitment to utilize these
2 funds in 1986. I guess I should have sent the money
3 back, but I made the mistake of believing that since
4 you all sent it to me for the purpose of client board
5 training, you must have wanted me to train my client
6 board members.

7 I solved my problem by contacting and requesting
8 assistance from the Midwest Training and Resource
9 Center. The Center planned, prepared materials,
10 solicited the trainer and generally designed a
11 seminar which we not only made available to our
12 client board members, but open to other grantees. We
13 hosted board members from as far away as Nashville,
14 Tennessee and Omaha, Nebraska.

15 While staff was wholly employed in this event
16 for the week of the training, the hours of time and
17 planning and preparation were performed by the
18 Center. As such, no great amount of disruption
19 occurred in our case load. This type of support
20 offers my management committee the flexibility to be
21 a good trainer while attending to my case load.

22 Finally, please consider that I have a staff
23 that voluntarily accepted pay cuts in order to

1 balance our budget. While avoiding the layoff of a
2 brother attorney was considered when we elected to
3 have payback. The primary consideration in the
4 salary give-back was to provide continuity of
5 services to our clients.

6 Since balancing our budget, raises have been
7 few, small and irregular. If you placed at my
8 disposal an additional \$10,000 or \$12,000 how do I
9 justify not granting the money for support to these
10 employees as raises or even possibly the subsidy of
11 badly needed equipment which we haven't had the
12 funding to either replace or acquire in the first
13 place.

14 I'm not deluded into believing that there is no
15 room for improvement in support services and in state
16 support, remember that I'm from Missouri. Show me
17 state support even exists before you tell me to fix
18 it.

19 I would like to see more funding for
20 clearinghouse to not only continue to do what they
21 do, but possibly to develop state support services
22 for the seven states such as Missouri who don't have
23 any state support. I think they've developed brief

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 banks and state by state substantive articles and
2 review materials.

3 In addition, I, like perhaps several members of
4 this Committee, can't see subsidizing several
5 separate management entities for national support
6 centers. It would seem to me that some combination
7 or sharing of management might serve to better
8 utilize the limited funding that we all have
9 available to us.

10 I might add that the gentleman, Mr. Wallace, has
11 left, but I am one of the radical few in Missouri who
12 has advocated the elimination of seven separate legal
13 services field providers and replacing it with a
14 statewide proposal.

15 In way of analogy though, I'd like to say that
16 if I were to make that proposal to the six other
17 directors in my state I suspect I would have the same
18 reaction that Mr. Icon got from U.S. Air.

19 The fact of the matter is, institutions change
20 very slowly. It might seem self-defeating that I
21 would advocate elimination of the artificial
22 guidelines that create my program, but I would
23 challenge each of you to manage the program that was

1 left after every other field program carved out their
2 counties and their place in the world and left 14
3 Northeast Missouri counties in this nation to be
4 served by one agency.

5 That's what I'm doing. I've got all the
6 leftovers in this country after everybody else was
7 funded.

8 Finally, I would prefer that the corporation
9 clean up its own house. And, inefficient as my
10 comments concerning management of national support
11 is, it is ahead by leaps and bounds of the
12 corporation because of the rapid staff turnover and
13 the rather fickle change in policy and direction on
14 the part of this Board.

15 The support provided by the corporation is
16 virtually nonexistent. By way of graphic example, I
17 have in my hand the letter I received with my refund
18 toward my airline passage to attend a seminar
19 designed by the corporation to train me in the new
20 CSR procedures and the computer that you all were
21 going to buy me.

22 Well, we're a small program. I point out by way
23 of example, three-tenths of one percent of my

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 annualized grant was expended for me to come here
2 this morning...this afternoon, all day and all
3 weekend. That's because I have to fly economy. And
4 to fly economy that means I have to be away from my
5 family over a Saturday night and because we don't
6 have a lot of money, I stay in a fleabag hotel where
7 they wouldn't even turn on the air conditioning for
8 me last night.

9 The point I'm trying to make is that we have to
10 plan in advance to attend any kind of training and we
11 have to have the money and I will assure you all that
12 every penny that's spent by Northeast Missouri Legal
13 Services is in my head and I'm aware of where it is
14 and where it's going and while \$31.95 may not seem
15 like a lot of money to everybody here today, that's
16 what I had to eat and get nothing for when those
17 training sessions were cancelled and I had to pay a
18 penalty on my airline ticket.

19 I would have been terribly offended if you
20 hadn't let me address you today, because three-tenths
21 of one percent of my annualized budget would have
22 been spent for nothing.

23 Finally, I'd like to make one comment and I

1 think this is reinforced by what I've witnessed here
2 today. I have never been to one of these before and
3 I assure you I'll never be back.

4 The corporation, the support centers and the
5 field programs have to end the animosity which may be
6 caused by ideological differences, accumulated
7 animosity over the years of trying to get along in
8 order that we might better serve our clients.

9 We in the field don't care, and television has
10 played an important part in rural areas, because I
11 can use your big city terms. We in the field do not
12 care about belt line issues. Ideology has nothing to
13 do with what we're doing.

14 We daily strive to provide excellent legal
15 assistance to our clients. We do so in a judicious
16 and economical manner. By our perception legal
17 services has undergone an evolutionary process which,
18 while sometimes painful has resulted in a unique and
19 successful collaboration of government, private
20 agencies and private lawyers.

21 In our mind, despite the difficulties, the
22 provision of legal services represents the best of
23 government largess. Not by your efforts in the

1 corporation or through the efforts of the support
2 centers, but by and through out efforts out in the
3 country. We simple country lawyers and city lawyers,
4 caring about the needs of our clients.

5 I thank you for allowing me to address the
6 Committee today.

7 CHAIRMAN UDDO: Thank you.
8 Mr. Mark, it would have been a great loss if we
9 hadn't let you address us today. Your comments were
10 very well taken and I hope you do come back to some
11 of these meetings, because I think you're very
12 inciteful and very wise and we could probably stand
13 to hear from you and people with your experiences
14 more often.

15 MR. MARK: Thank you.

16 CHAIRMAN UDDO: Do you have
17 any questions, Bob?

18 Why hasn't Missouri had state support?

19 MR. MARK: I have no idea.

20 CHAIRMAN UDDO: Anyone know
21 why...

22 MR. MARK: I suspect we were
23 one of the last to carve out our field program and by

1 that time there just wasn't state support money to be
2 had. Rick...sitting behind me probably knows more
3 about it than I do.

4 MR. VALDIS: Since you don't
5 have a state support unit, what do you do when
6 you...you heard these folks today talk about what
7 they perceive to be their need. What do you do?

8 MR. MARK: Well, I've heard a
9 lot of concepts here today in discussing state
10 support which I've never heard before.

11 As I pointed out for training, I purchased it
12 from a sister program for \$220 a day.

13 MR. VALDIS: How about if you
14 have what you think is a peculiar or new or discreet
15 legal problem that somebody else in your state may or
16 may not have experienced and you don't have a state
17 support unit to turn to to ask about that. What do
18 you do?

19 MR. MARK: If the national
20 support center can't address it for us and help us
21 with it, we tell the client, we can't help you.

22 MR. VALDIS: Do you have some
23 law schools in Missouri?

1 MR. MARK: Yes. The closest
2 is 90 miles away. It's very difficult to utilize
3 those services without adding considerable expense.

4 MR. VALOIS: What kind of
5 library facilities are available to you?

6 MR. MARK: Right now, as I
7 said, the office space is in the Federal Courthouse
8 and they have a pretty decent federal library. Our
9 in-house library is mainly composed of national
10 support center publications, BNA. We used to buy a
11 lot of CCH, but frankly it just got too expensive for
12 us. We have our own set of Missouri Statutes...
13 annotated set of Missouri Statutes. It's very
14 probably the smallest field program library in the
15 country, but as I said, right upstairs and made
16 available to us, is a complete federal library.
17 Across the street in the State Courthouse, there is a
18 complete set of West Regional Reporters, so...

19 In terms of finding the law in those sources, we
20 are pretty lucky. If I had to find legislative
21 history, I would be lost without national support.

22 I'd just also like to say in listening to what
23 was going on here today, I think this Committee

COUNTY COURT REPORTERS, INC.

Registered Professional Reporters
Certified Video Technicians

1 really can understand why the free market wouldn't
2 dictate what services are necessary from national
3 support. I think the best way to analyze this is
4 just to look at what is an average of about \$8.50 per
5 poor person across the country. If you just sent out
6 a voucher to every poor person for \$8.50 and said, go
7 for it, get all the legal services you need, none of
8 those vouchers would be used because there's no such
9 thing as \$8.50 worth of legal advice. Thank you.

10 MR. VALOIS: Thank you, Mr.
11 Mark.

12 CHAIRMAN UDDO: All right. The
13 hotel is throwing us out, so Mrs. Williams, can you
14 confine your remarks to two or three minutes?

15 MRS. WILLIAMS: Yes.

16 CHAIRMAN UDDO: Okay. Would
17 you do that very quickly, because the hotel has asked
18 us to vacate the room.

19 MRS. WILLIAMS: My name is
20 Rosemarie Ventris Williams and contrary to some of
21 the things I've heard about the complaints about, I
22 think there are 11 of you on the Board, I can't
23 expect 11 people to work miracles when we have

1 thousands of people out here and we have problems.

2 All I'd like to ask you is, please do not
3 eliminate the state support centers nor the field
4 services, because we cannot do without them. Without
5 the state support centers, the prime counsel to legal
6 services clients would not have the training that
7 they have as a result of their help and their
8 support.

9 I'd also like to say that I, from the things
10 that Mrs. Smart said about the state support centers,
11 the problems that we have and all this other stuff,
12 but I'm going to ask you please not to defund the
13 state support centers because we need them. And not
14 only in Louisiana, but all over the United States.

15 It's impossible to...in 1982, this was tried and
16 it didn't work and if we needed state support centers
17 in 1982, we need them even more now, because we have
18 far more problems than we had then.

19 Thank you, very much.

20 CHAIRMAN UDDO: Thank you,
21 ma'am. And thank you all for your time, patience and
22 participation.

23 (WHEREUPON, the proceedings were concluded at
5:30 p.m.)

C A P T I O N

1
2 The foregoing Proceedings came on in the matter,
3 on the date, and at the time and place set out on the
4 title page hereof.

5 It was requested that the Proceedings be taken
6 by the reporter and that same be reduced to
7 typewritten form.
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

C E R T I F I C A T E

STATE OF VIRGINIA:

AT LARGE:

I, Sandra A. Moser, Notary Public for the State of Virginia At Large, do hereby certify that the foregoing was reported by stenographic and mechanical means, which matter was held on the date and at the time and place set out on the title page hereof, and that the foregoing constitutes a true and accurate transcript of same.

I further certify that I am not related to any of the parties, nor am I an employee of or related to any of the attorneys representing the parties, and I have no financial interest in the outcome of this matter.

GIVEN under my hand and seal this 17th day of March, 1987.

My Commission Expires:

December 3, 1989

Sandra A. Moser
Notary Public

