

LEGAL SERVICES CORPORATION
BOARD OF DIRECTORS MEETING

May 18, 1992

10:35 a.m.

The Marriott Suites Alexandria
801 North St. Asaph Street
THE CONFERENCE CENTER
ALEXANDRIA, VIRGINIA 22314

Board Members Present:

George Wittgraf, Chairman
Howard H. Dana, Jr.
J. Blakeley Hall
William L. Kirk, Jr.
Jo Betts Love
Guy Victor Molinari
Penny Pullen
Norman Shumway
Basile Uddo
Jeanine Wolbeck

Staff Present:

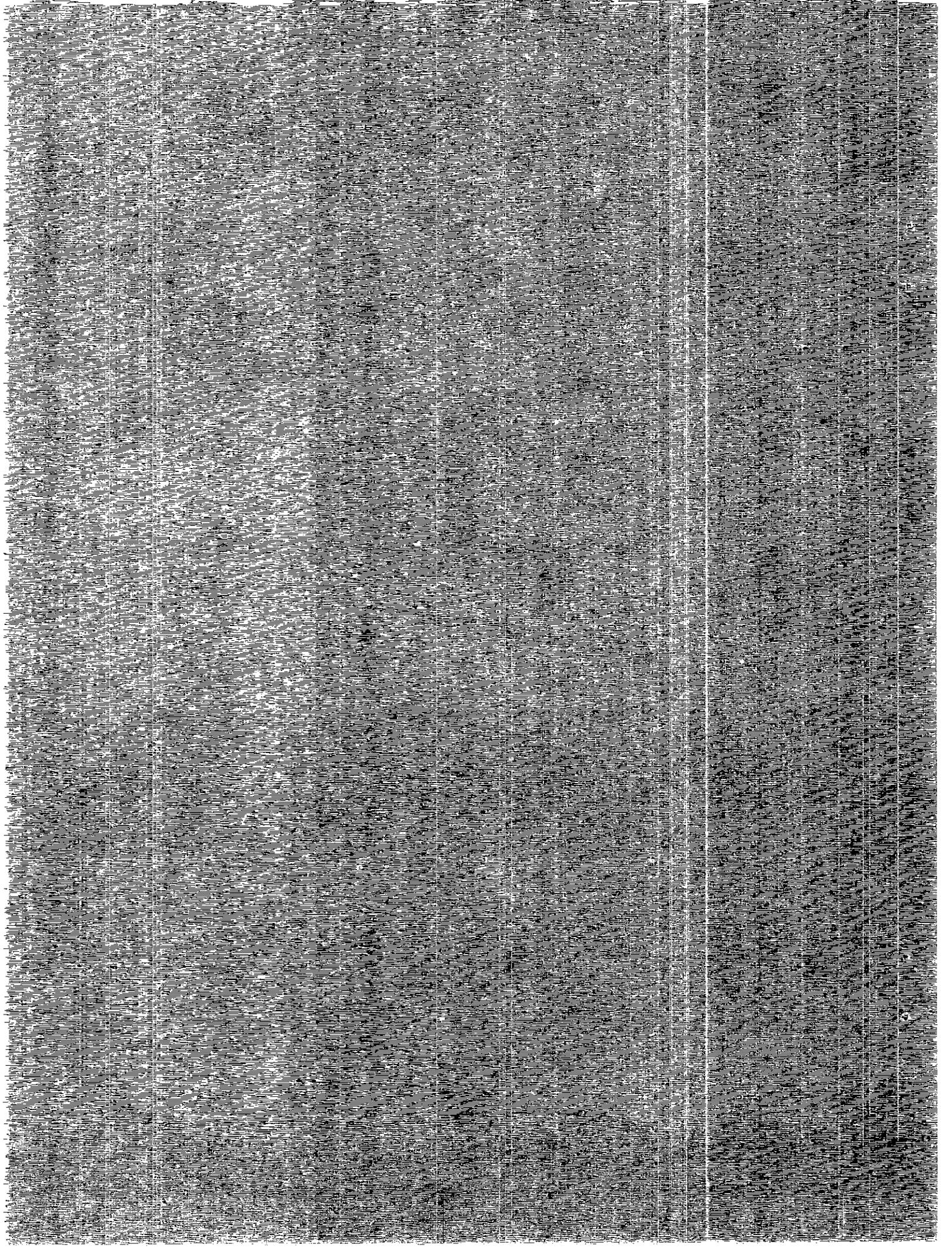
John P. O'Hara, President
Emilia DiSanto, Acting Vice President
Patricia Batie, Secretary
Ellen Smead, Director, Office of Field Services
Kathy deBettancourt
Ken Boehm
Christopher Sundseth
Charles Moses
John Penzinger

Diversified Reporting Services, Inc.

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P R O C E E D I N G S

1
2 CHAIRMAN WITTGRAF: The meeting will be in order.
3 This is the regularly scheduled meeting of the Board of the
4 Legal Services Corporation scheduled to commence at 10:30
5 a.m. this Monday, May 18, 1992, here in the Conference Center
6 of the Marriott Suites, Alexandria, in Alexandria, Virginia.

7 Good morning to our staff members and guests in
8 attendance, and we'll move right to the agenda as published
9 in the brown booklet, the draft agenda. The Chair is
10 prepared to entertain a motion for the approval of the agenda
11 as presented.

M O T I O N

12
13 MR. SHUMWAY: I so move.

14 MS. LOVE: Second.

15 CHAIRMAN WITTGRAF: It's been moved by Mr. Shumway,
16 seconded by Ms. Love. Is there discussion?

17 (No response.)

18 CHAIRMAN WITTGRAF: Hearing none, those who are in
19 favor of the approval of the agenda as presented will signify
20 by saying aye.

21 (Chorus of ayes.)

22 CHAIRMAN WITTGRAF: Those who are opposed, nay.

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1 (No response.)

2 CHAIRMAN WITTGRAF: The ayes appear to have it.
3 The ayes do have it. The agenda is approved as presented.
4 The second item of business this morning is the approval of
5 the minutes of our regular meeting on April 6th of this year
6 in San Antonio, Texas, together with the minutes of our
7 special meeting in Chicago, Illinois, on April 27 of this
8 year.

9 We'll take the minutes one at a time beginning with
10 the minutes of the last regular Board meeting of April 6th.
11 Ms. Pullen.

12 MS. PULLEN: Mr. Chairman, in the second paragraph
13 on page 3, the last sentence is not stated in exact
14 accordance with what occurred, and I would ask that that
15 sentence be amended to read, "Ms. Pullen requested that
16 Mr. O'Hara report in the future on the number of hours of
17 follow-up staff time as well; Mr. O'Hara agreed to do so."

18 CHAIRMAN WITTGRAF: Thank you, Ms. Pullen. Before
19 we entertain further your request, let me ask if there is a
20 motion for the adoption of the minutes as drafted.

21 MS. PULLEN: Well, I'm asking that they be
22 corrected before it would be adopted as drafted. Wouldn't it

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1 be more appropriate to adopt it as corrected, if the
2 correction is agreed to?

3 M O T I O N

4 CHAIRMAN WITTGRAF: A motion by Mr. Uddo, seconded
5 by Mr. Hall. Now, Ms. Pullen, would you state again your
6 proposed correction to the draft minutes.

7 MS. PULLEN: Thank you, Mr. Chairman. The last
8 sentence of paragraph two on page 3, which now begins,
9 "Mr. O'Hara offered," I am asking that it be corrected to
10 read, "Ms. Pullen requested that Mr. O'Hara report in the
11 future on the number of hours of follow-up staff time as
12 well; Mr. O'Hara agreed to do so."

13 CHAIRMAN WITTGRAF: Did everyone have the
14 opportunity to follow Ms. Pullen's proposed amendment? The
15 Chair will ask for unanimous consent for adoption of that
16 amendment.

17 (No response.)

18 CHAIRMAN WITTGRAF: Hearing no objection, it is
19 adopted.

20 MS. PULLEN: Thank you.

21 CHAIRMAN WITTGRAF: Further discussion regarding
22 the minutes?

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1 (No response.)

2 CHAIRMAN WITTGRAF: Hearing none, those who are in
3 favor of the adoption of the minutes as drafted and amended
4 will signify by saying aye.

5 (Chorus of ayes.)

6 CHAIRMAN WITTGRAF: Those who are opposed, nay.

7 (No response.)

8 CHAIRMAN WITTGRAF: The ayes appear to have it.
9 The ayes do have it. The draft minutes as amended are
10 adopted. Before we move to the Chairman's and Board Members'
11 Reports and the President's Reports, we do have two special
12 presentations for the Board.

13 MS. PULLEN: Mr. Chairman.

14 CHAIRMAN WITTGRAF: Ms. Pullen.

15 MS. PULLEN: Excuse me, but you did not deal with
16 the draft minutes of April 27th.

17 CHAIRMAN WITTGRAF: You're absolutely correct.
18 Thank you. We have before us, as noted by Ms. Pullen, not
19 only the draft minutes of April 6th but also those of April
20 27th. Those, too, are in the Board Book, the beige-colored
21 book appearing at page 13.

22 The Chair is prepared to entertain a motion for the

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1 approval of the minutes as presented.

2 M O T I O N

3 CHAIRMAN WITTGRAF: Ms. Pullen so moves.

4 MR. SHUMWAY: Second.

5 CHAIRMAN WITTGRAF: Seconded by Mr. Shumway.

6 Discussion. Ms. Pullen.

7 MS. PULLEN: Thank you, Mr. Chairman. On page 13,
8 just ahead of the subtitle, "Motion," is a sentence
9 describing who was attending beyond Board members, and that
10 sentence ends, "and other staff and members of the public,"
11 which I know is a standard expression in our minutes.

12 Perhaps some member of the public was there when I
13 was not, but I do not recall any other members of the public
14 being there.

15 CHAIRMAN WITTGRAF: My recollection is the same as
16 yours, Ms. Pullen. Would you think it be more appropriate
17 that the sentence -- that the dependent clause say simply,
18 "and staff members"?

19 MS. PULLEN: "and other staff," because the
20 first --

21 CHAIRMAN WITTGRAF: Right. Okay, "and other staff
22 members."

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1 MS. PULLEN: It describes two staff members, "and
2 other staff."

3 CHAIRMAN WITTGRAF: Is everyone following the
4 proposed amendment? The Chair will ask for unanimous consent
5 for the adoption of that amendment as presented by
6 Ms. Pullen.

7 (No response.)

8 CHAIRMAN WITTGRAF: Hearing no objection, the
9 amendment is adopted. Further discussion?

10 (No response.)

11 CHAIRMAN WITTGRAF: Hearing none, those who are in
12 favor of the adoption of the draft minutes as amended will
13 signify by saying aye.

14 (Chorus of ayes.)

15 CHAIRMAN WITTGRAF: Those who are opposed, nay.

16 (No response.)

17 CHAIRMAN WITTGRAF: The ayes appear to have it.
18 The ayes do have it. The draft minutes of the meeting of
19 April 27 are approved as amended. At this time, then, the
20 Chair is prepared, before moving to the other reports, as I
21 indicated, to ask two special guests to come forward.

22 As noted in the agenda, they are Robert Raven, who

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1 is former president of the American Bar Association and
2 presently Chair of the Association Standing Committee on
3 Alternative Dispute Resolution; also Johnathan Asher,
4 Executive Director of the Legal Aid Society of Metropolitan
5 Denver, each of them on the subject of alternative dispute
6 resolution.

7 As I think most of you know by this time, under
8 Chairman Hall's guidance, the Board committee concerned with
9 Provision for the Delivery of Legal Services has, for the
10 last few months, including as recently as yesterday, has been
11 concerned with Alternative Dispute Resolution broadly and
12 with its specific application to the areas in which Legal
13 Services attorneys are involved and also in trying to
14 determine the ways in which the Legal Services Corporation,
15 the Board, and its staff might be able to assist in the
16 educational training efforts to support Legal Services
17 attorneys across the country and perhaps the areas in which
18 the Corporation and its staff can be highlighting future and
19 further utilization of Alternative Dispute Resolution
20 mechanisms.

21 At this time, it's my pleasure to recognize
22 Mr. Raven and Mr. Asher, and I'll ask you gentlemen to

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1 proceed in whichever manner the two of you have agreed upon.
2 Gentlemen.

3 PRESENTATION OF ROBERT RAVEN
4 CHAIRMAN, AMERICAN BAR ASSOCIATION STANDING COMMITTEE
5 ON ALTERNATIVE DISPUTE RESOLUTION

6 MR. RAVEN: This is Bob Raven. I guess we've
7 agreed that I'll start out, and first I want to thank the
8 Board for the opportunity to come here and talk with you
9 about dispute resolution.

10 I thought the way I might do it, and Johnathan may
11 have his own way, but I thought first I might tell you a
12 little about my background so you have an idea of where I'm
13 coming from, then talk to you a little bit about my views on
14 ADR and then, briefly, what's going on in the country, and
15 then finally what my recommendations would be as to your
16 involvement, and I can tell you that right now.

17 I thought they were summed up very well by Linda
18 Singer, Michael Lewis yesterday, and I know some of you
19 didn't hear that, just the committee members did. So I might
20 just go over that. I should say for the record that I have
21 read the record of the hearing in Austin on April 7th, which
22 was held by your Committee on Provision of Legal Services,

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1 and then I was here yesterday to hear the witnesses
2 yesterday.

3 Very quickly, on my background, I graduated from
4 law school in '52. I joined the firm I'm still with,
5 Morrison & Forrester in San Francisco. They had 17 lawyers.
6 So we have about 650 now, so I can say I've been a small
7 firm, a middle-sized firm and a large firm.

8 I've always been interested in litigation. That's
9 been my field, and, as I got older litigation, I found that I
10 had a lot of Red Adair cases, you know, those cases where all
11 the oil wells are on fire. So at an early stage I became
12 very convinced that there is a lot to be said for getting the
13 client involved in negotiations and trying to work something
14 out.

15 When I was a young lawyer, I got some experience in
16 arbitration by acting on a pro bono basis for the American
17 Arbitration Association in noninsured motorist cases. Then I
18 started doing some arbitration and mediation in addition to
19 being a trial lawyer, and then finally, in 1985, I became
20 lead counsel in Fujitsu v. IBM, which, according to the
21 American Arbitration Association, is the largest arbitration
22 that's ever been held before that organization.

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1 It's an ongoing matter. The parties have agreed
2 that they will resolve all of their disputes about software
3 in the operating system big mainframe area by arbitration to
4 the year 2002. So that's quite a commitment that they have
5 made.

6 I've continued working as a mediator and working as
7 an arbitrator and also, of course, trial practice. I've
8 written a great deal and spoken on ADR, and I am a great
9 supporter of it. On the other hand, I don't, although I
10 still call it alternative dispute resolution, I think we
11 ought to break away from that habit, because it's not really
12 an alternative. It's just another way of resolving disputes,
13 just like litigation is a way of resolving disputes.

14 I think we ought to have a level playing field.
15 There are certain cases that ought to be tried, and if there
16 are cases to be tried because you want a precedent or you
17 want to make some law, you ought to be able to do that. On
18 the other hand, if you want to get it resolved, and you have
19 no interest in these other matters, then dispute resolution
20 procedures are usually a good way to do that.

21 We don't have a level playing field at this time,
22 and I think that's a very important thing for this Board and

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1 to everyone in the country to know. First, our courts have
2 been tremendously underfunded both on the criminal and the
3 civil side for many years, and we're suffering the neglect of
4 that. Less than 3 percent goes to law enforcement, goes to
5 the criminal and civil courts in this country.

6 So the second point is that recently the executive
7 and legislative branches have decided to federalize criminal
8 law. So now, in the federal courts, there is no room more
9 civil cases anymore. That's a little bit of an overstatement
10 but not very much, because the courts have to try criminal
11 cases, and even if you can get a trial date on a civil case,
12 it's usually interrupted by the court having to go and try
13 some criminal cases.

14 So we don't have a level playing field, and so
15 that's going -- one thing that does tell us is that there
16 will be more and more dispute resolution, because there is
17 just not room in the court.

18 To tell you a little bit about this committee, and
19 I'm sure most of you are familiar with the 1906 Pound
20 Conference where Pound talked about the popular
21 dissatisfaction with the justice system. Well, there is more
22 dissatisfaction today and rightly so.

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1 In 1976, the ABA held what you can call a Pound
2 revisited conference, and Judge Bell and others were very
3 much involved in that, and out of that one of the things that
4 really came out of that, not directly but as a result of that
5 was the beginning of our committee, and it was founded by the
6 ABA in 1877 -- or 1977, not quite that old, and at that time,
7 and it's interesting to know what its name was at that time,
8 because it was then called the Special Committee on
9 Resolution of Minor Disputes.

10 That was the attitude at that time, that this other
11 type of dispute resolution was only for minor disputes, and,
12 of course, that's very much changed. So our name was
13 changed. We became a standing committee. The Standing
14 Committee on Alternative Dispute Resolution, and then
15 sometime ago we dropped that name. I notice we have a hard
16 time getting rid of it, because it appears mostly on the
17 agendas that we appear on, but now the name of the committee
18 is the Standing Committee on Dispute Resolution.

19 To tell you a little bit of our involvement, as a
20 standing committee, we're limited in what we can do, because
21 we have to go to the board for funds, and we think there are
22 so many people interested in this now that we can do better.

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1 So we're moving towards section status. We think we should
2 be a section of the ABA. That will become before the House
3 Delegates at the midyear meeting in Boston in February of
4 '93. We think we'll be able to do a lot more.

5 Many of the sections and other committees of the
6 ABA have dispute resolution committees, and one of our chores
7 is to coordinate the activities of all of those other
8 committees, and we do that in many ways throughout the year,
9 but then at the annual meeting, at the midyear meeting, we
10 also have meetings of all representatives of all those
11 committees and do our best to try and coordinate that.

12 Going on a little bit to what's going on, and
13 you've heard a great deal about that, but I think it can be
14 summed up by saying that because of the conditions in the
15 court, because of the underfunding, because of the
16 federalization of criminal law in the federal courts, both
17 state and federal courts are working very hard on ADR
18 procedures. Many of them have them installed already in
19 their court system.

20 Linda Singer, maybe it was Michael Lewis yesterday,
21 the Biden Bill -- it's been called different names, but I
22 think it's Federal Court Improvement Act -- but anyhow, it

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1 was 1990, and that required, among other things, that the
2 various circuits of the federal courts and districts
3 throughout the nation come up with a plan, and that plan was
4 to include what they were depending to done on dispute
5 resolution.

6 She pointed out yesterday, so far 34 districts in
7 the United States have reported, and out of those 34
8 districts, 31 have indicated that their plan contemplates a
9 great expansion of dispute resolution. Of course, much of
10 that is depending on already in the Northern District of
11 California, where I also practice, in addition to Los
12 Angeles.

13 We have an early neutral evaluation case or panel
14 where every fifth case that's filed goes into that, and you
15 immediately have a meeting with an expert. If you have a
16 copyright case, you get one of the outstanding copyright
17 lawyers who gives his or her time pro bono to try and work it
18 out.

19 Sometimes you can't work it out, but it's good,
20 because you get the clients together right there. You get
21 the parties together, and you start people talking, and, of
22 course, that's very important when you talk about how you're

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1 going to get things resolved.

2 I don't know how many of you are familiar with the
3 Center of Public Resources. It's an organization I've been
4 very active, but it works out of New York. It's not profit,
5 but they have two main programs there. One program is so-
6 called corporate pledge, and that means that every
7 corporation or company that's a member can take a pledge, and
8 many of them do, that they will not bring litigation without
9 talking to the other side about it.

10 A year ago, I chaired a committee of the CPR which
11 came up with a law firm pledge, and, in that pledge, the law
12 firm pledged to do two things: one, to be sure that the
13 lawyers and their firm are familiar with dispute resolution
14 procedures and how they work and have a good feel for that,
15 and second, we had some debate on this, it finally came out
16 that where appropriate they pledged that they would discuss
17 dispute resolution with clients.

18 I held out for an absolute duty, and I think, in
19 some sections of the country, the standard of care would give
20 you an absolute duty, despite what the pledge says. For
21 example, if you're in Southern California where you wait four
22 years for a trial, jury trial in the state court and nearly

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1 as long in the federal court, I think if someone came in and
2 wanted to resolve a dispute, you would have an obligation to
3 tell them that among many ways they could do it, they could
4 go to court and have litigation.

5 They could have early neutral evaluation. They
6 could have mediation. They could have any number of ways
7 that they ought to consider. I think attorneys owe that to
8 their clients to make them aware of all of the ways that you
9 may resolve disputes.

10 Recently, I was talking to someone in the section
11 litigation, because some of them are a little bit worried
12 about us becoming a section, and at the end of our
13 conversation -- this was a good friend of mine -- and he
14 said, "Well, Bob, after all, you know, it is litigation." I
15 said to him, "David, I would have felt much better if you
16 would have said, 'After all, litigation is dispute
17 resolution,' because that's really the way it works." It is
18 part of dispute resolution, not the other way around, but
19 that's going to take some education to do that.

20 The state courts are very much involved. In our
21 California state courts, under cases under 50,000 go to
22 mandatory nonbinding arbitration, and the State Bar of

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1 California has a new act, and I'll just read the headings to
2 you to show you the type of things that are going on.

3 The first one a civil action, "ADR Referral Act,"
4 two, "Draft statute increasing the courts in which judicial
5 arbitration is mandatory and increasing the ceiling on
6 judicial arbitration," they would spread that to many more of
7 the superior courts in California, and when they would lift
8 the limit from 50,000 to 150,000. So that gives you an idea
9 of the approach in California.

10 Three, "Statutory provisions to promote use of ADR
11 in criminal cases," and there is a lot of that starting to go
12 around in the country. For years, district attorneys have
13 drawn in the finding neighbors. They've asked them to come
14 in and talk it over, and sometimes they've been able to
15 resolve this. So this is not exactly new in the criminal
16 field, although many people think it is, but people are
17 looking at that.

18 Then, of course, taking a clue from the federal
19 side, they have a draft act promoting the use of alternative
20 means of dispute resolution in state agencies, and a lot of
21 that is going on. So the states are very active.

22 Yesterday, and those of you who weren't there, you

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1 will enjoy reading the testimony by Michael Lewis and Linda
2 Singer and Alan Houseman and others on what's going on in the
3 federal agencies, the Regulatory Negotiation Act, where now
4 agencies are instead of putting out a regulation and being
5 sued on it, they're inviting in the parties that have an
6 interest, that are players in it, and asking them for their
7 views before they even come out with a regulation, which I
8 think is a good stepped forward.

9 Then, October '91 you have the Executive Order
10 which told the people in the federal government that were
11 involved in litigation matters that they should use where
12 possible and feasible, where it made sense, negotiations or
13 other ADR procedures, or that at least should be considered.

14 I want to stress that point, because there are
15 cases that fall naturally into this other time of dispute
16 resolution, but there are also cases that fall naturally into
17 litigation, into court cases, and you have to look at them
18 carefully.

19 For example, the Multi-Door Courthouse, which was
20 pioneered by this Committee in Washington, D.C., and Tulsa
21 and Houston, and it's very much a part of the court system in
22 the district court, which is really like a state court in the

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1 District of Columbia where, when a case comes in, it is
2 directed to one of these doors, multi-district doors.

3 You have to understand, the court has to
4 understand, they have to talk to the parties, "What do you
5 want to do? Do you want to go into neutral evaluation? Do
6 you want to have mediation, or do you want to have an
7 evaluator, someone, an expert in this field who may tell you
8 his or her thoughts as to what the case is worth, or do you
9 want to go into nonbinding arbitration?"

10 So there is a great deal of that, much more, I
11 think, than the public realizes, and I think much more than I
12 think a lot of lawyers realize, there is already a lot of
13 this going on in the country. Of course, in the new act that
14 passed the House here recently with respect to Legal Services
15 Corporation, the reauthorization has a provision in it which
16 I think is a good compromise.

17 It doesn't force it, but it asks that it be
18 considered and be looked at and that people be aware of it,
19 and the benefits of it in certain cases. So I think that is
20 very good. I guess at that point I've tried to give you an
21 overview of where I come from and where I might be able to
22 answer your questions.

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1 You may want to hear from Johnathan now and then
2 ask us both questions, or whichever, how the Chair wishes to
3 proceed.

4 CHAIRMAN WITTGRAF: Why don't you go ahead,
5 Mr. Asher, please. Thank you, Mr. Raven.

6 PRESENTATION OF JOHNATHAN ASHER, EXECUTIVE DIRECTOR
7 THE LEGAL AID SOCIETY OF METROPOLITAN DENVER

8 MR. ASHER: Thank you, Mr. Chairman, members of the
9 Board. I have followed Mr. Raven's wisdom and guidance for a
10 number of years and am honored to do so again this morning.
11 Mr. Raven began by giving you his background. I think the
12 less you know about mine probably the better off we may be.

13 CHAIRMAN WITTGRAF: Are you saying that we know too
14 much already?

15 MR. ASHER: I think some may. Suffice is to say I
16 have been the executive director of the Legal Aid Society of
17 Metropolitan Denver now for about 12 years, going on my whole
18 life but think I am here this morning because I currently
19 serve as a member of the Standing Committee of Legal Aid and
20 Indigent Defendants of the American Bar Association, which
21 strongly supports the increased attention by Legal Services
22 programs to ADR and the seniors consideration of its benefits

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1 to low income clients.

2 I urge all of you to spend a good deal of time
3 considering what those people who know far more than I do,
4 Mr. Raven, Linda Singer, Michael Lewis, Alan Houseman, those
5 who have spoken both to your committees and to members of
6 this Board.

7 I sometimes feel that I have spent 20 years
8 fighting to get poor people into the courthouse, and now that
9 we finally get them there find that only poor people and
10 criminal defendants are left there. More people are opting
11 out. More people with money are consciously opting out of
12 the public justice system.

13 They are going to private forms of justice or even
14 court mandated alternatives to litigation. I think that it's
15 fair to say that they do it to reduce the cost, the delay,
16 the uncertainty and the unpredictability that frequently
17 comes with litigation.

18 Sometimes ADR is used by major corporate clients
19 and litigants because they have continuing relationships with
20 the disputants. That's frequent, too, in family situations,
21 in school situations, and the like where win-lose may really
22 be lose-lose, and where a negotiated settlement which

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1 maintains a relationship intact is far preferable to simply
2 having one side win or lose.

3 There appears to be greater user satisfaction among
4 a variety of alternative disputes to what has become an
5 increasingly brutal, expensive, and sometimes painful
6 litigation process for our clients. There seems to be not
7 only greater satisfaction, but frequently greater compliance
8 with negotiated settlements and the resolution of disputes
9 than those ordered even by a court, but we should not be
10 unmindful of the serious issues that are raised by
11 alternative dispute resolution in the context of low income
12 clients.

13 Let me just share with you -- Mr. Raven, having
14 talked about the House Reauthorization Act, the Criminal
15 Justice Reform Act, which requires the federal district
16 courts to consider costs in delay in litigation. The
17 regulatory negotiation provisions of federal statutes, the
18 Executive Order, state statutes, state studies such as
19 -- well, there are state statutes now that allow judges to
20 mandate alternative forms of dispute resolution.

21 Those, I believe, are in place now in Texas,
22 Florida, Colorado. Bob referred to a California statute. We

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1 have sitting on the desk of the Governor of Colorado this
2 very week a bill passed by the legislature entitled,
3 "Concerning Judicial Referral of Civil Disputes, the
4 Ancillary Forms of Alternative Dispute Resolution."

5 There are a number of state studies, some mandated
6 by courts, some mandated by legislatures. In Colorado, it
7 was one that was funded by the State Justice Institute. It
8 was called "Vision 20/20," to look at the future of the court
9 system. Almost all of those studies have paid a great deal
10 of attention to ADR and the need for a variety of dispute
11 resolution mechanisms.

12 Colorado itself has been late coming to the model
13 rules of professional conduct. Their Supreme Court appointed
14 a committee to study it and committed the proposed rules to
15 the Court. The Colorado Bar Association submitted comments
16 in which it requested that the Court provide a rule that all
17 attorneys in this state shall advise clients of ADR
18 mechanisms.

19 The Court, about two weeks ago, in promulgating the
20 rules, which will go into effect in January of '93, didn't
21 quite go that far, didn't use the word "shall," but did use
22 the word "should." So the reference by Mr. Raven to the duty

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1 of care and the standard of professional conduct is current
2 and most important.

3 Let me just spend a couple of minutes with you,
4 though, going through the concerns of some advocates for the
5 poor and some of the issues that are raised by the current
6 movement towards ADR. One is the cost and access to ADR
7 itself and how it is best or may be provided for litigants.

8 Colorado, for example, a number of years ago had a
9 pilot project by statute which mandated that cases under
10 \$15,000 go to arbitration with very few exceptions. It
11 exempted low income litigants from that pilot project and
12 mandated that those more affluent litigants pay the cost of
13 mediation.

14 A year ago, that bill was debated as to whether it
15 ought to be made mandatory. I was asked by a legislator,
16 republican legislator from one of the suburbs of Denver to
17 comment on the bill. I took no position on whether it ought
18 to be mandatory or not but indicated that were it to become
19 public policy that those disputes under \$50,000 were best
20 resolved in the first instance by arbitration, then that
21 public policy had to include accommodation for the needs of
22 low income clients and consumers not just those who could

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1 afford the cost of mediation.

2 They had various versions of the bill. One would
3 have, again, exempted low income people. One would have
4 requested pro bono service by mediators under the Act.
5 Ultimately, the bill died, not because of low income
6 consumers, I think, but because of trial lawyers in this
7 state, but how ADR is provided and issues of access to ADR
8 are only somewhat easier than full access to lawyers and
9 advocates for the poor.

10 Two, I think there is a continuing concern that it
11 is at least seen by some as second class justice; that is,
12 the wealthy get lawyers, poor people get mediators. I don't
13 think that is a fair criticism, but it is historic and one
14 that needs to be considered.

15 There are issues where there are huge power
16 imbalances between parties, between banks and lenders,
17 between landlords and tenants in some situations, between
18 major institutions and small consumers, between utility
19 companies and consumers, for example; between perpetrators
20 and victims of domestic violence where the power imbalance is
21 such that some at least feel that ADR is inappropriate.

22 There are some parties who have particularly

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1 difficult times in mediation which is a quite verbal process.
2 Those might include retarded, the mentally ill, particularly
3 inarticulate individuals, sometimes substance abusers. So,
4 too, victims of domestic violence who may be intimidated by
5 the mere presence of an assaultive or an abusive spouse.

6 There are, in fact, some mediators who believe that
7 anything can be mediated and resolved. There are others who
8 believe that these particular issues need to be dealt with.
9 So, too, there are certain adversary parties in poverty
10 cases, the government in particular, who feel they don't have
11 the authority to really compromise; they only have the
12 authority to make absolute decisions about benefits and the
13 like.

14 That may change under the Executive Order, which
15 has required at least all federal agencies to consider the
16 use of ADR. We heard yesterday, for example, that major
17 efforts are underway to train Justice Department lawyers in
18 the civil division to more effectively use ADR, but many of
19 our cases involve eligibility for public benefits.

20 It is rare when those really are negotiable. They
21 tend to be a decision by the government, by the welfare
22 department, and the like, and to whether you are eligible or

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1 not. These are all real concerns. They shouldn't be
2 ignored, but that doesn't mean that ADR doesn't have a very
3 valuable place in many, many cases handled by Legal Services
4 programs.

5 Those cases include landlord-tenant matters, for
6 example, school discipline cases at times, sometimes where
7 you're negotiating educational programs for the handicapped.
8 Farmer-lender situations have proved quite amenable to
9 mediation and negotiation.

10 There are cases of farm worker justice, and, in a
11 minute, I'd just like to think what I think is a very
12 important area, and that's under the Family Support Act and
13 welfare reform initiatives where ADR can be particularly
14 helpful. My concern is that Legal Services advocates
15 uncharacteristically have frequently, because of legitimate
16 concerns with ADR, not been the active advocates and
17 participants in the decisions about shaping the programs and
18 insisting of access to high quality ADR programs that their
19 clients deserve.

20 In fact, those most vulnerable, mentally ill, the
21 handicapped, those who are not real articulate, those with
22 limited language skills, at times may be best served by early

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1 neutral evaluation and a fair objective determination in the
2 merits of their claim by mini trials where they are not
3 subject to the full cross-examination but can, in less formal
4 ways, make their positions known.

5 I think all of us need to look carefully at how our
6 clients would benefit from ADR. There is, in closing, a
7 critical time now in the JOBS Program, which is Job
8 Opportunity and Basic Skills, the training and educational
9 requirement for state programs under the Family Support Act.

10 We're going from the participation or failure to
11 active participate in those programs to sanctions for
12 nonparticipation. The Family Support Act mandates a
13 conciliation process at that juncture. That either can be
14 the first step in punitive sanctions and just the formality
15 by technicians or case workers before the sanctions are
16 imposed and benefits are terminated, or it can be the last
17 best chance for problem-solving between a poor person and the
18 department, to actually look at why job training wasn't taken
19 advantage of.

20 It may be there are transportation problems. It
21 may be an acutely sick child that hasn't been dealt with
22 appropriately. It may be there isn't adequate child care.

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1 It may be that the individual just didn't know how serious
2 this situation was, but it can either be used effectively as
3 I believe it has been in Denver with good training, not by us
4 but, with our encouragement, the staff in the Denver
5 department get training, it can either be an active problem-
6 solving opportunity for the department, or it can be a much
7 more bureaucratic step simply on the way to sanctions, as it
8 is in other counties.

9 Four our clients, providing an opportunity for that
10 sort of problem-solving where barriers to education, job
11 training, child care, transportation, health care may, in
12 fact, be the most important single part of that legislation,
13 and it's one that our community should not ignore.

14 ADR is either coming quickly or is already here.
15 Even our hot shot litigators are going to bump into ADR in
16 the federal courts and in the state courts, and whether they
17 like it or not, they're going to have to pause and think
18 about it.

19 That means to me at least that the role of the
20 Corporation should be to help expand the learning and the
21 knowledge of advocates in all 300 and some programs and to
22 help education us, to help provide training and manuals,

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1 technical assistance and support so that we can be the
2 effective players in the development, in the protection of
3 our clients' procedure and substantive rights as the ADR
4 movement progresses, and I look forward, together with
5 others, to working with you on this important effort.

6 Now, let me just say that some of my colleagues, I
7 know, have talked to both you and this staff about principle
8 negotiation and CMI, and the Harvard effort of getting to
9 yes, and I think that that sort of negotiation training would
10 be invaluable. I certainly believe in principled as opposed
11 to unprincipled negotiation, and it will help programs both
12 do a better job by being better negotiators and also help
13 sensitize them to the effectiveness of mediation and
14 negotiation.

15 ADR training is less actual mediation and
16 negotiation skills, I believe, and more a training in
17 delivery techniques, how to assess client needs, when to use
18 which of the increasing doors to the courthouse. What are
19 the criteria by which you help a client decide what's best
20 for him?

21 What's the appropriate role of the advocate in
22 preparing for the process? What are the ethical issues in

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1 various delivery structures? If a program tries to support
2 ADR on its own, is it then barred from actually providing
3 representation to either party, if negotiation or mediation
4 fails? How do we adequately pay for mediation and the like?

5 There are difficult delivery issues, and we
6 together can help provide additional education and training
7 to help make this process meaningful for all of our clients
8 and for the programs, and I welcome this opportunity to be
9 with you this morning.

10 CHAIRMAN WITTGRAF: Thank you both. We have a few
11 minutes for questions or comments. Let me ask one question
12 first, and I think probably for Mr. Asher. As you've
13 discussed, much as individuals who have met with the Board's
14 Committee have the need for training in particular and
15 technical assistance, can you give us a brief summary of what
16 you believe the status of training for Legal Services
17 attorneys to have been to date using the techniques, knowing
18 how to deliver or how to effect the development of systems
19 for ADR.

20 MR. ASHER: Well, those are separate. I think that
21 through the management information exchange, Bob Byrd,
22 Carolyn Worrell, Toby Rothchild, an increasing number, at

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1 least of project directors and directors of litigation, have
2 got even some basic overview of principle negotiation in the
3 CMI course.

4 More and more bar associations are providing
5 training on actual mediation in a variety of ADR mechanisms
6 from early neutral evaluation and mediation and arbitration
7 and mini trials and rent-a-judges, and the like. Those bar
8 sponsored programs do not address effectively, very often at
9 least, the unique delivery problems of the low income
10 consumer.

11 What we need is a collaborative effort between the
12 Corporation and the experts such as Michael Lewis, Linda
13 Singer and others to help develop material manual and
14 technical assistance, which will start expanding the number
15 of people who have ideas about how to navigate through the
16 delivery issues and to help deal with the assessment issues,
17 which most basic courses really don't address.

18 They're starting to, I think, in California, and
19 Bob has done some work on that assessment.

20 MR. RAVEN: I might say something about that. The
21 Standing Committee, with the support of the state justice
22 center has put on a number of programs around the country.

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1 I've only been on the committee since last fall, but we have
2 one in Portland then. We had one in San Diego recently, and
3 they are excellent training devices, but people come in from
4 throughout the state.

5 We talk about ADR. We have some of our best people
6 there. The committee has been very fortunate to have people
7 like Frank Sander, one of the authorities of the nation who
8 has chaired this committee from Harvard, Nancy Rogers from
9 Ohio, a great expert; Jerry Williams, a great expert on
10 negotiation. We've put those on.

11 At that meeting, I took the occasion on some of the
12 break-out sessions to ask, I said, "Well, I'm going back to
13 talk to the Board of the Legal Services Corporation about
14 ADR," and I said, "I just wonder how many of you people are
15 involved in that," and to my surprise, none of them were. It
16 was kind of a new subject to them.

17 So I think one thing we're going to do, we're going
18 to make a special effort from now on in our -- when we have
19 those conferences, is to see that we invite, get people
20 invited from Legal Service programs.

21 So we've learned a little from that, but I agree
22 this is a very important part of it, and I thought that Alan

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1 Houseman and Lewis and Linda summed it up very well as to
2 what you can do and what we all have to do is somehow figure
3 out better ways to get not only lawyers but clients trained
4 about what this all about.

5 CHAIRMAN WITTGRAF: Mr. Kirk.

6 MR. KIRK: Mr. Asher, I deal, on almost a daily
7 basis, mediation and arbitration, but you used terms
8 "delivery," and "assessment" as being problems. What do you
9 mean by that?

10 MR. ASHER: Assessment is whether a case is best
11 suited to a mediation, which is not the only forum that will
12 be particularly provided in state court and federal court but
13 early neutral evaluation and what that means, whether you
14 want to go to binding arbitration.

15 Many more creditor organizations are requiring, as
16 a term of a lending instrument, mandatory arbitration or
17 voluntary arbitration. Do you want a mini trial? Do we want
18 to try to get rent-a-judges to volunteer some time? We, in
19 Denver, have used mediation a good deal, generally after the
20 commencement of litigation but not always.

21 We've had some very difficult situations both in
22 policies around enforcement of domestic violence orders,

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1 sometimes in terms -- we had one case in a suburban area
2 where the local police department, for example, was escorting
3 landlords to exercise what we claimed to be illegal liens on
4 tenants' properties.

5 We tried to negotiate that case with the police and
6 were unsuccessful. We brought litigation. They then were
7 quite successful in mediating it, and used a bar association
8 mediator to help bring this together. The police now call us
9 frequently and say, "We're about to do this. Does it make
10 sense? Can you give us a lawyer to advise us on how to
11 handle this without getting into trouble?"

12 So I think the assessment is does mediation make
13 sense in this case? Can you do it, and if so, is it
14 mediation or early neutral evaluation, and the like? We're
15 not just talking about a specific alternative but an
16 increasing number of alternatives, and I don't think we, at
17 least I'm not comfortable, always assessing that. We're
18 frequently called on to do that, but --

19 MR. KIRK: What's "delivery"?

20 MR. ASHER: Delivery is, for example, the
21 University of Denver has a mediation service. Do we refer
22 landlord-tenant cases there? Do we have to set up referral

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1 systems be like we do with fee generating cases to private
2 practitioners of mediation?

3 How do we make sure that they're either pro bono or
4 free mediators? What are the problems in court? A next
5 mediation, do they then need, on behalf of low income people
6 to say not only do mediators need to be trained and
7 certified, but they need to be trained in terms of power
8 imbalances, language difficulties, and the unique needs of
9 our clients?

10 Those are delivery issues. Those are issues that
11 will either be ignored or addressed, based on our ability to
12 be players as states, local courts, and the federal courts
13 start developing both voluntary and, more likely, mandatory
14 ADR programs that will not, unless we know what we're talking
15 about, necessarily address the unique problems of low income
16 clients. That's what I think are delivery issues

17 MR. RAVEN: The whole question of classifying the
18 cases as they come in as to which door they should go through
19 in this multi-door courthouse is a very difficult one. Our
20 committee had a meeting at Harvard recently. They called it
21 with a fancy name, ADR Taxonomy, but all it means is
22 classification of these cases that come streaming towards a

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1 multi-door courthouse.

2 There is much to be learned there, and I learned
3 something recently in a case that I just mediated. I was
4 brought in to mediate a case that had been going on for six
5 years, five-month jury trial, hung jury, and two parties
6 picked three people from each side, and they were a
7 committee, and they talked to three of us, and I got the long
8 straw, so I was asked to mediate it.

9 When I into the mediation, the first thing said,
10 "Before you mediate it, we want you to do two things: We
11 want you to get very familiar with the case; we'll have our
12 lawyers work with you, and we want you then to tell us which
13 one would prevail if we tried again before a jury. Two, what
14 is the range we should be negotiating in?"

15 I said, "Well, that's silly." I said, "You don't
16 want me to do that. A mediator is supposed to stand neutral
17 between the parties, listen to them, act as a facilitator.
18 If I do that, you'll throw me out with a judge that you'll
19 have for the second trial," and so forth, but I learned
20 something. They said, "That's the way we want you to do it."

21 It turned out they were right. We were able to
22 settle the case. So clients' desire are very much a part of

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1 that, too, as to what they're comfortable and, after
2 listening to lawyers, as to what the lawyers think the
3 downside and the upside of the various procedures are.

4 CHAIRMAN WITTGRAF: Mr. Kirk.

5 MR. KIRK: I have a concern that maybe you're
6 making this more complicated and a bigger deal than it is. I
7 mean, to me, a mediation has been unbelievably successful.
8 It's required in every case filed in Florida now, and the
9 success rate has just been unbelievable.

10 I think that it's absolutely imperative that the
11 mediator be trained. I think former judges without training
12 are terrible, but once you have a trained mediator, I think
13 his independence and his lack of knowledge sometimes is the
14 key factor in one, and I would just, from my own experience,
15 advise you to jump into mediation with both feet.

16 My own personal experience is that nonbinding
17 arbitration has not been a success, and that's required in
18 every federal case in the middle district and the northern
19 section, and that has not be successful, but I really hope
20 that you're not waiting around, but I think that there is a
21 lot of benefit to be obtained there.

22 MR. ASHER: We use mediation a lot, but getting to

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1 know me, Mr. Kirk, well enough to know that I rarely jump in
2 with both feet. I think that I have made my biggest mistakes
3 when I have jumped, as opposed to testing the water.

4 Our clients are particularly vulnerable, as I tried
5 to explain, in a number of situations of power imbalance and
6 the like. You said that mediation has been successful. I
7 would ask you how you measure success. Is that simply the
8 settlement of cases? Is that based on client satisfaction
9 with the process? Is that dealing with whether the
10 negotiated settlements have been complied with?

11 Does it always look at outcomes? And that is, have
12 low income consumers in that process simply been cooled out;
13 they've agreed to something? I've sure you can take a victim
14 of domestic violence and get them to agree to almost
15 anything. The question is, should they? Does that make
16 sense?

17 I think our job is not simply to resolve disputes
18 but to resolve them justly, and I think that's more than a
19 leap. That takes some patience and some consideration and an
20 assessment of the substantive and procedural rights of our
21 clients.

22 MR. KIRK: If I may respond.

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1 CHAIRMAN WITTGRAF: Mr. Kirk.

2 MR. KIRK: I think that deserves a response. Yes,
3 sir. I think that almost in every instance, although I've
4 not dealt with, in the domestic area, it has met its
5 expectations, the area that I don't know is whether or not
6 it's an easy way out for the person that needs to be taught a
7 lesson and whether or not you really ought to stick it to
8 them and hold their feet to the fire and make them go to
9 court and continue that to stop a practice.

10 The jury is out on that, and it may not work. I
11 think it does eliminate substantial attorney's fees, standing
12 attorney's time, and I believe that clients do have the right
13 to determine and decide if they want to settle and to not
14 leave that to the lawyer to say, "I don't think you're smart
15 enough to settle. I don't think, in an abuse case, you're
16 capable of doing it, so I'm not going to go to mediation."

17 I think they all have the right to do that, and I
18 think that every time that we do that I think that we're
19 saving attorney's fees, and we're making our lawyers more
20 available to a greater percentage of the population of the
21 poor, and that's the area that I'm really concerned about,
22 and that's why I'm a big supporter of it.

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1 CHAIRMAN WITTGRAF: Further discussion? Mr. Hall.

2 MR. HALL: Thank you, Mr. Chairman. My question is
3 for Mr. Raven. Does your Standing Committee on Dispute
4 Resolution have any ideas on what the Legal Services
5 Corporation should be doing to help the recipients implement?

6 MR. RAVEN: Well, I looked at my notes, and I'd
7 referred to this as being the recommendation of Linda Singer
8 and Michael Lewis, but I see now that it was Alan Houseman,
9 but I very much agreed with it. That was, first, to the
10 extent that you can fund any effort to ensure the education
11 of clients and lawyers involved, I think that's very
12 important and should be working with these other
13 organizations who will do the training and the education.

14 One of the recommendations was that consider a
15 working group from the providers and the staff to become very
16 familiar with these issues and be aware of that, and then
17 there was another suggestion that I thought was very good,
18 and I'm going to repeat it, because I thought it was
19 excellent.

20 That was he pointed out that we now have federal
21 agencies negotiating with people that have grievances against
22 them or against whom they have grievances, and although

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1 you're not a federal agency in a technical sense, as Alan
2 Houseman suggested, if you have disputes between the Legal
3 Services Corporation and your programs, I think that would be
4 a good place to start, rather than rushing off to court as to
5 maybe to try and see if you couldn't have some dispute
6 resolution with respect to those problems that you've had
7 from time to time in the past.

8 MR. ASHER: Let me say also, a state that requires
9 mediation, I take it, has made arrangements for mediators to
10 be available. In large areas, though, there are an over
11 abundance of mediators just as there is an over abundance of
12 lawyers.

13 There are other areas, particularly many rural
14 areas, although farmer-lender mediation efforts are underway
15 in states like Nebraska to expand mediation statewide through
16 legislation where there still is a disparate availability of
17 mediators.

18 We need to take that into account in trying to work
19 with local groups, neighbor justice centers and the courts to
20 make qualified mediators available, but, as you say, working
21 with arbitration and mediation daily, that simply reflects
22 that ADR is not a substitute for access to attorneys but

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1 reflects the expanding and the increasingly important role
2 that lawyers play in working with clients.

3 I don't think lawyers ought to make a decision
4 about a settlement, but so, too, in advising clients, I think
5 it's a lawyer's responsibility to work with them to make
6 choices, the forum and the process that they will use, and I
7 think there are a number of concerns where there are huge
8 power imbalances based on -- now there are some mediators who
9 think they can, in fact, deal with that.

10 There are others, very credible mediators, who they
11 themselves believe that where the imbalance is such or where
12 there is fear and intimidation, it is not the most
13 appropriate recourse, and there are times when a court ought
14 to make a decision in certain situations.

15 CHAIRMAN WITTGRAF: Further discussion?

16 (No response.)

17 CHAIRMAN WITTGRAF: Again, gentlemen, thank you
18 both very much. I think you both sat through the
19 deliberations of the Committee yesterday to hear the
20 presentations and the discussion there as well as joining us
21 today, and we very much appreciate it.

22 As with us suggested by some of speakers yesterday,

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1 this is a seed that's been germinating for some 12 to 15
2 years. It's beginning to spring to life, and I think that
3 we're hoping to be part of the plant that is now growing and
4 to be part of that life.

5 We look forward to visiting with you again, and we
6 certainly hope that you'll both take the occasion to visit
7 with any of us, to visit with Mr. O'Hara and the staff of the
8 Corporation with further ideas that you have and that this is
9 not a dialogue in and of itself but only the beginning of the
10 dialogue. Thank you both.

11 We move, then, to Agenda Item 5, the Chairman's and
12 Members' Reports. I only have one observation I'll share
13 very briefly with the Board. That's based upon the
14 experience Mr. Molinari and I had some ten days ago in
15 appearing before the Senate Appropriation Subcommittee
16 regarding our budget requests.

17 Presiding that day was Senator Bumpers of Arkansas.
18 The ranking member present was Senator Rudman of New
19 Hampshire, and I guess Mr. Molinari and I were humbled
20 somewhat by following Justice O'Connor and Justice Scalia
21 from the Supreme Court.

22 The audience, I guess, to see and hear our

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1 presentation wasn't quite as large as the audience to hear
2 the Supreme Court's presentation, nor were our askings quite
3 as large, I guess, although our askings for an increase were
4 larger, at least by proportion.

5 The response we received was very warm, very
6 favorable, very positive, in terms of the activities of the
7 Board, the Corporation and its staff. Both Senator Bumpers
8 and Senator Rudman commended Mr. Molinari and me, and I
9 think, really, by commending us was commending all of us as
10 well as the president and the Corporation staff for having
11 brought calm waters to and around the Legal Services
12 Corporation.

13 I think both of them indicated that they certainly
14 saw the need for increased funding, but Senator Bumpers, as
15 the presiding member of the Subcommittee that day, was very
16 cautious in not raising our hopes or expectations.

17 Senator Rudman was feeling so good, he even went so
18 far, as I recall, to suggest that we should be confirmed yet
19 this year, but I'm not sure that his endorsement of that
20 possibility is anything akin to action, but that perhaps
21 underscores the general aura of good feeling that existed
22 late that Thursday morning.

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1 And then, Cris, I want you to come up in just a few seconds.

2 Ken, would you join now?

3 Mr. Chairman, my report will be fairly brief. I'd
4 hope that take we would be able to present the 1991 Annual
5 Report. There was a short delay, and it should be ready in
6 just a matter of days. That particular report, as well as
7 the Corporation news letter, Inside Legal Services, are both
8 now in the Office of Field Services under the capable
9 leadership of Ellen Smead, and I think the product that
10 you're going to see is one that you'll be very pleased with.

11 Secondly, I would like to report to the Board and
12 to the field that the field can expect some very substantial
13 changes in state support, in national support, and regional
14 training center reporting, and Ellen will address that in
15 just a few minutes.

16 I also want to note that last year we reduced the
17 refunding application by approximately 40 percent. There
18 will be a further reduction in that funding application this
19 year. We have taken some additional steps to reduce it even
20 further, and it's very streamlined, at least we feel it is.

21 The credit for that does not only go to the
22 corporate staff. It goes to the programs themselves who gave

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1 us some very good suggestions on how to improve that
2 document.

3 Thirdly, just a few weeks ago, along with vice-
4 chairman Guy Molinari and Susan Sparks, I met with the
5 president and executive committee of the New York County Bar
6 Association. I would defer to Mr. Molinari at this time, if
7 he would like to make any comments on his impressions
8 regarding that meeting.

9 MR. MOLINARI: Well, only that my own impression
10 was that when we started off there seemed to be an air of
11 question as to LSC and what we had been doing and what not,
12 but I think by the end of the presentation there was a very
13 good spirit in the room, and I think they had a better
14 awareness as to what the Corporation is all about today, and
15 the fact that we've made big strides in the past couple of
16 years, and I think it wound up on a high note.

17 I was very pleased with the reception that we
18 received, and we had some very good input as well from people
19 that were very familiar with the Legal Services Corporation
20 for a good many years.

21 MR. O'HARA: Thank you, Mr. Molinari. That was my
22 impression of the meeting also, and we have tentatively

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1 arranged to meet with that group again for further input by
2 them.

3 Next, I met also with the executive director of
4 LFLA, which is the Los Angeles Foundation for Legal Aid, and
5 the executive director of the Pan-Asian American Legal
6 Foundation on a bridge project between the two programs to
7 work with the huge Asian population in the city of Los
8 Angeles, and that proposal will be looked over by the
9 Corporation.

10 I think it's one that the Board will approve of.
11 There is a terrible need to get to this population in Los
12 Angeles, and by combining these two groups into one working
13 group, I think we'll be will to achieve that result.

14 Yesterday, in one of the committee meetings, we
15 discussed the fact that even before the troubles had ceased
16 in Los Angeles, Ellen's staff was on the telephone not only
17 to Los Angeles but to other programs around the country who
18 were experiencing or may have experienced some problems, and
19 Ellen, if you would like to address that for a few minutes
20 and report to the full Board on your finding so far.

21 MS. SMEAD: We initially immediately contacted
22 LFLA, because it is the program in Los Angeles. We also

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1 heard from Orange County Legal Services, who contacted us as
2 we were trying to contact them. They seem to have been the
3 only one that suffered building damage.

4 The building that they were leasing was destroyed
5 by fire. All their equipment and furniture was destroyed,
6 and, on Friday, a grant for about \$121,000 was approved by
7 the president for them to assist them with getting back on
8 their feet again in that office in Compton, where the office
9 is located.

10 We've also been in contact with the program in San
11 Diego, programs in Seattle, Atlanta. We were in contact with
12 the programs north of San Francisco regarding the earthquake
13 that was there earlier in May or end of April. I can't
14 remember exactly when it was, but there was a major
15 earthquake out there, and we contacted that program.

16 We also contacted a program in Southern California
17 where there had been an earthquake, but the one in Southern
18 California suffered no damage, does not foresee at this time
19 any surge in demand. The one in Northern California does
20 foresee a surge in demand, and they'll be coming up with a
21 proposal shortly.

22 We also contacted the program in San Francisco to

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1 see if there was any problems there. There isn't any
2 problems at this point. What we're waiting for now is we
3 think out of the "civil disturbances" we expect two more
4 proposals dealing with surge in demand.

5 We don't know what the dollar figures are going to
6 be for that at this point. The programs are still assessing
7 it and will get back to us. Prior to that, we had the
8 emergencies up in Vermont. There was flooding in Montpelier,
9 and we contacted the program as soon as we heard about the
10 flooding and helped them get some equipment so they could get
11 their office reopened.

12 We also assisted a program that had some damage
13 with their room in which, in essence, shared costs with them
14 in replacing their room.

15 MR. O'HARA: Ellen, while you have the mike there,
16 are you in a position at this point in time to discuss the
17 pro bono awards?

18 MS. SMEAD: Yes, I am. At this time, we are going
19 to be providing the private attorney involvement in pro bono
20 awards at the annual conference in September. There will be
21 four awards. One of them is to an urban program, pro bono or
22 otherwise, a rural private attorney program, and then an

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1 award to a particular attorney, an urban pro bono attorney,
2 and another award to a rural pro bono attorney.

3 Later this month, we expect to send out a notice to
4 all the field programs notifying them of this award
5 officially and asking for their input and recommendations on
6 who should receive these awards. We will then select a staff
7 or committee that will consist, probably, of three LSC staff,
8 an expert in private attorney involvement, and a member of a
9 field program to help review the nominations which we
10 receive.

11 We're tentatively looking at receiving those
12 nominations by the end of June, making the selections
13 sometime in July, and notifying people of the awards in
14 August so that we can be prepared to present the awards in
15 September. That's where we sit on the awards at this time
16 for that.

17 MR. O'HARA: Thank you, Ellen. Emilia, could you
18 address the Board and let us know the status of where we are
19 with regards to production of policy manuals for staff
20 regarding travel and every other thing that we do?

21 MS. DISANTO: The Corporation right now is involved
22 in reviewing all internal policies and procedures both on an

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1 office-by-office basis as well as a corporate-wide basis.

2 Most recently, we have been involved in redrafting
3 an employee manual and creating a managers manual,
4 particularly for personnel purposes, for individuals within
5 the Corporation so that each employee will be aware of all
6 the internal personnel things that happen within a
7 corporation from promotions to performance evaluations, and,
8 likewise, the managers will have their own manager's manual
9 for the purpose of making decisions on performance
10 evaluations or transferring of person and position. That is
11 an ongoing matter that we're involved in.

12 In addition, we're looking right now at reviewing
13 all the travel guidelines which are within the Corporation.
14 Those travel guidelines are being revised. They're being
15 clarified, and one of the major objectives is to identify a
16 set of travel guidelines that will include all individuals
17 who travel on behalf of the Corporation.

18 Also, after that, we expect to then go toward the
19 administrative manual. In addition, an office-by-office
20 review is taking place with regard to policies and procedures
21 that are specific to a particular office.

22 Let me give you an example. For instance, to

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1 ensure that there is a policy and procedure for when an
2 individual wants to take out a lap-top computer, and they
3 want to take it out overnight, or they want to take it out
4 for a week, or they want to take it out for a month for
5 purposes of doing work, we have those policies and procedures
6 which are currently being examined, refined, and clarified.

7 Let me emphasize that this is not a project that is
8 going to happen overnight. It's pretty systematic. It's
9 going to be quite sweeping, and just for a time line to look
10 at, we're probably looking at something that is going to
11 occur over the course of somewhere between, I'd say, between
12 12 months and 20 minutes that it's going to take to try to
13 get everything clarified, fixed, have actual policies and
14 procedures, binders by office Corporation-wide, divided up
15 into various areas.

16 We're touching on every aspect that you can think
17 of from lap-top computers to telephone use to outside
18 activities to long-distance telephone calls to everything you
19 can possibly think of that happens with individuals in a
20 corporation we're going to be addressing, and so far so good
21 with the employees' manual and the managers' manual, which
22 are pretty well on their way. We expect to be fully

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1 implemented by about the second or third week of June.

2 MR. O'HARA: Thank you very much, Emilia. Ken,
3 although you've already reported earlier this morning to the
4 Audit and Appropriations Committee on the new building, would
5 you give the full Board just a quick synopsis of where we are
6 at this time?

7 MR. BOEHM: Sure. The move-in date from the
8 beginning was June 1st, and we will be making that. They've
9 made good progress in getting the new premises ready, and we
10 will be moving on that date. There will be a brief period of
11 time where we'll be without full phone service two working
12 days prior to that, and then the move is going to take place
13 in force over that weekend, working almost around the clock.

14 We had a brief report on the progress on the rental
15 of our currently premises at 400 Virginia Avenue. There is a
16 lease to be signed for 25 percent of that space this coming
17 Friday, and that would be GSA, with HUD as the main user
18 signing that.

19 So for the move-in itself, the full staff will be
20 getting, and many of them for the first time, a look at the
21 premises on a tour we have planned for this Friday, the 22nd.
22 So that has kept to the schedule.

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1 MR. O'HARA: Thank you. Mr. Chairman, I'd like to
2 just skip ahead and do Item C while we have Ellen Smead at
3 the table, and then go back to B, which will be the report on
4 the status of the Veterans Grant Project. Ellen.

5 SUPPORT CENTER REPORT REQUIREMENTS

6 MS. SMEAD: As part of our ongoing review of
7 collection materials and processes within the Corporation,
8 one of the things that we're at is the reporting requirements
9 on support centers, that being national support centers,
10 state support centers, and regional support centers.

11 Earlier this winter, during the wintertime, we did
12 meet with some people from what's known as NOSSU, the
13 National Organization of State Support Units, and advised
14 them at that time that we'd be trying to assess the reporting
15 requirements with an eye towards ensuring that we continue to
16 receive useful information while reducing the burden on them.

17 Currently, the centers are required to report
18 quarterly to us on various activities and provide us
19 quarterly budgets and to report to us, of course, in the
20 Section 30 funding application.

21 On Friday, we sent out a proposed revision to NOSSU
22 that would include reducing reports requirements to only once

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1 a year. The way it would be set up is they would submit a
2 work plan with a refunding application indicating how they
3 intended to use their funds and what were the goals and
4 objectives for the coming year.

5 At the end of year, they would then submit a report
6 correlating to that work plan, indicating what they had been
7 able to accomplish and what revisions they made throughout
8 the year. Then we'd also be asking them to put us on a
9 mailing list so that we received information from the centers
10 as they sent it to the field.

11 We'll be taking a similar look at the reporting
12 requirements for regional training centers and national
13 support centers in the month ahead, and we'll be talking with
14 them.

15 MR. O'HARA: Thank you very much, Ellen. I'll
16 excuse the three of you, and Cris Sundseth.

17 CHAIRMAN WITTGRAF: Mr. President, perhaps, before
18 we do that, let me ask if any Board members have any
19 questions or comments regarding any of the several matters
20 that you and Ms. DiSanto, Mr. Boehm and Ms. Smead have
21 touched on in the last few minutes. Discussion?
22 Mr. Shumway.

1 MR. SHUMWAY: Just one question that Jack mentioned
2 that he had met with the Asian community in Los Angeles
3 regarding the, I guess, communications program of some sort.
4 It's perceived in California that the large Asian population
5 is really in the San Francisco Bay area. Los Angeles is more
6 characterized in minority groups as blacks and Latinos.

7 If there is going to be that emphasize in L.A.,
8 there would have to be a similar kind of emphasize, if not
9 more, in the Bay Area.

10 MR. O'HARA: Thank you, Mr. Shumway, for bringing
11 that up. The office that I'm dealing with in Los Angeles
12 also has an office in San Francisco, and it is part of the
13 proposal to do San Francisco also, but the initial work would
14 be done in Los Angeles to set up the bridge project.

15 MR. SHUMWAY: So what you do in San Francisco again
16 would be directed toward Asians?

17 MR. O'HARA: Yes. Exactly, because, in Los
18 Angeles, it's a very severe problem because of the fact they
19 speak 22 different dialects. It's not quite to severe in San
20 Francisco, although it is bad.

21 CHAIRMAN WITTGRAF: Further discussion, questions,
22 or comments in the areas that have been touched upon?

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1 Ms. DiSanto.

2 MS. DISANTO: David Richardson asked me just to
3 give you all some information while I was up here. During
4 the week of May 25th, which is more or less the move week, as
5 various functions of the Corporation begin shutting down
6 systematically from printing and copying down to telephone
7 service, I thought I'd share with you the two phone numbers,
8 the two phone numbers that will make us all available to all
9 of you during the course of that week, and that would be
10 (202) 863-1820 or 863-1844.

11 Those will be the only two numbers working during
12 the course of that week at the Corporation. Thank you.

13 CHAIRMAN WITTGRAF: Thank you. Further questions
14 or comments, discussion regarding the matters touch upon?
15 Mr. Molinari.

16 MR. MOLINARI: Just wondering, a question to Ellen,
17 watching the television reports of the monumental arrests and
18 the amount of legal work that went on in Los Angeles
19 following the riots and everything else that took place, was
20 the Corporation requested, any unusual requests made of the
21 Corporation to assist, in terms of providing defense for the
22 many tens of thousands that had been arrested and were

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1 undergoing arraignment, et cetera?

2 MS. SMEAD: No. We didn't receive any such
3 requests.

4 CHAIRMAN WITTGRAF: I think you did, Ms. Smead,
5 talk about the surges that were experienced by several
6 grantees, and by surges, I took you to mean increased
7 requests for services, not of a criminal nature, but rather
8 of a landlord-tenant or housing or other nature.

9 MS. SMEAD: It is more of a landlord-tenant. It's
10 going to be dealing with unscrupulous building contractors,
11 that sort of thing, or insurance demands. That's more of
12 what we expect to see.

13 CHAIRMAN WITTGRAF: Thank you. Further discussion?

14 (No response.)

15 CHAIRMAN WITTGRAF: Mr. President.

16 MR. O'HARA: Thank you, Mr. Chairman. Ken, we
17 almost forgot your legislative report.

18 MR. BOEHM: Nothing much happened -- no. Well, for
19 the first time since 1981 a reauthorization bill affecting
20 Legal Services Corporation has passed the House of
21 Representatives. To put that in a little bit further
22 perspective, the last time a reauthorization bill and the

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1 only time a reauthorization bill affecting Legal Services
2 ever was signed into law was 1977. So it's been a long time
3 coming.

4 What is though is, as you know, of course, was the
5 bill that had been passed out of the Judiciary Committee last
6 year. It's H.R. 2039 concerning reauthorization of Legal
7 Services program. It was considered on two separate days,
8 because there was a fair amount of time allotted for debate
9 on the amendments and then final passage.

10 It was first considered on Wednesday, May 6th.
11 They couldn't complete their work then and had to hold it
12 over to the next week on Tuesday, May 12th. On the first day
13 of consideration, the White House released their statement of
14 Administration Policy, which is as it sounds, the
15 Administration's position on that legislation.

16 It was not that dissimilar from a similar statement
17 they put out in June, June 25th last year, when it was under
18 consideration in the House at the committee level, and in
19 that they reiterated what is, basically, the veto threat. It
20 was the White House's position on a number of issues, as well
21 as it was styled as that the senior advisor to the president
22 would suggest a veto, if certain issues were not addressed in

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1 certain ways.

2 The high points or the most critical issues
3 identified by the White House were redistricting issue,
4 abortion-related activities, competition, accountability,
5 lobbying and monitoring. In that, there was some speculation
6 that the White House may downgrade their interest in Legal
7 Services by having this as an Attorney General recommended
8 veto, which, in the general way of handling this sort of
9 thing would not have been as strong as senior advisors. The
10 previous years had been styled as senior advisors, but this
11 was, in fact, a senior advisor recommended position.

12 The House had it. It was distributed in time for
13 the vote. The vote itself had a rule that was a little
14 restrictive, less restrictive than the previous Legal
15 Services reauthorization in '77 or even the one in '81, and
16 there was some debate about that.

17 Some of the amendments that had been committed to
18 the Rules Committee, and there were 37, did not make the cut.
19 One of them that had received a lot of attention was one by
20 Mr. McCollum on monitoring issues as well as Inspector
21 General issues. That was not permitted by Rules Committee to
22 be debated upon.

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1 There were other amendments that dealt with some of
2 those issues, however. I can give you a quick summation of
3 it. The actual congressional record, because it's two
4 different days, and the way the congressional record is
5 printed in very small print makes pretty demanding -- a lot
6 of demands on your attention to read it, but I'm preparing a
7 summary of all the votes, the actual roll calls as well as an
8 analysis of it, the high points of debate on each one of the
9 issues, and we'll have that ready in the next week for
10 distribution out to the Board.

11 The key areas that were discussed, there were a lot
12 of on block treatment of some technical amendments, but the
13 key areas were the following: First of all, the time is five
14 years. Previously, it had been three years. So if this
15 passed in its present form would be reauthorized for a five-
16 year period.

17 That was in the legislation itself that came out of
18 Mr. Franks Subcommittee and the Judiciary Committee. There
19 was an amendment to make that to three years, but that did
20 not come out of Rules Committee. A number of the amendments
21 that were part of the originally McCollum-Stenholm proposal,
22 legislative proposal, were voted on as specific amendments,

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1 for the most part were defeated.

2 There was an amendment for competition, which was
3 defeated, attorney fees amendment, identity of plaintiff's
4 amendment lobbying, and one of the amendments --
5 redistricting amendment actually did pass. That was 286 to
6 123 amendment. The basis there was that it expanded the
7 restriction on redistricting cases that had been voted out by
8 the Judiciary Committee.

9 Judiciary Committee restricted Legal Services
10 program grantees and attorneys from handling congressional
11 and state legislative redistricting cases. The amendment
12 that passed extended that restriction to all political
13 redistricting or redistricting-type cases, and it's very
14 close, in terms of its language, to the regulation that the
15 Corporation had passed in the late '80s. So that did pass.

16 For the most part, the others did not. There was a
17 highly debated amendment offered by Mr. Gekas covering
18 abortion issues that did not pass. There was an amendment by
19 Mr. Fish, who is a ranking republican on a key committee of
20 the Judiciary Committee. He's been a supporter of Legal
21 Services over the years.

22 He proposed some changes in what had come out of

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1 Mr. Franks subcommittee and then Judiciary Committee.
2 Specifically, as you may remember, there was a 90-day
3 deadline on investigations, compliance investigations, by the
4 Corporation.

5 Mr. Fish felt that that was somewhat arbitrary and
6 that that should be deleted, and consequently, he introduced
7 an amendment that would delete that deadline. He also
8 restored current law with regard to 1010(c). That's the
9 portion of the Legal Services Act requiring separate
10 accounting and separate records for federal and nonfederal
11 funds. That had been eliminated in the version of the bill
12 national came out of the Judiciary Committee. So that, in
13 fact, was restored.

14 Also, he inserted his own privacy language as a
15 substitute for the privacy language that came out of
16 committee which dealt with application of state and federal
17 privacy laws to Legal Services Corporation and its
18 relationship with its grantees.

19 Instead, he put in language that he felt adequately
20 addressed that issue, and all three of those were passed by a
21 fairly lopsided majority, 410 to 2. So that was one
22 amendment that did pass, that varied the bill itself.

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1 The bill itself is very similar to what had come
2 out of committee and what you're familiar with as coming out
3 of committee with some of the changes mentioned. There were
4 some changes in lobbying provision. There are some changes
5 with respect to the Inspector General.

6 The quick assessment on the Gekas abortion
7 amendment is that it was defeated. There are still abortion
8 restrictions, but they're more in the nature of what had
9 passed under the original law in 1974, and it did not include
10 what they called the Humphrey-DeWine Amendment; that is the
11 Appropriations rider amendment that has been included each
12 year since 1985.

13 Has the White House statement on Admission Policy
14 said they would veto it if it didn't contain that language,
15 which they specifically identified as the Gekas language,
16 that that's viewed as still a potential problem, if it's
17 fully considered by the Senate and then goes to the White
18 House for signature.

19 Another point that's in there that received some
20 debate on the House floor was the monitoring regulation
21 requirement, and that is that all regulation of grantees by
22 the Corporation must be done by regulation, and that absent

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1 that you cannot do any monitoring, and proponents of an
2 amendment changing that had said that, "Well, that would shut
3 down monitoring until such time as there could be a
4 regulation," so that was not actually addressed, because the
5 amendment that would have changed that was not in order.

6 The final analysis, if you will, in this is this,
7 is that it now moves on to the Senate. The expectation is
8 that the Senate may not take it up, but that's not based on
9 any hard evidence whatsoever. Congressional Quarterly, and
10 some of the publications that track Congress have reported
11 that as being the case.

12 Senator Kennedy, to my knowledge, has not said
13 publicly whether he will or will not be taking up the case.
14 You can argue it either way. The arguments against taking it
15 up are it's an election year. They have a very demanding
16 legislative schedule ahead of them. There have been no bills
17 introduced, et cetera.

18 On the other side of the coin, though, you have the
19 argument this is the furthest that a Legal Services
20 reauthorization has come in some time. A lot of effort has
21 been brought to bear to bring it this far, and for those
22 reasons the Senate should take it up.

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1 Then there is always the question of the veto
2 threat and whether the votes are there to override, and the
3 general consensus is the votes are not there to override, at
4 least in the present form, and that's just based on other
5 veto -- there haven't been any other veto overrides recently
6 on anything of this nature.

7 So that's a factor as well. The bill, in full
8 form, will be out sometime in the next -- anyway from a week
9 to three more weeks, and, as I say, I'll prepare an amendment
10 by amendment analysis with the roll call for the Board as
11 well as highlights of the debate, and if anybody would like
12 the full debate, I would be happy to provide that as well.
13 It makes heavy reading. If there are any questions, I'd be
14 happy to --

15 CHAIRMAN WITTGRAF: Discussion? Any questions or
16 comments for Mr. Boehm?

17 (No response.)

18 CHAIRMAN WITTGRAF: Thank you, Mr. Boehm.
19 Mr. President.

20 MR. O'HARA: Thank you, Mr. Chairman. Thank you,
21 Ken. Cris Sundseth. Cris is from the Office of Field
22 Services and has been our contact person on the Veterans

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1 Grant Project.

2 MR. SUNDSETH: The actual report on the status of
3 the U.S. Court of Veterans Appeals project today will be
4 given by the staff from the Court, whom it's my pleasure this
5 morning to introduce. This project, as you know, doesn't
6 really have a precedent with the Corporation or the Court.
7 So we had to start at the beginning of the year with, really,
8 a blank slate.

9 It's been an iterative process all along, and,
10 really, these two people, they're temperament, their
11 personality, and their commitment has made it a pleasure,
12 although sometimes excruciating as we went through these
13 minute legal details that had to be always ironed out with
14 this request for proposal, because of the fact that it's a
15 brand new project, and so on.

16 Some weeks, I actually spent more time with or on
17 the phone with these two than I did with my colleagues at the
18 Corporation, but there is a great deal of progress to report
19 since the last time the Board has received a progress report.
20 So I will turn this over now to Sandra Montrose, who is the
21 Executive Attorney to the Chief Judge of the Court and Jim
22 Caldwell, who is the Chief Deputy Clerk, and, under the MOU,

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1 the Court's designated liaison with the Corporation.

2 PRESENTATION OF SANDRA MONTROSE AND JAMES CALDWELL

3 MS. MONTROSE: Thank you, Cris, and thank you all
4 of you for letting us join you this afternoon. We are very
5 pleased to be able to be here to give you a report. I'll,
6 primarily, focus on the status of the project, and Jim will
7 add a few comments, and then we'll be happy to answer any
8 questions you may have about the content of the program.

9 The program originated in late fall of last year,
10 when the Court realized that there would be surplus funds in
11 the budget of approximately \$950,000, that we approached
12 Congress and asked to be reprogrammed for use in establishing
13 a program to increase pro bono representation for veteran
14 appellants before the Court.

15 Currently, more than two-thirds of the veterans who
16 file appeals with the Court are proceeding pro se. So there
17 is a great need for attorney and qualified representative
18 involvement. Public Law 102-229 made available up to
19 \$950,000 for use in this grant program, the money to be
20 expended through September 30th of 1993.

21 On May 6th of 1992, the notice of the availability
22 of the request for proposals was published in the Federal

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1 Register, and RFPs, the Request For Proposal forms, were sent
2 out starting May 12th of 1992. We at the Court -- Jim joins
3 me along with Debra Creek, our budget officer for the Court,
4 who had been most intensely involved in the development of
5 the program want to thank Ken Boehm, Cris Sundseth, Suzanne
6 Glassow, Ressie Walker, who worked with us.

7 As Cris said, we went through many lengthy and
8 sometimes excruciating meetings line by line thrashing out
9 the request for proposals, but we've all been committed and
10 aware from very early in the development of the program that
11 it was more important to do things right, as right as we
12 possibly could, rather than try to get something out on the
13 street which wouldn't meet the needs that the program, it is
14 hoped, will satisfy.

15 The legislation set a deadline of mid-May 1992, not
16 a strict deadline, but a deadline established with, if
17 feasible, language, and we found that it was just not
18 possible to have the money out on the street at that point as
19 the legislation recommended or required, if feasible.

20 We found that there has been considerable interest
21 and considerable understanding on the parts of members of
22 Congress in the difficulties and the complexity in developing

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1 this program. Chief Judge Nebeker testified before Senator
2 Mikulski on May 7th, and she acknowledged the fact that this
3 program is unprecedented, is highly sophisticated.

4 The Court, and I understand individuals from LSC,
5 too, have been laying the groundwork or at least strongly
6 encouraging legislation to permit the expenditure of funds
7 through the end of September of 1994, and the groundwork has
8 been laid for that effort.

9 The Chief Judge sent letters on May 12th to
10 Senators Mikulski, Cranston, Rudman, Hollings, and Specter
11 with a copy to Senator Garn and to Representatives Traxler,
12 Rogers, Smith, Stump, and Montgomery with a copy to
13 Representative Green assuring all the members of Congress
14 that the efforts of the Court and the LSC have been intense.

15 The process has been highly complicated. The Court
16 had never been involved in grant placement before, and while
17 LSC has extensive programs, regulations, procedures, many of
18 them just didn't quite fit the needs of this program. While
19 they were extremely helpful as guidelines, we found that
20 there was much tailoring that had to be done.

21 As Chief Judge Nebeker said in this letter to
22 members of Congress, the Court is enormously grateful for the

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1 very positive and constructive approach taken throughout the
2 development process by the LSC Board of Directors, LSC
3 President O'Hara, and the LSC staff.

4 "We are confident that we have forged a close
5 working relationship that will be a positive factor in
6 achieving Congress' goal of substantially reducing the
7 proportion of the Courts pro se appellants now exceeding 67
8 percent of all pending appeals." That is literally very
9 true.

10 We believe that this request is being favorably
11 entertained by the members of Congress to whom it has been
12 addressed. The Chief Judge went on to ask that legislation
13 be enacted as soon as possible, if Congress does favor this
14 extension, and that LSC then be permitted to notify those who
15 have expressed an interest in submitting proposals, that they
16 would have a further period of time in which to expend the
17 funds.

18 We have been gratified at the response to the
19 request for proposals helped in measure by the article that
20 appeared in the Legal Times on program almost daily. We've
21 had letters from attorneys who are also veterans saying that
22 they were appalled that so many of their fellow veterans have

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1 had to proceed unrepresented.

2 Many of them did not know of the existence of the
3 Court, which is not too surprising, since the Court just came
4 into existence via legislation in mid-November of 1988 and
5 just began operation in October of 1989, but these veterans
6 have expressed an interest in recruiting their fellow
7 veterans to take cases pro bono, and this is one of the key
8 elements, the key components of the program that we
9 anticipate.

10 So sum up, the program has now been launched. The
11 RFP has been made available to those who have expressed an
12 interest. We now anticipate that the grant will be placed by
13 late August, early September, and Jim would like to add a few
14 comments, and then we'll be happy to entertain any questions
15 you may have regarding the content of the program or any
16 other aspect. Again, we thank you.

17 CHAIRMAN WITTGRAF: Thank you, Ms. Montrose.
18 Mr. Caldwell.

19 MR. CALDWELL: I'll just keep my comment real
20 short. I just wanted to say something about the complexity
21 of the project. The veterans community and at least as far
22 as representation is concerned has a large number of long-

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1 time players that have been involved in representation.

2 One of the things that we attempted to do with the
3 RFP was to set up a situation where we could gain access to
4 or have these organizations participate in this process so
5 that we would be able to have access to their very detailed
6 knowledge and make the proposals that much better of service
7 to the veterans that are having a problem in gaining
8 representatives.

9 The reason why I mention that is because of the
10 sensitivities involved in that area, and I would just like to
11 say that we couldn't have been assigned to, I think, some of
12 the best people that we've ever had to work with in Cris
13 Sundseth and Ken Boehm, because they've been very sensitive
14 and attentive to handling the various players that are in
15 this field and working with them to get their input and join
16 them together and get the word out on the street before this
17 thing actually went.

18 I think that's probably the main reason why we've
19 gotten the response that we've gotten.

20 CHAIRMAN WITTGRAF: Thank you. Let me try to
21 clarify at one point at least, from my own understanding. If
22 I understood you correctly, Ms. Montrose, hopefully, the

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1 funds would be made available through this process you've
2 described by August or September of 1992.

3 The original thought was that they would be
4 expended by the end of the next fiscal year, September 30,
5 1993, but the Chief Judge of your court has asked that
6 legislation be effected to allow you the expenditures to
7 continue yet through September 30, 1994, and it's then the
8 same \$950,000 that we're talking about?

9 MS. MONTROSE: That's the way the situation is at
10 present, although there is certainly hope that additional
11 funds might be appropriated in the future, if the program is
12 able to demonstrate that it is achieving some success, but at
13 this point we're just asking for the extension of one year to
14 expend the 950,000.

15 CHAIRMAN WITTGRAF: That would be, then, Fiscal
16 Year '94 as well as Fiscal Year '93?

17 MS. MONTROSE: That's correct.

18 CHAIRMAN WITTGRAF: And then depending upon how
19 things go during those two years, the Court might ask either
20 for additional funds or for the reprogramming of some funds
21 for future use?

22 MS. MONTROSE: That's right.

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1 CHAIRMAN WITTGRAF: Further discussion? Mr. Dana.

2 MR. DANA: Mr. Chairman, does the enabling
3 legislation exempt the grants that are going to be
4 forthcoming from our regulations?

5 MS. MONTROSE: Yes. It's a de facto exempt, in
6 that it's solely court funds that are going to be used. So
7 since no Legal Services Corporation funds will be used, the
8 RFP and then the proposals that will be sent in response and
9 the grant terms itself will set the requirements of the
10 program.

11 We've used the LSC regulations as guidelines in
12 many cases. It would, probably, fit under that portion of
13 your regulations that applies to grants placed with funds
14 other than LSC funds, and we've been operating in compliance
15 with that. That regulation says that those terms may be set
16 up separately based on the legislative and regulatory
17 requirements that may apply to those funds themselves.

18 MR. DANA: Yes, Jim.

19 MR. CALDWELL: If I might, that's one of the other
20 little complexities that we have. You all are, more or less,
21 serving as a conduit in this regard, a manager of how the
22 monies get dispensed out there in selecting to is who perform

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1 a particular grant, yet we retain the management of the
2 funds. You are, more or less, not. You're like the conduit.
3 We give them to you, and its goes out to wherever it goes.

4 CHAIRMAN WITTGRAF: Mr. Dana.

5 MR. DANA: I appreciate the policy. It seems to me
6 that one of our problems is that we just can't go out and
7 issue regulations, because we have not, for some time, been
8 trusted with that power, although, as it happens, we could
9 issue a regulation, and it would take effect about the time a
10 regulation would normally take effect, on October 1, unless
11 Congress, for some reason, chose to suspend it.

12 I know you've met with a lot of people within the
13 Corporation, but I think it would be prudent to satisfy
14 yourselves and maybe have someone at the Corporation
15 satisfy -- have our Corporation's legal counsel satisfy
16 itself that what we are doing is consistent with our
17 regulations or at least permitted by our regulations, and, if
18 not, or if there is some question about that, propose,
19 promptly propose a regulation that we could adopt that would
20 go into effect in October that would deal with whatever
21 regulatory authority, if any, you feel you need.

22 MR. CALDWELL: Well, I can't comment as to you

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1 all's comfort level about the regulations, but I know that
2 one of the things that we did rather extensively throughout
3 this whole process in building these RFPs was to design the
4 grant assurances as well as additional circulars that laid
5 out most of the regulations and requirements that we want
6 fulfilled as a-part of the this RFP.

7 Built in financially are references back to the
8 LSC's audit guide, as an example, for reviewing any grantee's
9 performance from a financial control standpoint, and we have
10 other things like EEO requirements, and so forth, that we've
11 established.

12 So if I might just speak from the court aspect,
13 we're fairly comfortable with what we've done, and I think
14 the sense I have from Ken and from Cris is the same. They
15 may have something else they might want to offer, but I think
16 we're fairly comfortable.

17 MR. DANA: Well, if they're listening, I would urge
18 them to check with general counsel just to be sure we don't
19 have a problem.

20 MS. MONTROSE: Suzanne Glassow and I did discuss
21 this issue very early on in one of the initial meetings, and
22 we did focus on your regulations covering the use of grant

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1 funds other than LSC funds, which appear to permit this sort
2 of program, but we will take another look at it and see if
3 there is anything additional that would be required.

4 CHAIRMAN WITTGRAF: Mr. Boehm.

5 MR. BOEHM: Let me just say a few words, because at
6 our end that is something that we looked at right at the
7 beginning. We have several opinions from the Office of
8 General Counsel on some of the very points that you're
9 mentioning, and we'll make those available.

10 MR. DANA: I don't know to see them. I'm happy, if
11 you've looked and you've satisfied yourself we are not going
12 to be -- I mean, we have these regulations. They normally
13 should apply to all of our grants, and if they don't apply to
14 this, that's great.

15 MR. BOEHM: You're right, and, in this case, one of
16 the reasons we moved as carefully and as thoroughly as we
17 did, because it was some unchartered territory, and that's
18 one of the reasons we sat down very early with OGC and
19 actually had a member of the staff, Suzanne Glassow, with us
20 from the beginning on that very point.

21 MR. DANA: Okay.

22 CHAIRMAN WITTGRAF: Further discussion?

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1 Mr. O'Hara.

2 MR. O'HARA: Thank you, Mr. Chairman. The
3 witnesses have been very kind and complimentary towards the
4 Corporation staff, and I would like to say, in return, that
5 the Corporation has been very pleased with both the
6 performance by yourself and by Chief Judge Nebeker and also a
7 former colleague of Mr. Shumway and Mr. Molinari, Ken Kramer
8 from Colorado, who was very helpful to us and who had a
9 meeting over in his chambers one morning, which we all
10 attended, and he had the Veterans group there. So this has
11 really gotten off on the right foot, and we thank you for
12 your help.

13 MS. MONTROSE: You're very welcome, and thank you
14 for permitting us to talk with you today.

15 CHAIRMAN WITTGRAF: Further discussion, comments?

16 (No response.)

17 CHAIRMAN WITTGRAF: Ms. Montrose, Mr. Caldwell,
18 thank you very much. We'll look forward to seeing you again,
19 although, for your sake, we hope not too soon. Thank you
20 very much.

21 MS. MONTROSE: Thank you, Mr. Chairman.

22 CHAIRMAN WITTGRAF: At this time, the Chair is

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1 prepared to entertain a motion that we proceeded, pursuant to
2 the agenda, to Executive, or Closed Session.

3 M O T I O N

4 MR. UDDO: So moved.

5 MS. LOVE: Second.

6 CHAIRMAN WITTGRAF: It's been moved by Mr. Uddo,
7 seconded by Ms. Love. Those who are in favor of the motion
8 will signify by saying aye.

9 (Chorus of ayes.)

10 CHAIRMAN WITTGRAF: Opposed, nay.

11 (No response.)

12 CHAIRMAN WITTGRAF: The ayes appear to have it.
13 The ayes do have it. We will proceed to Executive Session.
14 Two comments as we do so. First of all, our prescient Board
15 secretary who had predicted we would be at this point at
16 12:30, and it's about 12:25, has predicted that we will be
17 coming out of Executive or Closed Session at 1:15. So I
18 don't know what better guide to give you than that.

19 Second, for the members of the Board and staff, we
20 will have a ten-minute personal convenience break before we
21 begin our deliberations both for people who may need to check
22 out, to make phone calls, to attend other personal needs, or

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1 to begin to get their lunches. Thank you.

2 (Whereupon, at 12:25, the meeting adjourned to
3 Closed Session.)

4 CHAIRMAN WITTGRAF: The Open Session of the regular
5 meeting of the Board of Directors again will be in order. At
6 this time, we will proceed to Agenda Item No. 10.

7 Mr. President.

8 MR. O'HARA: Charley Moses.

9 CHAIRMAN WITTGRAF: Mr. Moses.

10 CONSIDERATION OF THE STAFF REPORT ON THE INSURANCE PROJECT

11 MR. MOSES: For the record, my name is Charles
12 Moses. With me is John Penzinger from the Corporation's
13 General Counsel's Office, and also Gary Hurst, who is the
14 chief operating officer of CIMA, the Corporate Insurance
15 Management Association.

16 Basically, I'm going to be very brief, as will
17 John. The main focus of today's presentation, we've been
18 looking into the Corporation's -- not the Corporation's
19 insurance, but the insurance that our recipients get to cover
20 things such as malpractice liability as well as other things
21 covered by that insurance policies.

22 What we've been doing is trying to see -- given the

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1 overall trend in insurance rates to increase lately, we've
2 been trying to make sure that our recipients have available
3 to them the most effective, most cost-effective insurance
4 that is possible.

5 This began back in 1989 or 1990 as a staff
6 initiative to, basically, examine insurance costs on the
7 basis of information that was submitted to us by the field
8 programs through their refunding applications. Since that
9 time, we've gone through, as you know, several presidents.
10 Each of them have been involved to a degree in that, and it
11 has, in fact, continued as an initiative to try to at least
12 understand what the insurance costs are and assess whether or
13 not we felt that there might be an opportunity for cost
14 savings.

15 The reason, obviously, for cost savings is that for
16 every dollar that we can save a local program, that's a
17 dollar they can put into direct delivery rather than into a
18 fixed cost such as insurance. Basically, what we first found
19 in 1990 was that there seemed to be somewhere in the
20 neighborhood of \$6 million that was being spent every year in
21 insurance premiums.

22 We looked to try and find what was, basically, the

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1 output for that \$6 million a year, and in examining the
2 records that were submitted to the Corporation, we found that
3 there were generally no more than 40, 45 claims made every
4 year, and of those claims, less than half actually had any
5 payout, and the payouts were, generally, in the neighborhood
6 of \$10,000 to \$15,000.

7 At that point, the numbers, quite frankly, didn't
8 make sense to us, and we are not insurance experts. We don't
9 claim to be. So when we did not understand exactly what the
10 numbers were telling us, that's when we went to the
11 Corporation's insurance broker.

12 At that point, our general counsel became involved
13 with the Office of Field Services, and we, basically, jointly
14 went to the Corporation's broker to try and understand if
15 there was, in fact, a problem, that we might be able to get
16 some cost savings from our insurance policies.

17 Is there anything you have to add, John.

18 MR. PENZINGER: No, not at this time. I have
19 nothing further to add. Thank you.

20 MR. MOSES: The only other thing that I would like
21 to add before turning the table over to Gary Hurst is that at
22 this point what we are bringing before the Board today is

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1 basically informational. We have, over the past several
2 months, been giving the Board information on this insurance
3 project, and we're trying to update the Board as to what we
4 have found.

5 There is not necessarily any action item that this
6 Board needs to take at this time, but it's purely here for
7 the Board's information, and I think that it's an important
8 item for the Board to understand, since we are dealing with
9 approximately \$6 million every year of federal expenditures.

10 CHAIRMAN WITTGRAF: Mr. Hurst.

11 MR. HURST: Well, I hope I can be very brief, too.
12 I won't go over in great detail how we began, but it was very
13 simply a request from John and Charley to act as a sounding
14 board for them, in looking at an expense that they weren't
15 able to, on their own confirm was reasonable.

16 That call came to us in December 1990, and the
17 problem, i.e., not understanding if the expense it was
18 justified, was explained, and we told them we would assist
19 them in determining that as best we could. Our goal and our
20 objective at that time and, frankly, today was simply to
21 answer that question.

22 Was that \$6 million expense a reasonable expense,

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1 and, if it was a reasonable expense, what measures could be
2 taken to reduce the expense over time through loss control
3 and risk management? If it was not a reasonable expense,
4 were there alternatives available in the marketplace?

5 Critical to our work and the survey work that many
6 recipients received was the fact that claims information of
7 the type that could confirm the loss experience was not
8 available or not made available to LSC, despite requests by
9 LSC to review it.

10 In the absence of that loss information,
11 information that could confirm experience, we had to work
12 with LSC recipients to develop information, and we admit
13 today that the information is not as accurate or as valid as
14 is hard loss data from an insurance carrier, but it was the
15 only data that we have available to us.

16 The process at that point, once claims information
17 was not available, and we had to develop it, was to develop
18 it as best we could and then, through some telephone follow-
19 up, familiarize ourselves enough with the facts that the
20 recipients understood the questionnaire and responded
21 correctly to it.

22 We then put the information together and made it

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1 available to any insurance carrier who would express an
2 interest in offering an alternative proposal. We went
3 through a number of carriers, conversations, meetings, and
4 have finally arrived at a point where two insurance carriers
5 have been willing to offer an alternative, notwithstanding
6 the limited claims data that we have, and both alternatives
7 promise to save recipients some amount of insurance premium.

8 The one alternative is through the Crum & Forester
9 Insurance Company and promises to save between 12 and 15
10 percent off of what is currently being paid, and the other
11 alternative is through the Homestead Insurance Company, and
12 their offer is to save such as 25 percent on average in the
13 first year.

14 The Homestead proposal also provides for a dividend
15 to the degree loss experience is of a level that would
16 provide for some return premium. Up to 8 percent of the
17 premium that's paid is also available in the form of a return
18 to the recipients after 18 months, give the claims a chance
19 to settle and look.

20 Where do we go from here is simply to make
21 recipients aware of an alternative. I read where some
22 interest some of the testimony in an earlier Board meeting,

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1 and a number of recipients had said they had individually
2 tried to find alternatives, and many found that they couldn't
3 find alternatives.

4 Maybe I'm looking at this too simplistically.
5 We've looked for alternatives, and we found a few, and we're
6 trying to make them available, and if people feel comfortable
7 in taking advantage of them, they will. If they don't, they
8 won't, and I'm satisfied with either result.

9 CHAIRMAN WITTGRAF: Mr. Hurst, would it be fair to
10 say at this point that the relationship of the CIMA companies
11 to the Corporation is the same as the relationship of
12 Complete Equity Markets Incorporated to the NLADA?

13 MR. HURST: No. I don't think it's the same. I'm
14 not familiar with the relationship between Complete Equity
15 Markets and NLADA. So I'm not able to characterize our
16 relationship with LSC as the same as theirs. I'm just not
17 familiar with their relationship.

18 CHAIRMAN WITTGRAF: Why don't you describe, then,
19 if you can, or will, rather, the relationship of the CIMA
20 companies to the Corporation, and you've addressed this
21 somewhat in your letter, so I think I'm asking you, perhaps,
22 in part, to repeat yourself, but what the relationship would

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1 be, then, would the insurer and with any grantees of the
2 Corporation that would obtain the policies of that insurer.

3 MR. HURST: May I ask, are you asking a
4 relationship with respect to this professional liability
5 offer or in relationship with respect to other insurance
6 coverages that we've made available to LSC?

7 CHAIRMAN WITTGRAF: No. I'm talking about the
8 liability here as it would be available to the grantees of
9 the Corporation.

10 MR. HURST: Okay. I don't know that we have any
11 relationship with Legal Services Corporation in the offer of
12 this professional liability alternative. Certainly our
13 relationship with the recipients will be one of agent. We
14 will acts as a recipient's agent for professional liability
15 insurance, if they so choose to have us do that.

16 We will, because we think it is -- we think the
17 most critical part of this offer is not the savings, because,
18 frankly, if the current carrier is correct, and in the
19 experience is very bad, then the critical part of this offer
20 is not the savings but the opportunity to learn more about
21 the claims experience and to share that information
22 generically, not specifically, with other recipients in the

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1 effort to, hopefully, reduce loss over time.

2 So I would hope we would be able to coordinate that
3 effort through Legal Services Corporation. So I think the
4 relationship with respect to this program with LSC would be
5 one of a facilitator of that kind of information, if they
6 chose to take that role.

7 CHAIRMAN WITTGRAF: Such that either directly or
8 indirectly the Legal Services Corporation would be able to
9 address the bases for those losses or those claims through
10 training, through education, or through some other means, you
11 think it would be possible to develop that kind of approach
12 based on the loss claim information that could be acquired
13 over a few years?

14 MR. HURST: Yeah. That's the goal, and that's the
15 objective, yes, sir.

16 CHAIRMAN WITTGRAF: Discussion? Mr. Kirk.

17 MR. KIRK: If one of these companies that you have
18 found were to write insurance and it were to be purchased by
19 grantees, would you receive a commission on that?

20 MR. HURST: Yes.

21 MR. KIRK: Are you being paid for the work separate
22 and apart from that that you've done since December of '90?

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1 MR. HURST: Not for the project work that we've
2 done on the professional liability, no, sir. We do receive
3 commissions from Legal Services Corporation on the directors'
4 and officers' liability policies and the public liability
5 policies that we've placed for the Corporation, but the work
6 to review and develop an alternative to the professional
7 coverages available to recipients, no. We haven't asked for
8 nor received any compensation for that work.

9 MR. KIRK: As I understand it, your dealing with
10 the information that has been gained from the survey, which
11 may not be complete, and you've not been able to get any
12 claims information from the current carrier; is that right?

13 MR. HURST: Two parts to that question. First part
14 is yes, we're dealing with the information that we received
15 from surveys, and, clearly, it's not complete. I mean, I
16 won't even suggest that it's complete. It is not complete.
17 It doesn't include defense costs, which we've talked about in
18 all of our correspondence with the carriers that we've asked
19 to offer alternatives.

20 So the first part of your question, yes, we're
21 using survey results, and no, it's not complete. I'm sorry,
22 I forgot the second part, but, no, we are using the survey

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1 results, and that information is not complete. Oh, I'm
2 sorry, did Complete Equity share information? No. We never
3 asked Complete Equity for information.

4 It's our understanding that Legal Services
5 Corporation requested that information from Complete Equity.
6 We've never asked for it.

7 MR. MOSES: If I can add to that, Mr. Kirk, on more
8 than one occasion, either staff members or former presidents
9 of the Corporation have had meetings with Complete Equity,
10 and at various different times we thought that there had been
11 agreements to share that exact information so that the
12 Corporation would not have to go through the necessity of
13 doing such a survey.

14 Unfortunately, every time that we thought that we
15 had some type of agreement and tried to fax different
16 questionnaires or different information needs to Complete
17 Equity, we were, basically, told, "Don't call us, we'll call
18 you."

19 MR. KIRK: A formal demand has been made, and they
20 formally refused, or they just didn't answer?

21 MR. MOSES: They, basically, refused and said that
22 they would get back to us if and when they decided they

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1 wanted to.

2 MR. KIRK: May I have just a few more questions?

3 CHAIRMAN WITTGRAF: Mr. Kirk.

4 MR. KIRK: Do you have a request for proposal that
5 you've given to the two companies that are there?

6 MR. HURST: Yes, I did.

7 MR. KIRK: Are you willing to make that available
8 to anybody that wants it, or is that just some proprietary
9 thing?

10 MR. HURST: I've been willing to make it available
11 to anybody who has asked for a copy of it. I have always
12 been concerned about Complete Equity Markets getting a copy
13 of it, to be frank about it.

14 MR. KIRK: And why is that?

15 MR. HURST: Because, again, our goal has been to
16 develop an alternative. Once we realized that we weren't
17 going to be able to share loss information with -- they
18 weren't going to share loss information with LSC, once that
19 was realized, then the options to verify the appropriateness
20 of premium could only, in my view, be answered by developing
21 alternatives.

22 So it just didn't seem practical to me to share

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1 information with the one competitor that, in fact, already
2 had a program, if, in fact, we were trying to develop an
3 alternative to that program. I don't think I have any
4 information that they don't have.

5 They have far more than I to. I'd love them to
6 share information with me. I just felt like,? The interest
7 of developing an alternative, it didn't make practical sense
8 to ask them to develop it, since they had all the information
9 necessary to do so without my help.

10 MR. KIRK: What experience do you have in setting
11 up seminars and teaching programs in loss prevention stuff?

12 MR. HURST: We've done a fair amount of work with
13 association groups, not groups like this, but --

14 MR. KIRK: How about legal malpractice.

15 MR. HURST: None at all, and we wouldn't be doing
16 that ourselves. We would be relying on the insurance company
17 and the people at the insurance company to develop that
18 material.

19 MR. KIRK: Have you disclosed the insurance
20 companies to us?

21 MR. HURST: Yeah. A few minutes ago I said the
22 Homestead Insurance Company, and Crum & Forester Insurance

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1 Company.

2 MR. KIRK: At this point, I'd like to make a
3 conflict of interest disclosure. The Crum & Forester work,
4 Crum & Forester Company, my law firm does professional
5 liability work for them and with Complete Equity Markets
6 through Lloyd's, we have done specific work for the local LSC
7 office in Orlando.

8 CHAIRMAN WITTGRAF: Should we characterize those as
9 offsetting or neutralizing conflicts?

10 MR. KIRK: I do not intend to vote on them. I
11 would like to say that I have a concern with Complete Equity,
12 you know, not sharing that information. I'll probably lose
13 their business, and I have a problem not with Mr. Hurst but
14 with the fact that he's not completely independent, since
15 he's going to be getting a commission, which is the way that
16 most insurance people work.

17 I have long recommended that the Corporation engage
18 a separate, independent insurance consultant who could then
19 deal with Mr. Hurst and his companies and Complete Equity and
20 would not have a financial stake in it. I do not mean to
21 impugn Mr. Hurst in any way. It's just that's my way of
22 doing it, my recommended way where there isn't a financial

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1 incentive for him to place it with his own people.

2 I appreciate what he's done. I appreciate the
3 interest of Complete Equity Markets, but that's my difficult.

4 CHAIRMAN WITTGRAF: Mr. Hurst, did the Corporation
5 have a copy of the request for proposals, or is that
6 proprietary to CIMA companies?

7 MR. HURST: I believe we do have a copy of that,
8 yes, and, basically, the copy of the request for proposals is
9 very -- it's about this thick (indicating), but that's
10 because it includes, and "this thick" meaning about six
11 inches, that's because it includes copies of the survey forms
12 that were sent in from those recipients that chose to respond
13 as well as copies of the current existing insurance policies
14 that are in effect.

15 CHAIRMAN WITTGRAF: Is there anything in the
16 document you've just described that's necessarily of a
17 confidential nature, at least insofar as the Corporation is
18 concerned, in its possession of it?

19 MR. PENZINGER: Well, sir, I'd have to say none,
20 not for the Corporation. It's really up to CIMA, I believe,
21 how they feel about it. I should also tell you that it's my
22 understanding that a large part of that document will be

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1 given to the representative of Complete Equity Markets either
2 tomorrow or Wednesday. At least that's my --

3 CHAIRMAN WITTGRAF: By whom, Mr. Penzinger?

4 MR. PENZINGER: Oh, by the FOIA officer at the
5 Corporation, because they filed a FOIA request, and my
6 understanding was we had to get all that material copied, and
7 apparently, as I understand it. He's away on his honeymoon,
8 so, when he gets back, he'll be picking up that material.

9 CHAIRMAN WITTGRAF: Somebody representing this
10 entities, Complete Equity Markets?

11 MR. PENZINGER: Right. Yes, sir. That's what he's
12 stated that he is. So we have no reason to doubt that.

13 CHAIRMAN WITTGRAF: Do you know his name offhand?

14 MR. PENZINGER: I believe his name is Greenway, and
15 I believe he's a paralegal in a law firm, but I don't
16 remember all the -- it's Sandorelly and two other people is
17 the name of the law firm.

18 CHAIRMAN WITTGRAF: Okay. Fine. There has been a
19 written FOIA request?

20 MR. PENZINGER: Right. Yes, sir. That's correct.
21 Now, I should clarify, the FOIA request, I believe, was for
22 various parts of the RFP.

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1 CHAIRMAN WITTGRAF: Mr. Molinari.

2 MR. MOLINARI: As I understand correctly,
3 Mr. Hurst, through your efforts, there are at least two
4 companies who are willing to underwrite the existing
5 coverage, which would result in a savings of some 10, 15
6 percent annually; is that correct?

7 MR. HURST: Yeah, or, in the case of the Homestead
8 as much as 25 percent, yes, sir.

9 MR. MOLINARI: As much as 25?

10 MR. HURST: Yes, sir.

11 MR. MOLINARI: And, of course, the object is, as
12 Mr. Moses said before, is to try to save premiums that could
13 then be used, additional monies to aid the main mission here.

14 In that case, should there not be given an
15 opportunity to Complete Equity to maybe compete and further
16 reduce the amount of premiums, and, if they were to do that,
17 and they would result a further savings, I could understand a
18 morale argument that somebody might present saying, "Why
19 didn't they come forward earlier?" but since we don't have
20 any of their loss records, it may be that, faced with
21 competition, they might be willing to undercut some of the
22 competitors who are now getting into the, at least into the

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1 negotiation stage.

2 MR. HURST: Well, just from my point of view, I'd
3 be glad to have them do it. Frankly, you're not going to
4 understand this or agree with it, I don't care what they do.
5 I don't care if they knock it down 50 percent. All I'm
6 trying to do is offer recipients an alternative. They can
7 take advantage of it or not.

8 MR. MOLINARI: I understand that.

9 MR. HURST: I'm glad to have them do it. In fact,
10 I encourage them to do it. I look forward to them doing it.

11 MR. MOLINARI: I understand, and I appreciate that.
12 Did you ever have occasion to compare what Complete Equity is
13 charging, as opposed to what the bar association rates might
14 be?

15 MR. HURST: No, sir, I did not.

16 MR. MOLINARI: That's the only questions I have,
17 Mr. Chairman.

18 CHAIRMAN WITTGRAF: Ms. Pullen.

19 MS. PULLEN: Mr. Moses, what is the number of
20 recipients that returned the survey forms?

21 MR. MOSES: The initial survey form had
22 approximately, I believe it was 225 individuals return it.

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1 That was about 60 percent, I believe, 60 to 65 percent. Part
2 of the reason why some of the survey forms don't necessarily
3 reflect the almost \$6 million in premium costs, in fact, a
4 large part of the reason is because the majority of those
5 programs that did return the survey for the lesser funded
6 programs, meaning that we did not capture as many of the
7 highly urbanized programs or as many of the more highly
8 funded programs, which tend to have higher insurance costs.

9 MS. PULLEN: Were the --

10 MR. MOSES: That was part of the reason, by the
11 way, for the follow-up survey. The follow-up survey that was
12 done by telephone contacted 40 programs. Twenty of those 40
13 had returned the initial survey, and we were confirming the
14 data in that survey to make sure that there had been no
15 misunderstanding of the survey.

16 Twenty of those 40 had declined to return the
17 initial survey, and we were contacting them, at which time
18 they did cooperate.

19 MS. PULLEN: Mr. Hurst, were the various companies
20 that were approached informed of that analysis of the survey
21 response?

22 MR. MOSES: Oh, yes, completely. We let them know

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1 what the percentage of recipients who were asked to complete
2 the survey was, how many responded. We told them that the
3 annual premiums had been \$5 million to \$6 million and that
4 the respondees' premiums were approximately half that, a
5 little then half that.

6 So while we didn't draw the conclusions that
7 Charley just did, they certainly probably drew that
8 conclusion.

9 MS. PULLEN: Did you inform them that a fairly high
10 percentage of those that returned the surveys were not the
11 larger urban programs?

12 MR. HURST: No. I didn't say that specifically,
13 because I didn't know that at the time. What I just said,
14 though, I think is pretty true. If people, in response to a
15 question I think Mr. Kirk asked indirectly, the Crum &
16 Forester and Homestead are very familiar with legal
17 professional liability and were very quickly aware of the
18 fact that the respondents' premiums were about half of the
19 totals, and yet they represented about 62 percent of the
20 total respondees.

21 So they realized that some of the larger ones
22 hadn't responded, and that was part of the reason we did the

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1 follow-up.

2 CHAIRMAN WITTGRAF: Mr. Uddo.

3 MR. UDDO: I'd like to see this move a little
4 faster, frankly. I think it's dragged on long enough, and
5 it's pretty obvious to me that this alternative should be
6 developed and offered, and I can't see any argument against
7 doing it and no reason why it should take much longer to make
8 it available to the recipients.

9 So what's the time frame look like now, so that we
10 can actually get this done?

11 MR. HURST: The delays up to this point have been,
12 actually, company delays. They've been wanting to be very
13 sure that they were comfortable in the risk before they were
14 willing to make a commitment. So that's been the majority of
15 the delay.

16 My suspicion is that by July 1, if I do everything
17 I'm supposed to do, I'll be able to let recipients know that
18 there is an alternative, and we'll be able to have them take
19 advantage of it as soon thereafter as they choose to.

20 One last point I'd make on that issue is that
21 Homestead and Crum & Forester and both have been asked and
22 the Homestead has responded, we're still waiting for Crum &

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1 Forester's response to this, it's clear to me that their
2 interest long-term in this program not be based on
3 participation but on profitability, and I've got that
4 assurance from the Homestead, and the Crum & Forester has
5 talked about that, but they haven't put it in paper yet.

6 So I guess I would also want you to know that if,
7 at the end of a year, people are reluctant to participate,
8 the Homestead, as long as those who do participate are
9 profitably doing so, then we're going to continue the
10 operation for as long as we can, just as long as we can make
11 an alternative available.

12 MR. UDDO: Well, if the coverage is as good and the
13 premiums are less, it's going to be kind of hard to
14 understand why there wouldn't be a high level of
15 participation.

16 MR. HURST: I feel that way.

17 CHAIRMAN WITTGRAF: Further discussion?

18 MR. DANA: Mr. Chairman.

19 CHAIRMAN WITTGRAF: Mr. Dana.

20 MR. DANA: I share Basile's view. I think that, in
21 any monopoly, largely monopoly setting, that's probably not
22 healthy, but I want to be sure that what's happening here is

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1 that an entity that we've approached is generating alternate
2 coverage.

3 We're not paying you to generate this alternate
4 coverage. You are an independent entrepreneur trying to
5 create a product that will pay you a commission, and my guess
6 is that the net effect of your involvement may well be a
7 reduction in premiums elsewhere, and that will only benefit
8 all of our grantees whether they remain with their existing
9 coverage, who Mr. Kirk represents, or change to your
10 insurance company, who Mr. Kirk represents.

11 So, as you can see, everybody benefits by that. So
12 I applaud your efforts, but I think that other than the fact
13 that we are promoting this competition, the Corporation is,
14 in fact, neutral and hopes that the quality of the services
15 go up and the prices come down.

16 MR. HURST: Thank you.

17 CHAIRMAN WITTGRAF: Further discussion?

18 (No response.)

19 CHAIRMAN WITTGRAF: Thank you, gentlemen. Now
20 let's move to Agenda Item No. 11, the Inspector General's
21 Report. For that purpose, the Chair recognizes the
22 Corporation's Inspector General, Mr. Quatrevaux.

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INSPECTOR GENERAL'S REPORT

1
2 MR. QUATREVAUX: Mr. Chairman, one piece of news I
3 did not pass on to the OIG Committee is that the president
4 has signed an Executive Order creating an Executive Council
5 on Integrity and Efficiency. It's intended to be a parallel
6 on the President's Council on Integrity and Efficiency, and
7 it's membership is -- the Chair is the deputy director of
8 OMB, and the membership consists of the IGs and the
9 designated federal entities. The first meeting of that
10 organization took place last week.

11 Yesterday, before the Committee, I reviewed
12 progress on our Fiscal Year '92 objectives. I won't go into
13 a great deal of detail again today except to say I think
14 we're doing well. A great deal of developmental work has
15 been completed. Our fraud hotline is expected to open in
16 July or August.

17 We have one issue that does need resolution, and
18 that has to do with audit responsibilities for the two
19 audits, financial statement audits, both corporation and for
20 the grantees' financial statement audits. The determination
21 that needs to be made is whether or not OIG has primary
22 responsibility or simply oversight responsibility for those

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1 two.

2 I have asked both Mr. Kirk and Mr. Dana for the
3 Board to take action at next month's meeting to make such a
4 determination. It's really substantially overdue, as
5 Mr. Dana has pointed out in correspondence to me. So I want
6 to make everyone aware of that.

7 We also presented yesterday an audit management
8 plan. I'll be providing a copy of that chart and a brief
9 summary of the comments to the Board by mail. We also
10 presented a flow chart of investigative process and report of
11 the results thereof. Again, that will also be provided by
12 mail.

13 Just an information item, we do have a request for
14 semi-annual report from the staff of the -- chairman of the
15 House Government Operations Committee. Based on
16 conversations I've had with members of the OIG Committee, it
17 was simply wait, since it's so close for the management for
18 that's designed to accompany that semi-annual report to be
19 completed, and we'll forward it to the requester at that
20 time. That's all I have, Mr. Chairman.

21 CHAIRMAN WITTGRAF: Discussion? Any questions or
22 comments for Mr. Quatrevaux?

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1 (No response.)

2 CHAIRMAN WITTGRAF: Hearing none, thank you. We
3 move then, to Agenda Item 12. That is the report of the
4 Board's Committee on Operations and Regulations. For that
5 purpose, the Chair recognizes Mr. Shumway.

6 REPORT OF THE COMMITTEE ON OPERATIONS AND REGULATIONS

7 MR. SHUMWAY: Thank you, Mr. Chairman. The
8 Committee Operations and Regulations met this morning. The
9 only item on our agenda that we had to discuss was the
10 comparative demonstration project, and what we had before us
11 was the request for solicitation, but it was in draft form,
12 and we were asked by staff to not consider advising it or a
13 adopted it, rather, because it still needed some review by
14 other members of our staff as well as members of the Project
15 Advisory Committee.

16 So we did discuss that draft. We made a few
17 suggestions or probably more than suggestions. We asked
18 questions. We at least gave the staff some idea of where our
19 concerns were and where the draft might be improved, but I
20 think the bottom line is that we are well on our way toward
21 providing some kind of demonstration project.

22 It will be a two-year project. It will involve 16

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1 grantees divided into four categories. Those categories are
2 determined by size of their budget as well as the
3 geographical area which they serve, and the expectation is
4 that it will produce some interest, will provide some seed
5 money to get started, recognizing that some of these agencies
6 will have to invest in computers or additional personnel.

7 Then we'll offer prizes or awards at the end, and
8 they will be structured in a way that would be larger for the
9 larger grantees and smaller for the smaller but still offer
10 enough of a carrot, we hope, to induce a lot of
11 participation.

12 So I think the Committee would agree with me that
13 we are off on a good start, and we hope that by our next
14 meeting we'll be able to adopt a form that we can send out as
15 a request for solicitations.

16 CHAIRMAN WITGRAF: Thank you, Mr. Shumway. Could
17 you give us an idea of what the time frame is, in terms of
18 the actual publication of request, the deadline for the
19 receipt of the requests, and then the date by which such
20 grants would be awarded?

21 MR. SHUMWAY: We didn't have that discussion, nor
22 was it made known to us by staff. Perhaps we could ask

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1 directly of the staff what time frame they have in mind.

2 CHAIRMAN WITTGRAF: Ms. Smead.

3 MS. SMEAD: Thank you. The time frame we're
4 looking at is to have a final draft to the Committee and to
5 the Board by the next meeting in June, and we intend to
6 publish it in mid-July, if everything is acceptable at that
7 point.

8 Based on our usual practice, we allow 30 to 45 days
9 for people to respond. It might be less for this, because I
10 think there is going to be less information requested, and
11 it's more of a lottery. We hope to make the selections this
12 fiscal year.

13 CHAIRMAN WITTGRAF: Excuse me?

14 MS. SMEAD: We would hope to be able to make a
15 selection during this fiscal year.

16 CHAIRMAN WITTGRAF: Is there any jeopardy to the
17 utilization of the funds if they were not awarded before
18 September 30 of this year?

19 MS. SMEAD: My understanding is that the Board
20 could still designate those as being held over for
21 competition. They would be designated for Competition
22 Demonstration Project.

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1 CHAIRMAN WITTGRAF: As I think Mr. Molinari will
2 recall, when he and I appeared a week ago last Thursday
3 before the Senate Appropriations Subcommittee, Senator
4 Bumpers, as the Chair of the Subcommittee at that time
5 expressed interest in, asked about the progress being made
6 with the funds that had been provided for the Comparative
7 Demonstration Projects.

8 So I think it behooves us, as a corporation,
9 particularly where we're asking for some additional funds in
10 this area, to move as expeditiously as possible. I guess I'd
11 have a question both for you and for Mr. Shumway, perhaps,
12 and that is whether or not it's necessary to wait for the
13 Board to meet again, which will be some six weeks from now,
14 before you're proceeding with the request for solicitations
15 or the requests for proposals, whatever you're calling it, or
16 whether it would be possible to proceed more expeditiously
17 with the thought of simply getting on with the effort?
18 Mr. Shumway.

19 MR. SHUMWAY: My view is, even though I share your
20 concern about time here, and I would very much like to see
21 this done before the new fiscal year begins, I think what we
22 had before us this morning was simply too inchoate as a

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1 document to give it any status beyond the discussion we had.

2 There are still a lot of loose ends that need to be
3 tied up and questions that need to be answered. So I think
4 that probably the better course of action would be to wait
5 until our next meeting.

6 CHAIRMAN WITTGRAF: Thank you, Mr. Shumway.
7 Further discussion? Mr. Dana.

8 MR. DANA: Mr. Chairman, this is slightly off the
9 point, and I probably should have brought it up at our
10 meeting, but every year about this time I bring up the
11 subject of our regulations, and while we, generally speaking,
12 do not have regulatory authority as we used to have it, in
13 theory, once a year we could make changes in our regulations
14 to take effect on October 1, 1992.

15 Congress has, over the course of the last four,
16 five, six years, passed several or annually imposed several
17 restrictions on our implementation and advancing of some
18 regulations that we either do have or are poised to issue.

19 I would urge you, Mr. Chairman, to urge some
20 committee the Board, and I think it should be the Committee
21 on Regulations, to -- in time, to take advantage of this
22 cycle, come back with a recommendation concerning the

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1 suspended and/or -- the suspended statistics of regulations
2 and some of the regulations that are in existence but have
3 been suspended by Congress or the courts with a view towards
4 cleaning that statistics up so that these regulations can
5 be -- or so that those restrictions can be lifted from the
6 Corporation and so that those in Congress who are listening
7 will realize that we have heard their restrictions and have
8 complied. It's just a request, and I'll make it next year,
9 if I'm still here.

10 CHAIRMAN WITTGRAF: Mr. Shumway, did you hear that?

11 MR. SHUMWAY: I heard it was just a request, and
12 I've taken it for that.

13 CHAIRMAN WITTGRAF: Further discussion regarding
14 the Report of the Committee on Operations and Regulations?

15 (No response.)

16 CHAIRMAN WITTGRAF: Hearing none, the Chair moves
17 to Agenda Item 13, that being the report of the Committee
18 on -- the Special Committee on Reauthorization. Mr. Uddo.

19 MR. UDDO: Mr. Chairman, I think Mr. Boehm's
20 report, legislative report this morning, pretty much
21 constitutes what that Committee's report would be.

22 CHAIRMAN WITTGRAF: Thank you, Mr. Uddo. Moving,

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1 then, to Agenda Item No. 14, that being the report of the
2 Committee of the Board on the Provision for the Delivery of
3 Legal Services. Mr. Hall.

4 CONSIDERATION OF PROVISION FOR THE DELIVERY OF
5 LEGAL SERVICES COMMITTEE REPORT

6 MR. HALL: Thank you, Mr. Chairman. I did not make
7 that Committee yesterday and would prefer to combine my
8 report with my report given at our next meeting. However, I
9 do understand that we've done a few things in this regard.

10 One, the solicitation for the proposal has been
11 prepared, and I think each of you have received a copy of it
12 by mail and perhaps looked it over. It's to go out in the
13 next few days. I understand also, at the end of the Audit
14 and Appropriations Committee that some action was taken so
15 far as securing some available fund for these meritorious
16 innovative grant proposals, and I'm sure that will be
17 addressed by Howard.

18 I'll make a fuller report once I've reviewed the
19 transcript from yesterday's proceedings. I do know that my
20 other committee members were present. I know Mr. Dana was
21 present and perhaps our president and you as well, George.
22 If anyone else has anything to say about what happened

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1 yesterday, I would welcome that.

2 CHAIRMAN WITTGRAF: Ms. Wolbeck.

3 MR. DANA: Mr. Chairman.

4 CHAIRMAN WITTGRAF: Mr. Dana.

5 MR. DANA: I would observe, Blakeley, in your
6 absence, Ms. Wolbeck very ably led us, and we were on time.
7 Everybody had their piece. People got rowdy; she'd settle
8 them right down, and it was fine.

9 MR. HALL: You think she did a better job than I
10 usually do?

11 MR. DANA: No, I didn't say that.

12 CHAIRMAN WITTGRAF: Let me just note, Mr. Hall,
13 that Mr. O'Hara and other members of the staff and I a week
14 ago last Wednesday, ten, 11 days ago, met with several
15 representatives of Pioneer Incorporated, a seed corn and
16 other products company headquartered in the Greater Des
17 Moines, Iowa area regarding their involvement in 1991 in a
18 migrant ombudsman program involving the migrant working, some
19 3,800 in the state of Iowa.

20 The actual functioning agency was a private
21 nonprofit corporation called Proteus, also headquartered in
22 Des Moines. It is largely funded under the Department of

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1 Labor under some grants. Pioneer and five or six other seed
2 corn companies had be contributed funds, and the essence of
3 the activity in 1991 was the hiring of bilingual ombudsmen to
4 work with my grant laborers and their problems in the state
5 of Iowa.

6 It's my understanding that the project was
7 generally very successful and will be repeated in 1992.
8 Yesterday, during the presentation or presentations in your
9 Committee's meeting, Mr. Lewis or Ms. Singer indicated that
10 if three other states, I believe the states of Pennsylvania,
11 North Carolina, and West Virginia similar alternative dispute
12 resolution efforts are being made or having made in the last
13 year or two, trying to resolve the differences of agriculture
14 producers and migrant workers short of litigation.

15 Some of those project have actually involved Legal
16 Services Corporation grantees, some have not. In fact, the
17 Iowa project did not particularly, but I have asked
18 Mr. O'Hara because of the, I guess I would say, political
19 importance of this particular subject, to see if it's
20 possible with the staff yet this summer to get together the
21 people who have experimented in this area to share ideas and
22 to begin not so much for 1992 calendar year but more for 1993

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1 to share the ideas that are out there, the successes and the
2 failures and to put the people who are looking for
3 alternative dispute resolution of farm labor problems, to put
4 those ideas before them and let them proceed regardless of
5 what happens with reauthorization and, hopefully, short of
6 litigation under the Agriculture Workers Protection Act.

7 I make that long comment so that you and your
8 Committee members will understand that I haven't been
9 avoiding the Committee process but having trying to work
10 particularly expeditiously in that one specific area of an
11 alternative dispute resolution mechanism dealing with the
12 farmer-labor disputes and problems.

13 Mr. O'Hara has been cooperating, and I would assume
14 that by the June meeting of the Board we would know what
15 we're going to be able to do by way of a workshop or seminar
16 or training session in that area. Further discussion
17 regarding the report of the Committee?

18 (No response.)

19 CHAIRMAN WITTGRAF: Hearing none, then we'll move
20 to Agenda Item No. 15, the Report of the Audit and
21 Appropriations Committee of the Board. Mr. Dana.

22 CONSIDERATION OF AUDIT AND APPROPRIATIONS COMMITTEE REPORT

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1 MR. DANA: Thank you, Mr. Chairman. The Committee
2 convened at the ungodly hour of 7 o'clock this morning, and
3 we were joined by a large delegation from the Corporation
4 staff and Harrison.

5 We received a report based upon six months that
6 ended on March 31. We had our six-month review. We received
7 reports from the comptroller as to budget adjustments that
8 the Corporation staff may make without our consent, moving
9 money about OGC, MAC, OFS, and the IG. Those reports were
10 received.

11 We also received proposals to move \$30,000 from the
12 Executive Office to OFS, and \$50,000 from the Executive
13 Office to OGC. Part of that has to do with the moving of
14 personnel. Those two are in the nature of recommendations to
15 the Committee. It was unanimously approved, and I would make
16 that in the form of a recommendation to the Board.

17 CHAIRMAN WITTGRAF: Would you care to restate that
18 motion regarding those combined?

19 M O T I O N

20 MR. DANA: Yes, Mr. Chairman. The details are set
21 forth in a memo dated May 15 that is not in the Board Book.
22 It is to move \$30,000 from the Executive Office to OFS for

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1 two positions and to move \$50,000 from the Executive Office
2 to OGC.

3 CHAIRMAN WITTGRAF: That is the relation of your
4 Committee?

5 MR. DANA: It is.

6 CHAIRMAN WITTGRAF: Well, I would take the
7 Committee's action, then, as a motion to that effect. Is
8 there discussion?

9 (No response.)

10 CHAIRMAN WITTGRAF: Hearing none, those who are in
11 favor of the motion as stated by Mr. Dana will signify by
12 saying aye.

13 (Chorus of ayes.)

14 CHAIRMAN WITTGRAF: Those who are opposed, nay.

15 (No response.)

16 CHAIRMAN WITTGRAF: The ayes appear to have it.
17 The ayes do have it. The motion is adopted. Mr. Dana.

18 MR. DANA: Mr. Chairman, the Attachment D to the
19 memo David Richardson of May 15 entitling six months
20 projections now becomes our budget, and I would ask that
21 document be appended to the minutes of this meeting for
22 future reference as the current budget for management.

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1 CHAIRMAN WITTGRAF: Mr. Dana, that would be
2 Attachment D accompanying Mr. Richardson's memorandum of May
3 15, 1992?

4 MR. DANA: Correct.

5 CHAIRMAN WITTGRAF: It will be made a matter of
6 record by being made a part of the minutes of this meeting,
7 then.

8 M O T I O N

9 MR. DANA: Thank you, Mr. Chairman. The next item
10 was a discussion of the source of the funds for the
11 Meritorious and Innovative Grant program that either has been
12 launched or is about to be launched. The Committee, you will
13 recall, is proposing that we use or that we set aside
14 \$500,000.

15 At the meeting -- I don't know if we have enough of
16 these for everyone or whether you have them before you, but
17 we're talking this piece of paper, which says, "4/1/92,
18 Available Funds." It's a single piece. Hopefully all of you
19 have it in front of you, but the motion of the Committee is
20 to take the following funds and set them aside and, if you
21 will, earmark them for the grants that are being solicited
22 now in this area.

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1 From basic field, all of the \$123,211. From the
2 migrant line, all but \$26,698, or \$190,165. From the
3 national support line --

4 CHAIRMAN WITTGRAF: What was that figure again?

5 MR. DANA: 190,165. From the national support line
6 all but 25,000 or 89,602. From the state support line, all
7 but 25,000 or \$47,022, and from accrued interest for this
8 year take 50,000 for a total of 500,000. That comes to you
9 with the unanimous recommendation of the Committee.

10 CHAIRMAN WITTGRAF: I'll take that Committee
11 recommendation, then, as a motion for the adoption of the
12 reprogramming of those funds for the purpose of funding the
13 Meritorious Innovative Grants program. Is there discussion?

14 (No response.)

15 CHAIRMAN WITTGRAF: As I understand it, Mr. Dana,
16 the \$123,211, the \$190,165, the \$89,602, the \$47,022, and the
17 \$50,000 total, in the aggregate, \$500,000?

18 MR. DANA: I certainly hope so.

19 CHAIRMAN WITTGRAF: Further discussion?

20 (No response.)

21 CHAIRMAN WITTGRAF: Hearing none, those who are in
22 favor of adoption of the motion will signify by saying aye.

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1 (Chorus of ayes.)

2 CHAIRMAN WITTGRAF: Those who are opposed nay.

3 (No response.)

4 CHAIRMAN WITTGRAF: The ayes appear to have it.

5 The ayes do have it. The motion is adopted. Mr. Dana.

6 MR. DANA: Mr. Chairman, the co-Chair of the
7 Project Advisory Group's funding Criteria Committee brought
8 to my attention in a letter of April 2, 1992, that every ten
9 years we have to convert the results of the census into
10 poverty population per program, and that that is, in some
11 cases, a time-consuming and difficult job but one that is of
12 intense importance to the field.

13 I passed that on to the staff, and the staff is
14 busily working on it and has, in fact, distributed to us
15 today the current state of the information as it is coming
16 forth. It's, apparently, four, five, or six states are being
17 released weekly, and based on the report we received this
18 morning, we anticipate having all of the state-wide
19 information available to us sometime in mid-June.

20 I believe the understanding is that when the state
21 information is -- or shortly thereafter we will have this
22 information broken down by counties and that county

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1 population data is all that is necessary to determine the
2 poverty population in all of our programs except some
3 programs in Ohio, Massachusetts, and California where census
4 track or zip code numbers are required in order to subdivide
5 the poverty population between programs.

6 That information, I understand, may not be
7 available until next January, too late to impact the
8 allocation that typically occurs sometime this fall.
9 Apparently, the staff has located the working papers when we
10 did this ten years ago, and, apparently, ten years ago, we
11 developed guesstimates in those areas and then went back and
12 adjusted the numbers after we got the exact census data.

13 Mr. Chairman, the staff is doing its best to have
14 this information available, and Mr. Kirk has requested that
15 the Committee, Audit and Appropriations Committee, study and
16 come back to this Board the question of how to move from what
17 are now ten-year statistics to the current statistics.

18 The Board I know is aware and the field is aware
19 that over the course of the last ten years there has been a
20 gradual narrowing of the gap between what are considered to
21 be heavily funded programs on a poor person basis and the
22 floor.

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1 That was not done instantly in the early '80s, but
2 there has been a gradual approximation of it. So no program
3 back in the '80s was cut as a result of changes from the '70s
4 to the '80s, but, as new money came along, different
5 percentages of that new money was used to narrow the gap.

6 It is through changing and not easily understood
7 formulas, which have found their way into the Appropriation
8 Act every year. This is really in the nature of a report,
9 but we wanted to you know that we were on top of it to the
10 extent that our staff is keeping us there and hope to have
11 the information necessary to be in a position to evaluate and
12 guide the Board's recommendation as to how to respond to this
13 changing information.

14 CHAIRMAN WITTGRAF: Mr. Kirk.

15 MR. KIRK: Just a minor correction or maybe
16 clarification. I'm concerned about offices being funded on
17 12-year-old statistics. At the very least, I'd like to bring
18 them up to two-year-old statistics.

19 As far as whether or not we put the money where the
20 poor people are, or we are concerned about whether some
21 program gets its funds cut, or we may have to lay somebody
22 off, I would opt for the poor people rather than the lawyers

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1 any day, and my urging is that these adjustments -- that we
2 submit something to Congress that urges that these
3 adjustments be made immediately without regard to staff but
4 regard to poor population.

5 CHAIRMAN WITTGRAF: Mr. Dana.

6 MR. DANA: I know that the Committee will consider
7 this issue, hear from the Project Advisory Group, Funding
8 Criteria Committee, and others in the field as to how they
9 feel we should respond, and the Committee will make a
10 recommendation. When it does, you may be enthusiastically
11 behind it or not.

12 I don't know what that recommendation will be, but
13 I'm sure that there is a sincere hope that Congress will
14 provide sufficient resources to bring everybody up to an even
15 level all at once without cutting any programs. That was the
16 reason that many of us urged -- one of the reasons many of us
17 urged a substantial appropriation this year to get caught up
18 immediately.

19 It is easier to make those adjustments in a year
20 where Congress is giving us a lot more money than it is in a
21 flat, level funding year, and I think that the Board would
22 benefit from a considered analysis of the problems that would

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1 be presented in various settings, and we will endeavor to
2 give the Board that insight, and it can reject it or not as
3 the case may be.

4 CHAIRMAN WITTGRAF: Further discussion regarding
5 the census data and the application of it. Mr. Dana.

6 MR. DANA: As has been alluded to by the IG and
7 others, both the Corporation staff and the Inspector General
8 staff are providing us guidance as to what is the appropriate
9 way to handle the annual audit of the Corporation, whether
10 that should be as it has historically been done by the Audit
11 and Appropriations Committee with the guidance of the
12 comptroller or whether the Inspector General should take over
13 as the guiding administrative person for that process,
14 working, I assume, with the Audit and Appropriations
15 Committee.

16 We have received an opinion from the IG's counsel.
17 We have sought and have not received a definitive opinion
18 from the Corporation's counsel. I've had some correspondence
19 with Mr. Kirk as Chairman of the IG Oversight Committee. I
20 think this is an issue that both committees are and should be
21 concerned about.

22 It's a legal question. It's also a turf battle,

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1 and "battle" is not the right word, "discussion" is,
2 hopefully, more appropriate. We hope to have, and I
3 emphasize the word "hope," to have a recommendation before
4 the Board at the Des Moines meeting. So I don't have a
5 report at this time, other than that.

6 CHAIRMAN WITTGRAF: Further matters to bring before
7 the Board on behalf of the Committee?

8 MR. DANA: One final matter. We're in the process
9 of moving, as everyone knows. We are also in the process of
10 endeavoring to lease our space. We got a report this morning
11 that we are about to lease 25 percent of the old space. We
12 think, as we move out, we are advised that the prospect of
13 leasing the balance of the space goes up markedly when they
14 can see it, and it's empty, and they can move right in.

15 We are not recommending that we authorize the
16 expenditure of any more money to improve the new space until
17 we determine how long we're going to have to be responsible
18 for 400 Virginia Avenue. That concludes my report,
19 Mr. Chairman.

20 CHAIRMAN WITTGRAF: Discussion regarding any part
21 of the report upon which no action was taken or anything
22 else?

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1 (No response.)

2 CHAIRMAN WITTGRAF: Hearing none, the Chair moves
3 to Agenda Item 16, the Report of the Office of Inspector
4 General Oversight Committee. Mr. Kirk.

5 CONSIDERATION OF THE OFFICE OF INSPECTOR GENERAL
6 OVERSIGHT COMMITTEE REPORT

7 MR. KIRK: Thank you, Mr. Chairman. The most
8 significant thing that we did was that we finished a three-
9 hour meeting in two hours. We had considered the Inspector
10 General's semi-annual report, our response thereto, then we
11 considered his mid-year report, and we had an extensive, very
12 informative report from Karen Voellum on the audit procedures
13 and Robert Holliday on the investigative procedures.

14 The action that we need to take involves the
15 response to the semi-annual report, and this was initially
16 prepared by staff. We commented on it yesterday, ended our
17 meeting about 12 and a half hours before we started this
18 morning, and, in the meantime, Ms. DiSanto prepared one
19 draft.

20 Mr. Dana and I commented and corrected that, and we
21 now have what I think is a draft from which we can work.
22 Mr. Dana objects to two paragraphs, but I think the form of

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1 it is essentially acceptable, and I'm going to pass it out
2 now. These are just the pertinent pages. There would be 3,
3 4, and 5, I believe, parts of 3, 4, and 5.

4 Section C, essentially, is the draft copy that we
5 received. We don't have the ability to underscore and show
6 what the changes are, but -- do you have the rough draft?
7 Some of the things that you will notice in the second
8 paragraph we've -- basically what we've done is we've shown
9 that some of the contents and the resolutions were made under
10 2039 prior to its passage last week.

11 So we tried to clarify that certain resolutions or
12 comments or what have you apply to what was then pending in
13 Congress, and we acknowledged that there may be a change as a
14 result of what was passed this week. The Inspector General
15 noted that he did not have a copy of what was actually
16 passed, was not able to get a complete version of it, and
17 unable to comment on it at length. So I think that those
18 feelings are expressed in the next to the last paragraph on
19 page 3.

20 M O T I O N

21 MR. KIRK: Mr. Chairman, I would move that the
22 response, as amended herein, be accepted and sent on.

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1 CHAIRMAN WITTGRAF: Mr. Kirk, is it fair to assume
2 that these three pages plus, then, pages 4 through 12 were
3 approved by your Committee in the meeting yesterday?

4 MR. KIRK: I don't believe there was a formal vote
5 taken on them. Was there a vote? Okay. There was a vote.

6 CHAIRMAN WITTGRAF: That having been the case, the
7 Chair will accept that action of the Committee as a
8 motion --

9 MR. KIRK: That's still not quite accurate.

10 CHAIRMAN WITTGRAF: Okay.

11 MR. KIRK: Pages 1 and 2 and part of 3 from the
12 initial draft were also included, and then, picking up with
13 D, under 7. Is that correct? So pages 1, 2, and 3 up to
14 beginning at Section C, and then we insert this revision that
15 was passed out, and then, on page 7, beginning with Section D
16 to the end.

17 CHAIRMAN WITTGRAF: Was that the action of your
18 Committee yesterday, Mr. Kirk?

19 MR. KIRK: Yes, sir.

20 CHAIRMAN WITTGRAF: That being the case, I'll take
21 that as a motion properly before the Board at this time. Are
22 all the members of the Board clear on the shape of the

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1 proposed response at this time?

2 (No response.)

3 CHAIRMAN WITTGRAF: Perhaps, Mr. Kirk, if you
4 reviewed just one more time how the original draft and then
5 the three-page revision we've been handed this afternoon are
6 integrated.

7 MR. KIRK: All right. Pages 1, 2, and 3 of the
8 report up to paragraph C, and then you would pick up the
9 three pages of the insert that was distributed today and then
10 go back to and start at page 7, the very last line, which is
11 Section D, to the end.

12 CHAIRMAN WITTGRAF: Is there discussion?

13 MR. DANA: Mr. Chairman.

14 CHAIRMAN WITTGRAF: Mr. Dana.

15 MR. DANA: In recent weeks, as I've been focusing
16 on the turf issues that I've been discussing, I'm sensitive,
17 perhaps overly sensitive, to those questions. Mr. Kirk or
18 anyone who knows the answer to this, is this the Board's
19 reaction to the IG's report, or is it "the Corporation's," if
20 you know?

21 CHAIRMAN WITTGRAF: Mr. Dana, it would seem to me
22 that in light of the fact that the Board is the designated

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1 head of the Inspector General, this is the Board's and not
2 the Corporation's response, to the extent that those two
3 entities can be separated one from another.

4 MR. DANA: Well, I think of us as, I guess, the
5 head, and I think of management as the president and his
6 staff, and this report uses management and the Corporation
7 and the Board interchangeably throughout. So I'm not sure
8 who is responding, and that's one concern I have.

9 CHAIRMAN WITTGRAF: Ms. Pullen.

10 MS. PULLEN: Isn't this called a management report
11 because that's what's required to be filed with Congress and
12 that it is somewhat unusual for the Board to be the head
13 rather than the CEO, if you will, or the director or
14 secretary or whatever of the agency, and that's why it's
15 called management, because that's the term that is used for
16 the report to Congress?

17 But it makes clear at the top of the cover page
18 that it is the Legal Services Corporation's Board of
19 Directors' semi-annual report to Congress as the management
20 report, and the Board and the Corporation are
21 interchangeable, it seems to me, when the cover sheet has
22 already clarified that this is the Board's report, and the

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1 Board is the governing body of the Corporation. It's not
2 just an advisory group.

3 CHAIRMAN WITTGRAF: Let me pursue the point just a
4 little bit farther. Mr. O'Hara and I have been comparing
5 notes, and I think Ms. DiSanto and I did yesterday on a few
6 grammatical changes that need to be made.

7 Unless there is objection, I guess I would ask that
8 the president with the staff be authorized to make such
9 grammatical changes as are necessary and also to make any
10 clarifications regarding the Board and the Corporation
11 management or staff, as distinct from the Board, in preparing
12 the report finally.

13 If there is no objection, I'll ask Mr. O'Hara and
14 the staff to proceed in that way.

15 (No response.)

16 CHAIRMAN WITTGRAF: Hearing none, he has, with his
17 staff, that authority. Mr. Dana.

18 MR. DANA: This is another, perhaps, nitpick. In
19 the insert, the second line says, "Since that time, the
20 Corporation has been reauthorized biannual appropriations
21 acts." Is that technically what's been happening? Do we get
22 reauthorized every year through annual appropriations acts?

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1 CHAIRMAN WITTGRAF: That question could be the
2 subject of a lengthy legal treatise, I suspect. That
3 probably is not the best choice of terminology.

4 MR. DANA: Since we're talking to the people
5 who --

6 CHAIRMAN WITTGRAF: Could you suggest a better
7 operative term?

8 MR. SHUMWAY: It's called a de facto
9 reauthorization. It's simply not -- well, when you use the
10 word "reauthorization," generally you're talking to a bill
11 like the one we've been discussing, but each year, as money
12 is appropriated, there is a de facto regarding
13 reauthorization.

14 CHAIRMAN WITTGRAF: So we're saying, essentially,
15 the Corporation has been operating with de facto
16 reauthorization through annual appropriations acts. Again,
17 unless there is objection, I'll ask the president and his
18 staff to choose the appropriate wording there. Further
19 discussion?

20 MR. DANA: Mr. Chairman, on page 8, in footnote 4,
21 we're really describing history in which it says -- I just
22 wonder, and a simple check with the comptroller would be.

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1 sufficient, whether, in fact, there were four interested and
2 qualified firms. My recollection is that there may have been
3 more than that.

4 CHAIRMAN WITTGRAF: Unless there is objection, I'll
5 ask the president with the comptroller and the rest of the
6 staff to assure the correctness of that figure, that
7 reference or another reference, "that" being the reference of
8 footnote 4 on page 8 to the number 4, f-o-u-r. Further
9 discussion?

10 MR. DANA: Mr. Chairman.

11 CHAIRMAN WITTGRAF: Mr. Dana.

12 MR. DANA: In the insert that has been distributed
13 is better than -- is an improvement, but we move stuff
14 around, and it seems to me that the last two paragraphs, if
15 they belong in this report at all, don't seem to belong
16 there.

17 We move from, if you go from the first vote that we
18 took on July 8, 1991, really relates to monitoring. It is
19 the corporate position on monitoring. Then the next vote
20 related to the IG. Then we have a statement that I -- again,
21 it says, "Equally important to the Corporation was the
22 pending bills limiting effect upon," and then we're back to

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1 monitoring.

2 So we've taken a position first about monitoring
3 then IG. Then we go back to a statement in which we are
4 quoting the very same IG to whom we are responding. It just
5 doesn't seem to fit there. Then, after we quote him, we say
6 that an amended investigation passed and consideration is
7 pending in the Senate, end of subject, no, no.

8 Then we go on and say, "In any event, the
9 Corporation is still concerned that the OIG doesn't have
10 adequate authority," and we seem to be going back and forth
11 between OIG and monitoring, and I'm not sure who we mean by
12 "the Corporation "here.

13 We've already indicated the vote we took at the
14 last meeting, and now we're talking about the Corporation. I
15 don't know whether that's management or the Board or all of
16 us or none of us. Then it says, "Notwithstanding the fact
17 that the author of the IG Act and the opposite number,
18 Mr. Horton, both agreed that the reauthorization bill is now
19 totally consistent with the IG Act," said that on the record.

20 We are now saying, "Without benefit of an analysis
21 of the real changes that has occurred in the act, we are
22 saying additionally, like the IG, the Corporation's Board is

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1 very concerned with the effect of umpty-ump as passed by the
2 House will have on the operation of MAC."

3 We're going back and forth, and I just think it
4 is -- I'm troubled by it.

5 CHAIRMAN WITTGRAF: Mr. Kirk, do you think it's
6 possible for you and Mr. Dana together to guide the staff in
7 more consistent integration of the wording on these three
8 pages?

9 MR. KIRK: I don't think I find it inconsistent.
10 May I address that issue?

11 CHAIRMAN WITTGRAF: Mr. Kirk.

12 MR. KIRK: What we did was we put this in
13 chronological order. Because we were addressing both a
14 version of 2039 that existed last summer, another version
15 that existed this spring, we felt like the only clear way to
16 do this was to do it in chronological order.

17 In viewing that although there are two separate
18 issues, the IG and MAC, they were both along the same lines.
19 So we started with the initial resolution on July 8, '91
20 regarding MAC, and then, as an explanation, we follow with a
21 paragraph that says, "Following the receipt of the IG
22 statement," that's when he brought it out. Then we made

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1 another statement in response to that.

2 Now, his statement was preceding the closing date
3 of his report, but we felt like our response was important to
4 have in here. Then we inserted the IG statement in and then
5 noted that the bill had now been passed by the House of
6 Representatives and admitting that some of these comments may
7 not be applicable, but our feeling was that they may be with
8 regard to the IG, and we felt strongly that they still were
9 applicable with regard to MAC.

10 If it's the Board's wish to clarify it, I'll be
11 happy to work with Mr. Dana and staff, but there is no simple
12 way to work this out, there just is none.

13 CHAIRMAN WITTGRAF: I think it's difficult for us
14 to draft or redraft by committee of the whole here. I'm
15 certainly comfortable with the prospect of you and Mr. Dana
16 together and by consensus guiding Mr. O'Hara and his staff in
17 completing the final editing of the report, if that's
18 agreeable with the two of you.

19 MR. KIRK: Can we first determine that people want
20 it changed?

21 CHAIRMAN WITTGRAF: I thought you ended up by
22 saying that you agreed that --

1 MR. KIRK: If the Board wants to. I don't know the
2 Board wants to, and if you determine the Board wants to, I'll
3 do it.

4 CHAIRMAN WITTGRAF: I misunderstood, I guess, your
5 statement. Mr. Dana, I'm left, I guess, with the need, then,
6 to ask if you have a motion.

7 MR. DANA: I would --

8 MR. UDDO: Mr. Chairman.

9 CHAIRMAN WITTGRAF: Mr. Uddo.

10 M O T I O N

11 MR. UDDO: I would move that this part of the
12 report be recommitted to the Committee under the guidelines
13 that you specified for Mr. Dana and Mr. Kirk to work this
14 out, because I don't fully understand all the problems.

15 I think there is some confusion, and I think that
16 it can be improved on, and I think the best way to do that is
17 to let the two folks who have given some thought and have
18 some sense of what needs to be done to work it out, because,
19 if Mr. Dana makes a long motion right now about making things
20 change and moving them around, I'm not going to be here to
21 vote on it.

22 CHAIRMAN WITTGRAF: My only concern, as I'm

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1 entertaining your motion, Mr. Uddo, is that to recommit, I
2 believe, effectively takes this matter off the table until
3 late June, which probably is not timely.

4 MR. UDDO: Let me change the word, then. Let me
5 make a motion that Mr. Kirk and Mr. Dana work out revised
6 language of what's been presented and not recommit it to the
7 Committee. If, by recommit, you feel it has to go back
8 through the committee process again, I think we can avoid
9 that.

10 CHAIRMAN WITTGRAF: That would be the Chair's
11 interpretation of recommitment, yes. You've heard the motion.
12 Is there a second?

13 MR. DANA: Second.

14 CHAIRMAN WITTGRAF: The motion has been made and
15 seconded. Is there discussion?

16 MR. HALL: Mr. Chairman.

17 CHAIRMAN WITTGRAF: Mr. Hall.

18 MR. HALL: What is the time frame on this?

19 CHAIRMAN WITTGRAF: I believe the report was
20 delivered late April. Mr. Kirk, what's the effective date of
21 delivery of the report to the Board?

22 MR. KIRK: Due May 31st.

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1 CHAIRMAN WITTGRAF: The Chair didn't recall if the
2 effective date for a response was based upon delivery or
3 based upon -- I've got to think it's based on delivery,
4 because I think of at least one IG the Corporation has had in
5 the past who didn't make reports until many months after the
6 record period itself was ended.

7 Mr. Quatrevaux, what, more or less, is the
8 effective date of delivery of report.

9 MR. QUATREVAUX: I believe that we got the report
10 to the Board before the April 30th deadline, but if it was,
11 it was the same day. My recommendation would be to take the
12 30th of May as a deadline to the Congress.

13 MR. DANA: We have 30 days or 60 days?

14 CHAIRMAN WITTGRAF: Is it 30 days or 60 to respond?

15 MR. QUATREVAUX: Thirty days. The 60 days is after
16 transmission by the Board to the Congress the Corporation
17 must make it a public document at that time.

18 MR. DANA: Excuse me, I'm right that within the 30
19 days we have to transmit it to Congress?

20 MR. QUATREVAUX: That's correct, and, on the front
21 end, I have 30 days from the end of the period to transmit it
22 to the Board, and then you have 30 days to forward it to the

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1 Congress.

2 MR. DANA: But are we directed to comment on it as
3 we forward it, or can we --

4 CHAIRMAN WITTGRAF: I believe, Mr. Dana, that is
5 the, sort of, conceptual disagreement that we were having
6 over the last year or two with the oversight committees, the
7 two government operations committees.

8 We weren't necessarily feeling that comment,
9 especially contemporaneous, meaning 30-day comment, was
10 mandatory. At least the staff members, and I think Senator
11 Glenn, in effect, or a letter over his signature have said
12 that they believe that comment is mandatory, even if it's to
13 the effect that we have no comment. So I think we do
14 effectively have to comment by the end of May. Mr. Kirk.

15 MR. KIRK: We've had a request by a congressman for
16 a copy of it, and I'm holding that off until the management
17 report goes back.

18 CHAIRMAN WITTGRAF: I think time here is of the
19 essence. Ms. Pullen.

20 MS. PULLEN: Mr. Chairman, for the benefit of the
21 members who were not present at the OIG Oversight Committee
22 meeting yesterday, I would just like to note that much of the

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1 discussion that has just taken place, in terms of its
2 substance, anyway, rather than what paragraph follows what,
3 was discussed yesterday at the Committee.

4 Although he is not a member of the Committee,
5 Mr. Dana did participate fully in that discussion, and the
6 Committee made a decision.

7 CHAIRMAN WITTGRAF: Mr. Shumway.

8 MR. SHUMWAY: Well, I was going to make much the
9 same point. I think that some of what we have heard between
10 Mr. Dana and Mr. Kirk is more substantive than it is just
11 matters of insignificance, and if what we have before us is
12 something which has had the benefit of consideration by the
13 Committee, I'm not sure we'd be doing the Committee justice
14 now to simply say to Mr. Kirk that he can work out
15 differences with Mr. Dana and thereby override what the
16 Committee has presented to the full Board here this
17 afternoon.

18 I guess what I'm saying is I'm not sure that
19 Mr. Uddo's motion is really the best way to resolve this. I
20 think that there may be difficulties that would lie ahead.

21 MR. MOLINARI: Mr. Chairman.

22 CHAIRMAN WITTGRAF: Mr. Molinari.

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1 MR. MOLINARI: I think we could continue discussing
2 this at some length, but I think the outcome of the vote
3 would be obvious, and I'd ask Mr. Uddo and Mr. Dana if they
4 would be kind enough to withdraw their motion so we can move
5 on with the issue.

6 MR. UDDO: Well, I don't want to engage in a vane
7 and useless act, but I do believe -- I don't understand the
8 substantive changes, but I do believe the form is confusing.
9 I think referring to Corporation Board in some places, the
10 Corporation in other places, the Board of Directors in other
11 places is confusing.

12 MR. KIRK: I understood that was being taken care
13 of.

14 MR. UDDO: Who is taking care of it?

15 CHAIRMAN WITTGRAF: I believe that matter is being
16 resolved. If we have a matter that's not resolved, I believe
17 it has to do, essentially, with the sequence of the
18 statements. I don't think, and I guess I actually disagree a
19 little bit with Mr. Shumway, I'm not sure that I perceive
20 substantive differences but more matters of format or style
21 as the differences.

22 I think, Mr. Uddo, what you've just described are

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1 matters that the Board has agreed by unanimous consent will
2 be resolved by the staff.

3 MR. UDDO: So that's just the placement of the last
4 two paragraphs that remains in issue on page 3 of --

5 MR. DANA: Let me just respond ever so briefly to
6 Mr. Shumway and Ms. Pullen. This version or this thing has
7 been, sort of, a moving target ever since we started. There
8 have been changes in it today that were not available to the
9 Committee.

10 I think, frankly, it's been improved. I'm
11 concerned that when you take, on page 2, the paragraph that
12 begins, "Equally important to the Corporation," are we
13 talking about management there, or are we talking about the
14 Board? Is it something other than the vote we took on page 1
15 that is being referred to?

16 Does this purport to be an expression of this Board
17 with respect to legislation which it has not reviewed? I'm
18 perfectly happy to work with Mr. Kirk and make it clear what
19 it says, and I'm happy to, because I don't understand it,
20 vote against it on the record.

21 CHAIRMAN WITTGRAF: The Chair's understanding is
22 that we have before us a motion that is a motion by Mr. Uddo,

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1 seconded by Mr. Dana to refer the provisions of the
2 supplement as contained on pages 1, 2, and 3 entitled,
3 "Revised 5/18/92," to the Chair of the Committee, Mr. Kirk,
4 and to Mr. Dana to integrate or to edit for clarity.

5 Hearing no further discussion as to that motion,
6 the Chair is prepared to proceed to a vote on that motion.
7 Those who are in favor of the motion to refer will signify by
8 saying aye.

9 (Chorus of ayes.)

10 CHAIRMAN WITTGRAF: Those who are opposed, nay.

11 (A chorus of no.)

12 CHAIRMAN WITTGRAF: The nays appear to have it.

13 The nays do have it. The motion fails.

14 M O T I O N

15 CHAIRMAN WITTGRAF: We are now on Committee
16 recommendation of the report with the supplemented wording
17 and with unanimous consent for both stylistic and
18 clarification changes, those clarification changes having to
19 do with references to the Corporation, its staff, or,
20 particularly, the Board, attempting to clarify, insofar as
21 appropriate, clarification by the president and his staff
22 that this is the response of the Board, in its capacity as

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1 head of the Inspector General.

2 Is there further discussion?

3 (No response.)

4 CHAIRMAN WITTGRAF: Hearing none, we're prepared to
5 move to a vote on the draft report as I've just characterized
6 it. Those who are in favor of the report or response will
7 signify by saying aye.

8 (Chorus of ayes.)

9 CHAIRMAN WITTGRAF: Those who are opposed, nay.

10 (A chorus of no.)

11 CHAIRMAN WITTGRAF: The ayes appear to have
12 it --

13 MR. DANA: Mr. Chairman. I want the record to
14 reflect that I voted against it and that it does not express
15 this Board member's view of the IG's six-month report or
16 response.

17 CHAIRMAN WITTGRAF: The ayes appear to have it, the
18 ayes do have it. The motion is carried. The response, as
19 characterized by the Chair, is adopted. Mr. Kirk.

20 MR. KIRK: That concludes my report.

21 RESOLUTION ON THE INTERNAL PROCESSING OF TRANSCRIPTS
22 OF CLOSED MEETINGS OF THE BOARD

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1 CHAIRMAN WITTGRAF: We've move to Agenda Item 17,
2 specifically Item 17(a), consideration of a resolution
3 pertaining to internal processing of transcripts of closed
4 meetings of this Board. Have the members of the Board
5 received from counsel, Mr. Fortuno or otherwise, copies of a
6 draft resolution?

7 (No response.)

8 CHAIRMAN WITTGRAF: The Chair is prepared, then, to
9 ask Mr. Fortuno to summarize briefly, if he will, the basis
10 for the Board's consideration or the basis for the need for
11 the Board's consideration of this resolution. Mr. Fortuno.

12 MR. FORTUNO: This would simply be a formal
13 delegation to the General Counsel or his or her designee of
14 responsibility to or the function of reviewing transcripts,
15 Closed Session, transcripts, preparing minutes, and
16 determining whether or not to release those transcripts where
17 requested.

18 CHAIRMAN WITTGRAF: And the need arises from the
19 lack of clarity as to the authority for the General Counsel
20 to do so at this time?

21 MR. FORTUNO: That's correct.

22 CHAIRMAN WITTGRAF: The Chair is prepared to

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1 entertain a motion more the adoption of the resolution as
2 drafted.

3 M O T I O N

4 MR. SHUMWAY: So moved.

5 CHAIRMAN WITTGRAF: It's been moved by Mr. Shumway.
6 Second?

7 MS. PULLEN: Second.

8 CHAIRMAN WITTGRAF: By Ms. Pullen. Discussion?

9 (No response.)

10 CHAIRMAN WITTGRAF: Hearing none, those who are in
11 favor of the resolution as drafted will signify by saying
12 aye.

13 (Chorus of ayes.)

14 CHAIRMAN WITTGRAF: Those who are opposed, nay.

15 (No response.)

16 CHAIRMAN WITTGRAF: The ayes appear to have it, the
17 ayes do have it. The motion is adopted.

18 NOTATIONAL VOTE TAKEN DURING THE PERIOD

19 APRIL 29-30, 1992, TO RELEASE A PORTION OF A TRANSCRIPT

20 OF A CLOSED MEETING OF THE BOARD TO A THIRD PARTY

21 CHAIRMAN WITTGRAF: We have before us, then, Agenda
22 Item 17(b) regarding the release of a portion of a transcript

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1 of a closed meeting of this Board to a third party.

2 Am I correct in my understanding, Mr. Fortuno, that
3 it's necessary for the Board to vote in this regard to
4 confirm a notational vote taken earlier?

5 MR. FORTUNO: Yes, that's correct.

6 CHAIRMAN WITTGRAF: And there has been a request
7 made by a third party?

8 MR. FORTUNO: Yes.

9 CHAIRMAN WITTGRAF: Have the members of the Board
10 been given a draft resolution, or should the Chair entertain
11 a motion to this effect at this time?

12 MR. FORTUNO: I believe you had a resolution before
13 in the form -- which you voted on in the form of notational
14 voting, and this would be an action to ratify that.

15 CHAIRMAN WITTGRAF: The Chair will turn to the
16 secretary to share with him a copy or to share with the Board
17 a copy of the prior notational vote. Mr. Fortuno, is it
18 appropriate or inappropriate to name the third party making
19 the request of the release?

20 MR. FORTUNO: I see no reason why he can't be
21 named.

22 CHAIRMAN WITTGRAF: The Chair is prepared to

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1 entertain a motion, then, to the effect that the Board ratify
2 its earlier notational vote to authorize the release of a
3 copy of the transcript of the Board's Closed Session of June
4 13, 1989 to Mr. Michael Wallace, pursuant to his written
5 request therefore.

6 M O T I O N

7 MR. HALL: I move.

8 CHAIRMAN WITTGRAF: It's been moved by Mr. Hall.

9 MS. PULLEN: Second.

10 CHAIRMAN WITTGRAF: Seconded by Ms. Pullen.

11 Discussion?

12 MR. HALL: Just one question.

13 CHAIRMAN WITTGRAF: Mr. Hall.

14 MR. HALL: Did that satisfy Mike?

15 MR. FORTUNO: He has received the portions of the
16 transcripts that are not privileged. He has also requested
17 portions which ordinarily would be considered privileged, but
18 he has taken the position that privilege has been waived.
19 We've asked him to identify for us, if he could, where that
20 was done, in which case the remaining portions could be
21 released to him.

22 At this point, only the portions that are

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1 nonprivileged and, to our knowledge, have not been waived
2 -- or have been waived, have been provided to him. Anything
3 that we do not have specific information as to having been
4 waived has not been produced to him.

5 He seems satisfied with that. He does want some
6 additional pages, and we're looking into that right now.
7 There is some question as to an opinion from the then General
8 Counsel, which we've been told has been made public, but we
9 have no record of that, and he's going to advise us as to
10 where it was made public and how it was made public so we can
11 verify that and then release it, if we can confirm that fact.

12 MR. HALL: Mr. Chairman, I'm sure the other Board
13 members are aware that Mike Wallace was a former Chairman of
14 the Board of this Corporation, and the transcript that he's
15 asked for is from a proceeding that he presided over.

16 CHAIRMAN WITGRAF: Mr. Fortunio, as a matter of
17 clarification, will you state your opinion as to whether or
18 not our notational vote and the vote that's pending at this
19 time pertain only to those matters that have been considered
20 by you and your staff to be releasable at this time or extend
21 at well to other matters that might be requested and are
22 determined by you and your staff not to be privileged?

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1 MR. FORTUNO: It certainly relates, extends to
2 matters that are releasable. The material he requested did
3 not have to be released. The Board may, of course, release
4 it. The Board may, in fact, even release matters which
5 -- disclose matters which are privileged.

6 What we've done is taken the position that that
7 which is not privileged, he can have. That which is
8 privileged, if the Board waives the privilege may be
9 released, but absent the Board's waiving of privilege, we
10 can't disclose.

11 CHAIRMAN WITTGRAF: And this is not, neither the
12 notational vote nor the pending vote pertains to the
13 privilege matters, then?

14 MR. FORTUNO: That's correct.

15 CHAIRMAN WITTGRAF: Further discussion?

16 (No response.)

17 CHAIRMAN WITTGRAF: Hearing none, those who are in
18 favor of the resolution will signify by saying aye.

19 (Chorus of ayes.)

20 CHAIRMAN WITTGRAF: Those opposed, nay.

21 (No response.)

22 CHAIRMAN WITTGRAF: The ayes appear to have it.

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1 The ayes do have it. The motion or resolution is adopted.
2 Proceeding, then, to Agenda Item No. 18, Consideration of
3 Other Business to come before the Board at this time.

4 CONSIDERATION OF OTHER BUSINESS

5 CHAIRMAN WITTGRAF: Is there any such business?

6 (No response.)

7 CHAIRMAN WITTGRAF: Hearing none, the Chair is
8 prepared to entertain a motion to adjourn.

9 M O T I O N

10 MR. SHUMWAY: So moved.

11 MR. DANA: Second.

12 MR. DANA: So moved.

13 CHAIRMAN WITTGRAF: It's been moved by Mr. Shumway,
14 seconded by Mr. Dana. Those who are in favor of the motion
15 to adjourn will signify by saying aye.

16 (Chorus of ayes.)

17 CHAIRMAN WITTGRAF: Those who are opposed, nay.

18 (No response.)

19 CHAIRMAN WITTGRAF: The ayes appear to have it.
20 The ayes do have it. The meeting is adjourned.

21 (Whereupon, at 3:30 p.m., the Board of Directors'
22 Meeting of the Legal Services Corporation was adjourned.)

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