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LEGAL SERVICES CORPORATION

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MEETING OF THE BOARD OF DIRECTORS

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Fairmont Hotel
Bayou Room No. 1
University Place
New Orleans, Louisiana

Friday,
December 5, 1980

The above-entitled meeting was convened, pursuant to notice, at 9:00 a.m., F. William McCalpin, Chairman presiding.

MEMBERS PRESENT:

- F. WILLIAM MCCALPIN (CHAIRMAN)
- DAN J. BRADLEY (PRES. LSC)
- ROBERT J. KUTAK
- HOWARD SACKS
- RICHARD TRUDELL
- CECELIA ESQUER
- HILLARY RODHAM
- STEVEN L. ENGELBERG
- MICHAEL KANTOR
- RAMONA SHUMP
- JOSEPHINE WORTHY
- REVIUS O. ORTIQUE, JR.

STAFF PRESENT:

- ALAN HAUSEMAN
- CLINT LYONS
- BRUCE MORRISON
- MARY BAURDETTE

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OTHERS PRESENT:

ANTONE G. (GERRY) SINGSON, III
BERNEY VENNEY

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P R O C E E D I N G S

9:00 a.m.

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3 CHAIRMAN McCALPIN: With your indul-

4 gence, I would like to begin this meeting. We

5 have a couple of important, highly significant

6 issues to discuss today. I believe that our

7 numbers will grow as the morning goes on.

8 I understand that various represen-

9 tatives of Legal Services in Louisiana will be

10 here. We will be favored, I believe, with a

11 visit from the Mayor of the City of New Orleans.

12 It looks like we will have a very full agenda.

13 I want to express our appreciation to

14 the folks from Louisiana for the warm and

15 gracious welcome which they have already

16 extended to us, in lieu, of course, we couldn't

17 make any mistake in coming to the home of Revius

18 O. Ortique and Mary Hamilton. We're bound to be

19 warmly welcomed, and indeed, our expectations

20 have been met in every respect.

21 The first item on our agenda is the

22 adoption of an agenda. I would like to advise

23 the Board that I intend to discuss, raise a

24 couple of other matters which do not appear on

25 your printed agenda. I suppose I could do that

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1 under the other business elements, but let me
2 tell you in advance the subject matter that I
3 propose to raise.

4 One, I will give some little explana-
5 tion of tomorrow's program, what I anticipate
6 will be the program tomorrow, and the attendees,
7 the participants and what will come out of it.
8 I believe that Dick Trudell had suggested when
9 we were down in Puerto Rico that it would be
10 appropriate for me to give some explanation on
11 that, and I will do so.

12 Next, because of some of the things
13 that have transpired in the preparation for
14 tomorrow's meeting, I am going to request that
15 the staff prepare for an appropriate committee
16 of the Board to bring to us at our March
17 meeting, the results of our activities in the
18 determination of quality of Legal Services
19 within our programs and how we are going about
20 it and what we are doing in that area. I don't
21 intend to do any more than raise and explain the
22 reasons for it and have it brought to us at the
23 March meeting.

24 Finally, I propose to say something
25 about the organization of the Board in terms of

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1 committee assignments, a matter which I promised
2 you at the September meeting that I would bring
3 up at this time.

4 With those comments and suggestions,
5 I think it would be appropriate to have a motion
6 for the adoption of the agenda.

7 MR. KUTAK: So move.

8 MS. ESQUER: I second it.

9 CHAIRMAN McCALPIN: It has been moved
10 and seconded that the agenda as amplified by my
11 remarks be approved. All in favor signify by
12 saying "Aye."

13 (Ayes.)

14 CHAIRMAN McCALPIN: Any opposed, same
15 sign.

16 (No response.)

17 CHAIRMAN McCALPIN: It is so ordered.

18 The next item on our agenda is the
19 approval of the minutes of the meeting held by
20 this Board on September 5, 1980. They have been
21 included in your agenda materials for this
22 meeting.

23 Are there any comments, corrections,
24 suggestions with respect to them?

25 (No response.)

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May I have, then, a motion that they be approved?

MR. KUTAK: So move.

MS. ESQUER: So move.

CHAIRMAN McCALPIN: It has been moved and seconded that the minutes circulated in the agenda material to be approved. All in favor signify by saying "Aye."

(Ayes.)

CHAIRMAN McCALPIN: Any opposed, the same sign?

(No response.)

CHAIRMAN McCALPIN: They are approved.

The next item on our agenda is the report on Congressional Reauthorization, FY1981 Appropriation and Board Nominations. And for that, I will call upon the President.

MR. BRADLEY: Mr. Chairman and Board Members. Mary just came down and I suppose because of Revius, your city's warm and gracious hospitality, she had a night on the town last night --

(Laughter.)

MR. BRADLEY: No, she feels quite ill

1 and she wanted to rest for a couple of more
2 hours this morning. She asked me if I would
3 give the report that she would give, which are
4 basically three items. We will dispose of two
5 of them very quickly.

6 The five renominations of the Board
7 will die in committee when Congress adjourns
8 today. This means that you will continue in
9 your positions, those five of you whose terms
10 have expired, until your successors are duly
11 nominated and confirmed by the Senate. It is
12 only an idle guess as to when that will occur.

13 As you know, the other six Board
14 members, your terms are due to expire on July
15 the 17th of 1981. And we will keep you fully
16 informed as best as we can as to what the new
17 Administration and the Congress does in that
18 process.

19 Number two, as you know, we did com-
20 plete our reauthorization process this year
21 through the United States Senate. They passed a
22 reauthorization, we completed the process
23 through House Subcommittee, House Floor
24 Committee action, House Rules Committee action,
25 and the Reauthorization Bill was on the list of

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1 legislation to be considered by the Lame Duck
2 Session of the House.

3 They chose, for a lot of reasons, not
4 to act on our reauthorization. So, our
5 Reauthorization Bill is dead for the year and we
6 will have to start our reauthorization process
7 all over again in the new session of Congress
8 with hearings and witnesses and so forth before
9 the two oversight committees. And I will also
10 keep you fully informed on that development.

11 The third item, I think, is a little
12 more encouraging, and that is our appropriations
13 item. As most of you know, and many of you have
14 directly participated, and especially Cecelia,
15 and I want the Record to reflect that, that we
16 have worked long and hard this year in trying to
17 secure an adequate appropriation for the corpor-
18 ation.

19 We have fought since early this year
20 on a 321.3 million appropriation and some of you
21 in the room know how many times we have lost
22 that sum, restored that sum, lost it and
23 restored it, but the Appropriation Bill that
24 passed the Congress a couple of days ago, the
25 President indicated that he is definitely going

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1 to veto that Appropriation Bill.

2 However, the continuing resolution,
3 and this is where it gets a little complicated
4 if you are not that familiar with the legisla-
5 tive process, the continuing resolution that has
6 been passed by the House and the Senate is an
7 ominous, continuing resolution. It covers many
8 of the Federal Agencies.

9 The State Justice Judiciary Committee
10 appropriation as passed by the House and the
11 Senate contains a 321.3 million dollar amount
12 for State Justice Judiciary, which includes
13 Legal Services, at the Conference Committee
14 level. The continuing resolution that has been
15 marked up and approved continues most Federal
16 Agencies until June 1981.

17 However, since the State Justice
18 Judiciary Bill had, in fact, passed both Houses
19 of Conference and -- I mean, both Houses of
20 Congress -- then that bill, and only that bill,
21 has a continuing resolution for September 30th
22 of 1981. So, in fact, it is an Appropriation
23 Bill for all of the next fiscal year and, so, on
24 that --

25 Now, the President has not yet -- I

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just spoke to Washington as of a few moments ago, has not acted on that continuing resolution.

We have to assume, and I think we can reasonably assume that he will sign that continuing resolution. If he vetoes that continuing resolution, of course, I hate to be dramatic about it, but basically, the Government will come to a halt.

MR. KUTAK: Just a point of correction. I don't think a continued resolution is sent to the White House.

MR. BRADLEY: Yes, it is. A continued resolution is an Appropriation Bill that must be signed into law by the President.

I think, for the purposes of our discussions this morning and decisions, that you will probably be making at least tentatively, we have to assume that there will be that continued resolution, and it is clear in my opinion, and, I believe, everyone else's, in that we will have a continued resolution in the amount of 321.3 million dollars. And, in fact, we will operate next year without an authorization, but in the legislative process, the continuing resolution

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as an Appropriation Bill does, in fact, act as
an authorization for that one year period.

And other than that, Mr. Chairman,
there is nothing else that I can report. I will
be happy to attempt to answer any questions.

Mary said she would probably be here
in a couple of hours. If you would want to ask
detailed questions, maybe we should wait until
she can be with us. I will be happy to try to
respond. We went through most of these items, I
think, at the Provision Committee Meeting last
night, but some of you were not at those two
meetings.

MS. RODHAM: Do you have any indica-
tion, or do you know how the Senate Committee
that will hear our reauthorization will be
changed, who is on it, and who isn't on it any
more?

MR. BRADLEY: Yes. There are two
issues, Hillary.

One, it is not absolutely certain,
and that is something that we are following very
closely, as to which Senate Committee will have
jurisdiction. That is an issue which they have
discussed on several occasions.

1 Senator Hatch, who will clearly
2 succeed Harrison Williams, is the Chairman of
3 the committee that traditionally handled our
4 oversights. Senator Hatch on at least two occa-
5 sions during the last two years has raised
6 jurisdictional questions as to whether or not
7 this matter should not be more appropriately
8 before the Senate Judiciary Committee.

9 The options, as we see them and
10 understand them, are three: One, the Labor
11 Committee will continue to have jurisdiction or
12 Judiciary Committee will have jurisdiction, or
13 there will be concurrent jurisdiction shared by
14 both committees. That is not unprecedented and
15 on some legislation, there are multiple commit-
16 tees, as you know, that have Congressional
17 jurisdiction.

18 That will be an early issue that will
19 basically be determined by the majority, leader-
20 ship in the Senate and the parliamentary usually
21 resolves the final disputes and questions as to
22 jurisdiction. But that is where it stands right
23 now.

24 And in terms of the composition of
25 the committee, all that we know right now is

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1 that quite a few members of the full committee,
2 but especially the subcommittee, have either
3 resigned, retired, or were defeated. And we
4 think that it will be basically a new committee.

5 Senator Cranston, unfortunately, who
6 has been one of our strongest allies and
7 supporters, has elected to serve on the House --
8 I mean, on the Senate Foreign Relations
9 Committee. And, as you know, Senator Nelson,
10 who is the Chairman and Senator Javits, the
11 ranking member, neither of those will be back.

12 Senator Kennedy will continue to
13 serve on the committee. Senator Stafford will
14 continue to serve, and we believe that Senator
15 Pell will continue to serve, and Senator Hatch,
16 who will definitely be the Chairman. Other than
17 those four that we know that they have indicated
18 will stay on the committee, we anticipate that
19 there will be a large number of new Senators on
20 that committee. And we will probably have
21 several new members of our oversight subcom-
22 mittee.

23 On the House side, just briefly, on
24 the Judiciary Subcommittee, four of the members
25 who are on our oversight committee will not be

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1 back in the Congress, and so, there will be
2 additional changes made.

3 As far as we know, Mr. Kastenmeier
4 (phonetic) and Mr. Elsbach, the ranking minority
5 member, both have indicated to me last week that
6 they both expect to continue in those two posi-
7 tions. I will just have to keep you advised as
8 to what happens, especially on the Senate side.

9 MS. ESQUER: Mr. Chairman, before we
10 get away from the figure -- you know, the 321
11 figure, I just really want to express again my
12 congratulations to the Government Relations
13 Office, especially to Mary and Dan, because I
14 think that there was a wide support from the
15 field and a lot of work in the field, but I
16 think that the leadership that Mary and Dan pro-
17 vided is really largely responsible for the 321
18 figure that we were able to resuscitate.

19 CHAIRMAN McCALPIN: I'm sure you're
20 right and I am sure that the members of the
21 Board, by virtue of their regular and frequent
22 contact with Mary and Dan, are fully acquainted
23 with and appreciate the devoted and happily
24 successful services which they have rendered.

25 Perhaps the folks in the audience

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1 would not have been in quite such close contact
2 with it and share our knowledge and understand-
3 ing of the very devoted efforts which they have
4 brought to this.

5 As you know, simply to have come away
6 in the budget year with an increase of any kind
7 is a remarkable achievement in itself. But to
8 come away with a seven percent increase for a
9 program which is not one hundred percent recog-
10 nized and supported for its true worth in this
11 country, is indeed a remarkable achievement.

12 The next item on the agenda is a
13 report from the Committee on Appropriations and
14 Audit. I will recognize Mr. Engelberg, the
15 Chairman of that Committee.

16 MR. ENGELBERG: Thank you. Is the
17 first item the audit, Mr. Chairman?

18 CHAIRMAN McCALPIN: No, the first
19 item is the budget review and modifications
20 guideline, but as far as I am concerned, you can
21 take them in any order you like.

22 MR. ENGELBERG: I will start with the
23 audit. I believe I mentioned this last night.
24 Price-Waterhouse audit was completed for the
25 fiscal year just ending.

1 I met with the two auditors from
2 Price-Waterhouse, the managing auditors in my
3 office on Tuesday. The corporation, of course,
4 was given a clean bill of health and everything
5 is in order.

6 As I indicated last night, and I
7 think Revius just asked me to read this this
8 morning, the auditors were both very laudatory
9 about the corporation's professional physical
10 staff, et cetera. I asked them specifically,
11 since these individuals, in particular, Price-
12 Waterhouse, in general, are responsible for some
13 large nonprofit corporations as clients, I asked
14 them how the corporation compared to some of
15 these other clients. And they both indicated
16 that in their opinion it was two steps above
17 average, exceptionally good.

18 I also asked them whether there had
19 been any drop-off in quality, and they indicated
20 that that had not occurred. Basically, there
21 were no problems whatsoever expressed, and the
22 corporation's physical appearance is in very
23 good shape.

24 If there are no questions on the
25 audit, I will move on.

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MS. RODHAM. Steve, just as a matter of information, do you know if there are any other agencies that receive Federal Government funds that have outside audits such as ours?

MR. ENGELBERG: I assume the Corporation for Public Broadcasting.

MS. RODHAM: I would like to find out, though. I think that it is significant that we do and that we get such good remarks from a recognized firm like Price-Waterhouse. It seems to me like that is something that we might find useful in the next couple of months as a comparison, and also, as a private enterprise check on what we do, and it continuing to demonstrate that we are doing a good job and that we know what we are doing.

MR. ENGELBERG: I would ask the staff to look at Corporation for Public Broadcasting and then, I don't know what else.

MR. BRADLEY: Well, the Communications Satellite, all of those Quasar Governmental --

MR. ENGELBERG: But there are three or four. I think that is an excellent suggestion.

1 CHAIRMAN McCALPIN: Let me ask,
2 because of my unfamiliarity with the position,
3 do we ordinarily accept or approve the annual
4 audit when it is presented to us in this way?

5 MS. RODHAM: No, it is just a matter
6 of reporting from the committee.

7 CHAIRMAN McCALPIN: Thank you.

8 MR. ENGELBERG: Is there anything
9 else on the audit?

10 (No response.)

11 MR. ENGELBERG: I am going to go back
12 on the first item, which is the Budget Review
13 and Modifications Guideline. Let me just give a
14 little bit of a brief background on this.

15 I have raised this, I guess, eight or
16 nine months ago when Gerry sort of took on his
17 new job. I was concerned, having the chairman
18 of this committee with the sort of ad hoc way in
19 which the committee related to the whole budget
20 process. I specifically glimpsed over who had
21 held this job from the beginning of the corpora-
22 tion's creation, and he had done a magnificent
23 job.

24 He had a C.P.A. background and the
25 Board widely so, was totally competent with

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1 Glen's ability and diligence and kind of care-
2 fully followed the budget process. The problem
3 was with the accepting of some very broad --
4 some very broad guidelines, what it boiled down
5 to was the basic trust and the particular abili-
6 ties of that chairman. For a lot of reasons,
7 none the least of which that I think, most
8 people who shared this committee will not have
9 the kind of background that Glen had.

10 I felt that there had to be some more
11 precise guidelines. I do not like the idea of
12 the chairman of the committee being sort of
13 responsible for the whole Board, of approving
14 budgetships, et cetera. But, in any event, this
15 led to a fairly long process beginning with a
16 number of proposals by Gerry and his office.
17 They have come up with a budget review and
18 modification guideline.

19 Our committee has spent a lot of time
20 on this. We went through several different dis-
21 cussions of these procedures. There was a con-
22 solidated budget format at Bill McCalpin's sug-
23 gestion. A new budget format was developed.

24 We are now at the point where, I
25 think, the committee is very comfortable with

1 the guidelines that we would like to present to
2 the Board. I will move them once we have a
3 brief discussion for adoption, and then, these
4 will then become the governing guidelines for
5 Budget Modification.

6 This is fairly important, because
7 what we are about to do here is to -- if we can
8 agree with these guidelines, we are going to
9 allow and set down conditions where the staff
10 can appropriately shift money around under cer-
11 tain types of clearances. I want Gerry to kind
12 of lay out what the proposal is, and then I'm
13 going to ask everybody to approve it.

14 MR. SINGSON: The proposal, itself,
15 appears on Pages 11 through 13 in the Board
16 Book. It is very simple, I think, in terms of
17 how it operates. The staff presents to the com-
18 mittee and the committee presents to the Board
19 and operating budget for the year.

20 Once that budget is adopted, it is
21 not to be modified except by the Board. The new
22 format involves consolidated categories from the
23 some fifty categories that we have been using in
24 our consolidated operating budget down to about
25 fifteen. The flexibility is substantially

1 within those fifteen budget lines.

2 One of the fifteen lines is an
3 unallocated budget, about \$200,000 in the pro-
4 posal for 1981. This provides a small amount of
5 backup capability in the staff reported to the
6 committee as that flexibility is used to meet
7 specific needs that arise from new cost projec-
8 tions, variations in expenses, or the exigencies
9 of operation.

10 The proposal lays out the specific
11 terms for how modifications in the budget will
12 occur. That is particularly in Paragraph 5.
13 They will be proposed by the staff and acted on
14 by the committee and the Board before there are
15 modifications in any of the budget lines in the
16 consolidated operating budget.

17 Reallocations within single budget
18 lines are discussed in Paragraph 6 and operate
19 as I have just described. When there is a need
20 to use the unallocated budget, Paragraph 7
21 describes the specific mechanism that would be
22 used. The committee will receive from the staff
23 at the conclusion of each quarter a detailed
24 report tracking each and every line in the
25 budget work sheet, which is a highly detailed

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1 work sheet as opposed to the consolidated oper-
2 ating budget that is acted on by the Board.

3 There will be information tracking
4 any allocations within budget lines as well as
5 any use of the unallocated. The committee will
6 review the work sheet level and will present to
7 the Board any modifications in the budget,
8 itself, that may be required.

9 I think that probably summarizes the
10 proposed guidelines and they are, of course, set
11 out in full here.

12 CHAIRMAN McCALPIN: Steve, do you
13 want to supplement or say anything?

14 MR. ENGELBERG: We talked at some
15 length at the committee meeting about the method
16 of when and where these shifts can occur. What
17 we tried to do, and I think we did it success-
18 fully, was to strike a balance between -- on the
19 one hand, as Bill McCalpin has pointed out, once
20 we have set a budget, not allowing changes in
21 those categories without clear approval by the
22 committee and, ultimately, the Board; by the
23 same token, not to rigidly tie the staff's hands
24 in making just the kind of normal adjustments
25 that have to be made.

1 We believe -- The committee, I think,
2 feels very strong in recommending to you that
3 this strikes a balance. Again, I urge each of
4 you to carefully pay attention to this, because
5 in some ways, it is a very important decision
6 and, hopefully, will set the tone of the finan-
7 cial manager of the corporation over the next
8 ten or fifteen years.

9 MR. KUTAK: Mr. President, I pick up
10 on those two last words because I think they are
11 extremely important, setting the tone. I am a
12 person who is not accustomed, but have had to
13 become accustomed, to dealing with budgets and
14 realize that you can be swamped by them. And if
15 your mind is set on other things, realize that
16 you are really shuffling papers and not really
17 making decisions.

18 For one, I believe that this Board
19 should keep out of the business as much as pos-
20 sible, rather than getting into the business as
21 much as possible. This Board is not a Board to
22 worry about line items, switches or realloca-
23 tions, trusting the judgment and the discretion
24 of the leadership of the corporation, its presi-
25 dent and, in turn, its financial officers.

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1 I, for one, had to assume that you
2 had struck a balance and that it is reasonable.
3 I hope that the balance is in the context of a
4 belief. In a budget of three hundred million,
5 or something to that sort, that you are not
6 going to be able to anticipate every continu-
7 ancy, you are not going to be able to forecast
8 every development, and you are not going to be
9 able to, as a budget is, always be on target on
10 assumptions and forecasts that you make.

11 Therefore, this Board doesn't try to
12 arrogate unto itself a second guessing, oversee-
13 ing, interfering, if you will, operation of a
14 budget that is set. The way that we do that is
15 that, of course, at the annual accounting each
16 year, and, indeed, between times we very well
17 should allocate that responsibility to the
18 corporation's committee. And, indeed, I hope
19 that they would allocate a large amount of trust
20 and confidence in the president of the corpora-
21 tion to make judgmental calls.

22 If this Board would try to run a
23 budget every meeting, what we are going to do is
24 stifle imagination and be, I think, thwarting
25 the incredible initiative that we want and

1 encourage our professional staff to have and to
2 use.

3 I have implicit confidence in the
4 caliber of the senior staff that Dan has
5 assembled. I don't come with any feeling that
6 we must continually engage in oversight for fear
7 that there will be some hanky-panky played with
8 the numbers after we have accepted them.

9 I leave to you the judgment that this
10 mechanism keep things in balance, but to set the
11 tone, I hope my colleagues on this Board will
12 share with me the legislative history and join
13 in it, that the attitude about doing this is to
14 say we, as a Board, once a year set the budget,
15 knowing that it is a perspective operation and
16 that we cannot gauge, nor can we always forecast
17 how everything is going to materialize, and that
18 rather than trying to run the budget from this
19 perspective, we vest a high degree of confidence
20 and, indeed, judgment in our senior staff and
21 ask them simply to come to us or, indeed, to the
22 Appropriations Committee, if there is any devia-
23 tion from it.

24 It is that spirit rather than averse
25 that is the intent of this Board by this action

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1 which is -- the mechanism is to tie the staff
2 down like Gulliver and have us run around over
3 and under, trying to watch every line and every
4 nail for fear that something is being changed
5 without our knowledge.

6 Is that the spirit of it?

7 MR. ENGELBERG: No.

8 (Laughter.)

9 CHAIRMAN McCALPIN: Let me respond,
10 not as Chairman of this Board, but as a former
11 member of the Committee on Audit Appropriations,
12 as one who had something to do with the draft of
13 this.

14 I think there were two considera-
15 tions. Steve has said them. Let me very
16 briefly say them again. One, there was a con-
17 cern with respect to the appearance of accounta-
18 bility as far as this Board was concerned,
19 because, in fact, it could have been said that
20 the Board was adopting a budget and the staff
21 was changing that budget.

22 As a result, the Board was not being
23 as accountable for the safeguarding and the
24 proper expenditure of these public funds as it
25 should have been.

1 On the other hand, there was the
2 desire which you have mentioned, to give the
3 staff the flexibility, the discretion, the
4 authority within broad limits to manage this
5 corporation. You will find that now we are
6 going to approve nineteen categories of expendi-
7 ture as opposed to fifty-seven or sixty-three,
8 which we approved last year.

9 And, that within those nineteen broad
10 categories, the staff has very broad latitude in
11 making adjustments to meet the changing condi-
12 tions as they arise. Even from one category,
13 the unallocated, into the other categories, the
14 staff has certain discretion in fiscal periods
15 to make transfer. It is only when the transfers
16 get very large or when they represent the initi-
17 ation of a new program or the discontinuance of
18 an old program, that they come back for consi-
19 deration by this Board in the discharge of its
20 responsibility.

21 I believe that this system gives the
22 staff at least as much, and I suspect, more dis-
23 cretion and authority to manage the corporation
24 than they had before, but it also reposes the
25 final accountability for the expenditure of

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1 these funds in this Board, where, by law, it
2 must be.

3 MR. ENGELBERG: Bob, I was teasing
4 you, but, really, what you said is absolutely
5 right.

6 I think that certainly your attitude
7 reflects the strong consensus of the committee
8 and I think Bill's point about the shift -- You
9 have to consider this proposal as part of this
10 new budget -- the way the budget is going to be
11 presented, which I again think that Cecelia and
12 Bill are the architects of that with the staff,
13 which is the key, because by narrowing these
14 categories down to these nineteen as opposed to
15 fifty-six or sixty, the staff really does have
16 the room for initiative within, once the Board
17 sets these broad guidelines.

18 Certainly, our intention, I hope we
19 have succeeded, was to do exactly what you sug-
20 gested. And I am certainly going on your legis-
21 lative history. I think that is the clear
22 intention.

23 But, again, once this gets adopted,
24 the staff obviously has to be careful not to go
25 from one category to the other without the

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1 Board's approval which, I think, is appropriate.

2 I can assure you that none of the
3 committee members wanted to get into the day-to-
4 day run of the mill staff decisions that you
5 would --

6 MR. KUTAK: I am very comfortable
7 with that kind of understanding.

8 MS. ESQUER: I'll make that agreement
9 unanimous.

10 (Laughter.)

11 CHAIRMAN McCALPIN: Steve, I don't
12 understand that there is a motion before us.

13 MR. ENGELBERG: No, there is not.
14 I'll be glad to move the guidelines for adop-
15 tion, review and modification of the consoli-
16 dated operating budget, which will also include
17 the new budget presentation, which, I suppose,
18 Gerry, will be a part of the guidelines; is that
19 correct?

20 MR. SINGSON: That's correct. As an
21 example of the format to be used.

22 MR. ENGELBERG: In other words, I am
23 moving both the guidelines, which are contained
24 on Page 11 through 13 of the Board Book, plus,
25 as an example of the new consolidated operating

1 budget, will be on Pages 14 or 15.

2 MR. ORTIQUE: I don't understand why
3 we have to do that together, Steve. Why don't
4 we take the guidelines and modifications and do
5 that --

6 CHAIRMAN McCALPIN: I don't under-
7 stand that his motion includes any numbers on
8 the attachments. It is not any numbers, it is
9 only the form.

10 MR. ENGELBERG: I'm sorry, Revius.
11 The format goes with the guidelines.

12 MR. ORTIQUE: No problem at all.

13 MR. ENGELBERG: I move an adoption of
14 the guidelines and the format as contained in
15 the attachment to the guidelines.

16 MS. ESQUER: I second it.

17 CHAIRMAN McCALPIN: It has been moved
18 and seconded. Is there any discussion of the
19 motion to approve the guidelines, which are
20 Pages 11 through 13, and the form of budget
21 presentation which is contained in Pages 14
22 through 21 of the agenda? Is there anyone who
23 wishes to address this issue?

24 (No response.)

25 CHAIRMAN McCALPIN: All right. All

1 in favor will please signify by saying "Aye."

2 (Ayes.)

3 CHAIRMAN McCALPIN: Any opposed, the
4 same sign.

5 (No response.)

6 CHAIRMAN McCALPIN: It carries.

7 MR. ENGELBERG: I want to thank Gerry
8 and his office for their hard work and coopera-
9 tion in developing those guidelines.

10 MR. SINGSON: Well, I would just like
11 to thank the committee, Steve. I think this is
12 five years of learning recorded because the com-
13 mittee decided it was a good idea for the future
14 to put together what had been learned over the
15 last five years as a Board and as a staff.

16 MR. ENGELBERG: The next item is the
17 proposed Consolidated Operating Budget for
18 Fiscal Year 1981.

19 The people that were here at the com-
20 mittee meeting last night, we have decided and
21 we are still moving on that assumption, that the
22 final figure for fiscal year '81 will be 321.3
23 million dollars.

24 Did I understand you as saying, Mr.
25 President, that that resolution has been passed

1 now by both Houses?

2 MR. BRADLEY: Yes. That portion of
3 the continuing resolution, they have to go to
4 Congress to resolve other departmental differ-
5 ences --

6 MR. ENGELBERG: It was passed on the
7 Senate floor?

8 MR. BRADLEY: Yes.

9 MR. ENGELBERG: The fact is that we
10 still do not have officially a figure, in our
11 present judgment, subject to certain emergency
12 standby procedures. We feel we have no choice
13 but to go ahead and move on the assumption that
14 we are going to have a 321.3 million dollar
15 figure, which we are relatively optimistic, and
16 if that fails, then Bill and Dan will have to
17 reconvene the Board or make whatever arrange-
18 ments are necessary.

19 Anyway, with that in mind, we dis-
20 cussed last night at some length the most con-
21 troversial item, the approval of the fiscal year
22 '81 budget, which is the allocation of so-called
23 one-time money. I suppose, Bill, what I should
24 do, in order to get this discussion going is to
25 go ahead and move the adoption of the proposed

1 budget with the modification that the committee
2 made last night.

3 Where is the --

4 CHAIRMAN McCALPIN: Let me ask, first
5 of all, does each member of the Board have a
6 copy of the material that was presented to the
7 Appropriations Committee last night which con-
8 tains the new budget?

9 Steve, I think that you probably
10 ought to move with reference to those documents.

11 MR. ENGELBERG: That will be starting
12 on Pages 10 and 11 on this document (indicat-
13 ing).

14 What I would like to do is move the
15 adoption of the staff-recommended 1981 budget
16 which is contained on Pages 10 and 11 of the
17 attachment. Referring you to Page 17 of the
18 attachment, which has to do with the staff
19 recommendation on the allocation, I would like
20 to also move that the allocations, as presented
21 on Page 17, also be included with one modifica-
22 tion.

23 The Items 5 and 6, which are State
24 support and coordination of State and National
25 support, which are figures of two million

1 twenty-five thousand -- seven hundred thousand
2 dollars, be combined into one conclusive cate-
3 gory.

4 Finally, as part of the allocation of
5 one-time funds, we would shift an additional
6 \$1,765,550 of additional one-time funds, be
7 allocated to the one-time cost of living adjust-
8 ment.

9 MS. ESQUER: I second it.

10 CHAIRMAN McCALPIN: The motion has
11 been made and seconded. It is now before us.
12 As the Chair understands it, there are essen-
13 tially three elements to this motion. The first
14 is the approval of the items on Pages 10 and 11
15 of last night's handout.

16 Second, is the approval with one
17 small modification of the allocation of one-time
18 funds as set forth on Page 17.

19 The third is an additional -- recom-
20 mendation of an additional 1.765 million dollars
21 to be added to Item 8 on Page 17.

22 I will be glad to take these up alto-
23 gether or in separate parts, at the pleasure of
24 the Board. I suspect, Steve, that some explana-
25 tion is appropriate at this point with respect

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1 to these different elements of your motion.

2 MR. ENGELBERG: What I will do is
3 give what I think is the committee's perspec-
4 tive, and then Gerry will want to fill in.

5 Basically, once the figure was
6 arrived at, we seemed comfortable with operating
7 the 321.3 million figure. There was very little
8 disagreement in the committee as to how the
9 annualized funds should be allocated. I think
10 the basic decision was made in the summer com-
11 mittee meeting in Connecticut -- Is it
12 Connecticut?

13 CHAIRMAN McCALPIN: No, Vermont.

14 MR. ENGELBERG: Anyway, to allocate a
15 six percent cost of living annualized increase.
16 That, of course, eats up a good part of that
17 additional money.

18 The real concern, which traditionally
19 has been the case, was the allocation of so-
20 called one-time money, which was basically unex-
21 pended funds, which was a total of, roughly, 7.8
22 million dollars. Bill McCalpin had requested
23 the staff to disclose the various options they
24 considered in coming up with the recommendations
25 they did, and the staff did that very clearly on

1 Page 17 of this handout. They are attempting to
2 show us what they rejected and what they chose
3 in making their recommendation.

4 Most of the items are fairly obvious.
5 As the President put it last night, he, particu-
6 larly, feels very strongly about each of these
7 items. I think a couple of the small items,
8 such as the census impact for \$100,000 -- The
9 fact is, that every one of these things are
10 important.

11 My own personal view might have been
12 to shift money differently, but I think these
13 are very difficult judgments. And I felt, and I
14 think the committee agreed, that we had to
15 respect the kind of long and detailed process
16 that had gone on in trying to make these provi-
17 sions.

18 There was one strong concern last
19 night that came up in the context of a particu-
20 lar National support center problem having to do
21 with cutoff of other non-corporation funding.
22 And out of that came the proposal to give the
23 staff more flexibility on the whole support area
24 by simply combining the Items 5 and 6, which I
25 have already mentioned.

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1 Our intention there was to simply
2 give the staff a little more leeway in terms of
3 one-time money in making some decisions about
4 what seems to be best in terms of particular
5 programs. We do not intend, I think, to
6 directly or indirectly tell the staff that any
7 part of that money should be allocated to any
8 particular National support center or any other
9 type of operation.

10 Mickey Cantor and others expressed a
11 belief, which I happen to agree with, which is
12 the given fairly difficult times ahead in terms
13 of money. The staff and the Board should be
14 ultimately very mindful not to embark on new
15 programs, only to have to pull the plug later
16 because of inadequate funding. I think that is
17 a much broader issue that, I think, we should
18 probably discuss.

19 The final item, due to a normaliza-
20 tion of grant-making, to allocate an additional,
21 roughly, 1.7 million dollars to cost of living
22 for the field only, which I understand that
23 Gerry rang the total cost of living increase up
24 to about seven percent -- eight percent. As
25 part of that recommendation, which was explained

1 last night, the staff is urging us not to try to
2 allocate -- Essentially, what has happened is
3 the 2.7 million dollars has been freed by a so-
4 called normalization of grant-making.

5 The staff is urging us, and I happen
6 to agree, today we should not take more than
7 what is roughly 1.7 million dollars out of that
8 figure. I think the clear understanding is that
9 over the next months, the staff will be making
10 recommendations to us about the possible expen-
11 diture of additional amounts of that money.
12 There will be a number of important options to
13 consider and, certainly, the committee agrees --
14 I think the committee strongly agrees with that
15 and we are urging the Board not to go beyond
16 that point of the 1.7 million dollars of that
17 additional one-time money.

18 I don't think there is anything more
19 I can say.

20 CHAIRMAN McCALPIN: Revisus?

21 MR. ORTIQUE: Mr. Chairman, I would
22 suggest that we would consider these various
23 broad categories one at a time, instead of a
24 sort of hit-and-miss all over the place.

25 For example, I would like to start

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1 and clear or do whatever we are going to do
2 about the cost of living raise, or whatever we
3 can call it. The field raise, as I understand
4 it, was six plus one last year and now the staff
5 is recommending six plus two. I think we ought
6 to clear that up and discuss those so that we
7 know that we have done a step-by-step, what I
8 would consider a logical approach to making
9 these changes in keeping with the --

10 MR. BRADLEY: Revius, I -- Okay.

11 CHAIRMAN McCALPIN: Revius, I think
12 in terms of discussion, that is all right. In
13 terms of approval or votes, I am afraid that if
14 we did that and took a vote on that and then
15 took a vote on something else, we would either
16 fragment the thing to where we didn't know
17 exactly where we were by the time we got through
18 or else, something might slip through between
19 the cracks --

20 MR. ORTIQUE: Bill, as usual, you are
21 right. I'm not talking about taking a formal
22 vote on each one of them. I think we ought to
23 know that we covered each one in some type of
24 sequence so that we know that we have covered --
25 that the staff has a clear understanding, that

1 we didn't just hit and miss.

2 CHAIRMAN McCALPIN: Okay. Fine.
3 Anything is open for discussion that any member
4 of the Board or anyone else would like to
5 discuss.

6 MR. ORTIQUE: I would like to hear if
7 there is any opposition to the eight percent. I
8 think we can move on there, because, certainly,
9 a lot of people in the field are here to send
10 back to their people that the Board is either
11 supportive of this or not supportive of this.

12 I heard the comment last night that
13 they were not elated over the eight percent, but
14 they certainly felt that it was reasonable.

15 MR. TRUDELL: You mean, they wanted
16 seven?

17 (Laughter.)

18 MR. ORTIQUE: I didn't ask them.

19 MR. BRADLEY: Revius, just one point
20 of information. Last year, because of limited
21 annualized increases, the Board awarded only
22 five percent annualized to the field and two
23 percent one time. This year, because of twenty-
24 one million, it is six percent annualized and a
25 proposed two percent one time.

1 MR. SINGSON: If I might, there is
2 one other technical matter which probably has no
3 substance in terms of our discussion, but the
4 7,855,000 is not technically all balances for-
5 ward from 1980. That is why the term is used in
6 the materials, funds available for further allo-
7 cation. A portion of that money is from the 321
8 appropriation, and it is that money that we are
9 talking about, for example, in the State support
10 solidification National support, and it would
11 become part of our permanent base.

12 MS. SHUMP: Revius, the only thing
13 that I can say, and I agree with you, is we need
14 to get on with it. I think that they certainly
15 deserve the eight percent. I am sorry that we
16 can't give them nine or even ten.

17 I move that in keeping the cost of
18 everything, they are having a difficult time,
19 everyone is. But I don't know exactly what
20 needs to be done to get this thing moving. We
21 just can't continue to sit here --

22 MR. KUTAK: Well, there is one ques-
23 tion. I think the only question is, other than
24 the one you just raised, and that is to say that
25 not more, and nobody obviously thinks it can be

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1 less. The only question you could ask is why
2 there is a difference between field and corpora-
3 tion.

4 I suppose that the Board ought to
5 ask, at least I for one would like to know, why
6 the distinction is being made between those who
7 are tilling in the field and those who are work-
8 ing back at the plant. And I would appreciate
9 some explanation as to why one was accorded the
10 increase and the other was not.

11 MR. SINGSON: Well, as you noticed,
12 the six percent is going to both --

13 MR. KUTAK: Yes, of course.

14 MR. SINGSON: And the one percent,
15 the first one percent is going both to the field
16 and the corporation's administrative and support
17 activity. We went through an extremely diffi-
18 cult process. It is described in the book that
19 went to the committee for November 18th of
20 determining what our needs were.

21 There is no question that we could
22 use another \$200,000, the next one percent, if
23 we took it. We made the judgment as we made it
24 about some other items, that you can see on the
25 options list that that was not the highest

1 priority and that we would be able to do the job
2 that we believe we should be doing and that we
3 propose to you that we do, and this material,
4 within the range of a total of a seven percent
5 increase.

6 Partly, we are able to do that
7 because our budget, different than field pro-
8 grams, includes some elements, some activities
9 that phase out during the course of a year. The
10 delivery system study is a good example this
11 year. The result of that is that we do not
12 enter 1981 with quite as high a base of continu-
13 ing activities that we have to support for
14 exactly the same money we have in the prior
15 year.

16 We have taken all of that into
17 account, and I think that we do not need that
18 extra 200,000 as much as the field programs that
19 will get it.

20 MR. KUTAK: I raise the point, Mr.
21 Chairman, because, very frankly, having gone
22 through this very cycle with another entity and
23 having to look at cost of living indices for
24 five, possibly six cities. I was struck by the
25 fact that there was a wide national variation in

1 cost of living, and one of the highest is
2 Washington.

3 MR. ORTIQUE: I think your point is
4 very well taken, Bob. Now, I am understanding
5 something a little bit different than I under-
6 stood it last night.

7 I thought last night that for some
8 reason, some rationale, that the staff in
9 Washington was not going to reap the benefit.
10 What I am hearing now, correct me if I am wrong,
11 is that because you are going to have some addi-
12 tional funds, they will probably reap the same
13 benefits and they will be getting an eight per-
14 cent raise just like everyone else.

15 MR. BRADLEY: No, Revius.

16 MR. ORTIQUE: My question is appro-
17 priate. What is going to happen to people who
18 live in Washington, D.C.?

19 MR. BRADLEY: If I could refocus that
20 issue for just a moment. Basically, we in the
21 Washington office, we have to manage ourselves,
22 like our local programs and their boards, you
23 know, manage their operation. Maybe better,
24 maybe worse. Bruce is sitting there smiling.

25 But by awarding the local program six

1 percent, that does not automatically mean that
2 the employees of those local programs get six
3 percent. In fact, the managers and the
4 directors of those local programs, as you know,
5 have wide discretion in how to apportion the
6 money that you award them, and we at the staff,
7 also. If you award us six percent annualized,
8 is the operation as Josephine knows, that does
9 not automatically mean, oh, that the staff in
10 Washington can receive only six percent.

11 What you have done is given us that
12 resource that, as managers, we best allocate it
13 among our staffs based on a salary scale and a
14 salary plan that guides our personnel decisions,
15 promotions and so forth. I don't want anyone to
16 think, and I think that the field persons here
17 can testify, in fact, through attrition, through
18 whatever, I am sure many of the field programs
19 will award their employees more than the six
20 percent and we probably will, also. We just
21 have not made that final decision yet.

22 I think that in terms of Bob's obser-
23 vation about the extra 200,000, and the only
24 additional comment I would like to make to what
25 Gerry says, you recall, and sometimes it is a

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1 little sensitive, we do try to protect ourselves
2 maybe a little more than some of our local pro-
3 grams, because we have always maintained in the
4 management administration budget basically, a
5 continued reserve of approximately \$200,000,
6 because of the dynamics of those factors that we
7 cannot precisely gauge. We don't dip into it
8 and usually, I think, from prior years, it
9 always falls back into the one-time money.

10 So, Bob, we did not give ourselves an
11 additional \$200,000, because basically, we had
12 the \$200,000 already built into our management
13 budget. That gives us a little of that flexi-
14 bility. I think Gerry stated it well, when it
15 came down to making the ultimate final decision,
16 there is no question that the highest priority
17 of the staff and our consideration in terms of
18 putting the money in the bill, was to try to get
19 that additional two percent to the field. And
20 we were able to do so in a lot of ways, and one
21 of that is to not award it to --

22 MR. KUTAK: I did not appreciate
23 until now that it is discretionary with respect
24 to the managers that you may give some persons
25 ten percent and others three. I thought it was

1 across the board, split, hard down-the-line,
2 even.

3 MR. BRADLEY: Oh, no. I want the
4 Record to reflect, because all of my senior
5 staff last year, for instance --

6 MR. KUTAK: I now understand. Take
7 yes for an answer.

8 MR. BRADLEY: All right.

9 (Laughter.)

10 MR. BRADLEY: No, my senior staff is
11 sitting here and I want the Record to reflect
12 that last year, as the manager, no senior staff
13 person at the corporation got any increase.
14 Other employees of the corporation did, and now
15 the question is, what will the senior staff
16 enjoy next year, and that has not been decided
17 yet.

18 CHAIRMAN McCALPIN: Are there any
19 other subject areas of this budget motion which
20 any member of the Board would like to discuss?

21 MR. ORTIQUE: Are we ready to go into
22 the staff recommendations on Page 17?

23 CHAIRMAN McCALPIN: Yes.

24 MR. ORTIQUE: I operated under the
25 false assumption that the client advocacy

1 program, that is, Item Number 3, was a develop-
2 ment in conjunction with the National client's
3 council. I got here last night and found out
4 that that was not true.

5 I am not being critical of the pro-
6 gram, as much of it as I understand. My concern
7 is now that we decided this is good for the
8 client, are they going to be involved from this
9 day forward in what is actually done?

10 One of the things that I have said
11 all the time is that other people can't decide
12 for me what is good for me and then expect me to
13 swallow it. I should have the opportunity to
14 assist you in developing a program that is good
15 for me. I learned last night that this was a
16 development outside of the input at its incep-
17 tion of client. I would like to know -- I would
18 like someone to state again for the Record what
19 this program is.

20 I was told last night what it was,
21 and I would like to hear what assurances we can
22 anticipate that the clients will be involved in.
23 I had represented to Mary Ellen Hamilton that
24 clients were involved in this from its incep-
25 tion, talked to some of the field people, some

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1 of the senior staff people last night and then
2 found out that they were not until yesterday. I
3 would like that into the Record, because this is
4 not the way that I think we ought to be doing
5 this.

6 MS. ESQUER: Revius, if I could add
7 my understanding of this.

8 The last two years there has really
9 been a lot of discussion about client involve-
10 ment, and I think that I was one of the ones
11 that kind of pushed for creating a specific bud-
12 get item for this area and pushing very hard
13 that we show more than just lip service to
14 client involvement, by actually in our budget
15 showing what our commitment is.

16 I think that that was the beginning
17 of it. In the development of Howard's plan, I
18 think there is a discussion of some of the pos-
19 sible activities that can take place under this
20 client advocacy thing. I agree completely with
21 you that we have a budget allocation now, and I
22 do agree with you that the guidelines -- that
23 more specific guidelines need to be set. And
24 there should be input, you know, from the client
25 community directly on how those funds should be

1 expended, and I have not heard anything to the
2 contrary from the staff, that that would not
3 take place.

4 MR. SINGSON: I would certainly like
5 to say that that is correct. On Pages 125 and
6 the following four or five pages of the book for
7 the Appropriations and Audit Committee for
8 November 18th, which I believe is the large
9 booklet with the blue cover, Pages 125 and
10 following, you find the details of the proposed
11 activity here. And I think you will find them
12 totally consistent with the remarks that have
13 now been made.

14 The basic statement of the outline
15 explicitly speaks to the direct involvement of
16 the client's council and other client groups in
17 the project in its development and implementa-
18 tion. The specific activities outlined on Pages
19 127, 128 and 129 --

20 MS. SHUMP: Gerry, what book are you
21 reading out of?

22 MR. SINGSON: This is the one that
23 was handed out to some and mailed to others
24 (indicating).

25 MS. SHUMP: Revius, it was never

1 mailed.

2 MR. ORTIQUE: It was mailed prior to
3 this time.

4 MR. SINGSON: This was for the
5 November 18th committee meeting. I was under
6 the impression that you had a copy. I am sorry
7 that you don't; I apologize. In any case, the
8 direct involvement in clients as recipients of
9 grants as participants in the gathering of
10 information, dissemination of the information
11 and technical assistance, I think, is all
12 spelled out there.

13 Clearly, what has been said by the
14 Board members is consistent with what we are
15 intending to do.

16 MR. ORTIQUE: I have no problem. I
17 really don't need for you or Alan to make any
18 comment to me. The thing that would make me
19 really feel good inside would be if the presi-
20 dent of the client's council or the executive
21 director would jump up and say, "Ortique, you
22 are wrong. We have been involved in this all
23 the time, every step of the way. We are
24 entirely satisfied."

25 That is the type of enthusiastic

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1 involvement that I would like to see us have
2 after I am off this Board in July. That is why
3 it bothers me.

4 I was really embarrassed last night.
5 I told Mary Ellen that, you know, I know that
6 they have been involved in it, I knew that I had
7 -- Now that you call my attention to it, I knew
8 that I did read that section, that clients will
9 be involved and so forth. That is why I repre-
10 sented to her that fact, and then, when I said
11 it in the presence of one of the senior staff
12 persons, he said no. And I am sure that he
13 wanted to make sure that I knew that the Record
14 was correct.

15 The first time that Berney Veney knew
16 about this was yesterday morning. Joe Worthy
17 and Ramona Shump was standing next to me when I
18 made those representations, you see.

19 MR. SINGSON: I can make a represen-
20 tation to you, that over a month ago at a meet-
21 ing on the budget, this item was discussed and
22 Berney was present.

23 MS. SHUMP: Could we hear from
24 Berney?

25 MR. VENEY: Like a great deal of

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1 other things, what Revius says is both right and
2 wrong.

3 MR. ORTIQUE: You mean, in the
4 meetings; right?

5 (Laughter.)

6 MR. VENEY: We have not been involved
7 in a great deal of the nitty-gritty planning,
8 but we are, in fact, I think, quite satisfied
9 that this budget that is before you reflects an
10 appreciation by the staff of the mandate of this
11 Board to insure client involvement in an ongoing
12 basis in all of the corporation's activities.

13 We have certainly known of the
14 staff's recommendation, that a sum of money be
15 put into the budget, but I think the confusion
16 around the whole appropriation process has
17 caused us to back away and not to make those
18 hard decisions, enter into those hard negotia-
19 tions with the staff as to the ground rules and
20 as to the use of these funds.

21 I think that one of the reasons that
22 you have not heard screams from me and from the
23 others within the client council, has been
24 because of our satisfaction with the attitude of
25 staff so that we are, I think, looking forward

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1 to those hard negotiations, that hard work
2 product, as we go along we did not see the
3 necessity -- However, Judge, we appreciate your
4 continuing oversight, because we do know that
5 from time to time folks do forget.

6 CHAIRMAN McCALPIN: Is there any
7 other comment with --

8 Howard Sacks?

9 MR. SACKS: I just want to say a word
10 about the --

11 MR. ORTIQUE: Howard, you ought to
12 clear up the confusion in Engelberg's mind. It
13 amounts to one and the same statement, you were
14 getting a drink of water at the moment, but he
15 just sneaked that right past us. I realize that
16 Reagan is going to do some things, but I don't
17 think he is going to do that.

18 CHAIRMAN McCALPIN: Professor, will
19 you give us a geography lesson?

20 MR. SACKS: I want to talk about --
21 For just a moment, I want to talk about the
22 approximate two million dollars that will remain
23 unallocated under this plan that we are about to
24 adopt, and which I certainly support.

25 Some of this arises from the

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1 normalization proposal that was discussed in
2 detail last night and some of it is investment
3 income.

4 The staff and the Board will be mak-
5 ing a very difficult decision, presumably in the
6 near future, on what to do with the two million.
7 Everybody has his pet project and I just want to
8 say a word about National support and the long-
9 range and short-range plans.

10 One of the themes in that plan which
11 has not been adopted, but which has never met
12 any opposition whatsoever from any element of
13 the Board or from anyone in the field, or from
14 any element of the client community, is that we
15 should emphasize in the years to come Legal
16 Services projects that help poor people escape
17 poverty, extricate themselves from those condi-
18 tions. And one good way to do that is, of
19 course, through economic development activities.

20 To make economic development, such as
21 the construction of housing and the building of
22 stores and shops and creation of jobs, to make
23 that effective, we need National support. There
24 are two National Support Centers that really
25 contribute to that effort. One is the National

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1 Economic Development and Law Center in
2 California and the other is the National Employ-
3 ment Center in New York City.

4 My information is that although both
5 of those receive significant amounts of funding
6 from the corporation, that they could use well
7 and profitably use additional funding, that in
8 some cases, at least, they don't receive the
9 same level of funding as other of our National
10 support centers.

11 I would hope and urge that when the
12 staff and the Board come to allocate this addi-
13 tional two million dollars, which may be on the
14 agenda in the March meeting, that they will give
15 a sympathetic ear to this proposal, to lend
16 additional support to the Senators, as a way of
17 emphasizing the theme of helping the poor people
18 escape from poverty by these self-help efforts.

19 CHAIRMAN McCALPIN: Is there any
20 other --

21 Dick Trudell?

22 MR. TRUDELL: I missed that. I apol-
23 ogize for missing last night's meeting. I would
24 have liked to have been there.

25 Combining 5 and 6 -- I guess the --

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1 Could someone quickly brief me on the rationale
2 for that? Then, I have a question to direct to,
3 moreso, to Alan than to Gerry in terms of -- Are
4 there many groups that fall outside the per-
5 imeters of what State support organizations do,
6 as well as some of the -- I guess work on some
7 substance issues.

8 I guess what I am getting at, is that
9 I don't know of many native American programs
10 that would benefit from State support, given the
11 fact that they are independent and separate.
12 And maybe Arizona is an example where, I don't
13 know how much money goes to Arizona for State
14 support, but programs such as the Indian pro-
15 grams in the southwest -- Do they benefit in any
16 way from State support monies?

17 MR. SINGSON: Alan, do you want to
18 speak to that? I could give a beginning answer
19 to that. Alan has much more detailed informa-
20 tion. We do, of course, provide money to the
21 Native American Rights Fund. It is a National
22 support center, but, of course, focused on the
23 particular concerns that are being served by the
24 Native American programs.

25 There is also some work going on

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1 where we do have existing State support centers
2 with Native American issues and, indeed, we are
3 working to improve it in migrant areas as well.
4 So there has been some relationship.

5 But part of our plan in the State
6 support area is to improve that and increase it,
7 and we are making allocation for State support
8 that includes the American Funding and States.

9 In terms of additional information on
10 specific State support ties or on the relation-
11 ship of the Native American Rights Fund to the
12 Native American programs, I would refer to Alan
13 on that.

14 MR. HAUSEMAN: In the State support
15 planning process, of which I was a member, we
16 discussed the need for State support to direct
17 itself to specific groupings of programs which
18 fell outside of the normal State boundaries,
19 specifically, migrant programs and Native
20 American programs.

21 In the planning process that went on,
22 it was -- We took into account those programs in
23 developing a plan for State support, and the
24 State support plan which is reflected in the
25 book, although it doesn't speak specifically to

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1 this issue in terms of the materials that you
2 have, in the planning process we specifically
3 discussed how they would be involved. And we
4 told both the migrant and the Native American
5 programs that the State support efforts that
6 would be developed would target resources on
7 Native Americans and migrants issues, and how
8 that would be organized would be left up to both
9 the State planning process within the States and
10 a more regional planning process with both
11 Native Americans and migrants.

12 My understanding is that State plan-
13 ning processes from some of the states like
14 Arizona did involve the Indian program and that
15 the Indian programs themselves of the Denver
16 Regional Office have also interacted with Vector
17 in the State support staff of the corporation.

18 Because we have not implemented the
19 plan, there is nothing more, I think, that we
20 can say at this point except that we have recog-
21 nized those needs in the plan, itself, have
22 taken them into account, and we have made
23 efforts to assure that both Native American and
24 migrant interests, the two groups we earmarked,
25 were taken into account on that process.

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1 Indeed, there members from the Native
2 American migrant community on the State support
3 planning team that made these recommendations to
4 Clint at the Senior Staff. I was a member of
5 the team that made these recommendations to
6 Clint, which he has adopted.

7 CHAIRMAN McCALPIN: Thank you, Alan.

8 MS. SHUMP: Alan, before you leave,
9 how did you set about organizing this team?

10 MR. HAUSEMAN: I didn't organize it.

11 MS. SHUMP: Who organized it; who was
12 on it?

13 MR. SINGSON: Clint Lyons is here.
14 He might be better to speak to that.

15 MR. LYONS: Ramona, you may not
16 recall, but a few years ago as an outgrowth of
17 the State support, options started to come in.
18 We earmarked on a planning process at those
19 State levels to include representatives of all
20 of the programs in the regions. The particular
21 regions at the State level were to come together
22 and to talk about coordinated activities at the
23 State level.

24 And we asked our guideline for those
25 planning processes were, one, in terms of

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1 composition of the team. One is that all the
2 programs should be represented and that, of
3 course, the client input and staff input also
4 should be had.

5 I can't tell you, specifically, right
6 now what the particular compositions of all of
7 those planning teams were at the State level,
8 but we have all the plans and we have a record
9 of all the participation, and I can let you know
10 who those are.

11 MS. SHUMP: Clint, to begin with, I
12 want to thank you. When you start talking in
13 terms of "If you will remember back a few
14 years," I wasn't around a few years ago, so it
15 is kind of hard for me to have that background.

16 Also, I think what I was primarily
17 interested in was whether all of the things have
18 been completed. And when you say there were
19 representatives from each state and there was a
20 point made for client input, once again, my
21 question would be, you know, did the representa-
22 tives from each State, in fact, take along with
23 them a person from the client community, whether
24 it was NCC or any other group that was a client
25 group?

1 MR. LYONS: I can't answer specific-
 2 ally, again, whether or not every State support
 3 team had a local client from a program or a
 4 client from, you know, the NCC, State chairper-
 5 sons, or anything like that. All I can tell you
 6 is -- Because I don't know specifically the
 7 composition of the team, I have plans, specific
 8 plans in reference to the composition of those
 9 teams, from 45 of the 50 States in my office,
 10 and I can look and I can give you that informa-
 11 tion.

12 Our instructions were as they always
 13 are in planning processing, that we do have
 14 client input. We don't specifically direct
 15 people to bring one, two clients from here or
 16 there, but I could get that information.

17 MS. SHUMP: What I am really trying
 18 to find out, and once again, I don't believe you
 19 have given me the answer, Clint, is that you
 20 said you have all the plans?

21 MR. LYONS: Right.

22 MS. SHUMP: You said all the teams
 23 have met and discussed and submitted plans.
 24 Okay. Now, if that has happened, where do we go
 25 from here? And if there is going to be further

1 discussion of these teams, you know, are you
2 going to attempt to suggest, rather than order
3 or mandate that what I am saying might actually
4 come about, and that is, that in fact, there
5 will be a client along with each representative
6 from each State in each Region to sit in on the
7 planning, if there is going to be any more plan-
8 ning or any change in planning?

9 MR. LYONS: We don't contemplate any
10 further planning process. The planning process
11 is complete and what remains to be done is your
12 work right now, in approving the budget -- We
13 know we have the money -- and getting the money
14 out to do the specific things outlined in the
15 information we have given to you in your
16 November Audit and Probations Book.

17 CHAIRMAN McCALPIN: Berney.

18 MR. VENEY: Ramona, in partial answer
19 to your question, the experience was uneven
20 across the country. In some states the client
21 involvement was very good and resulted in some
22 very novel things beginning to happen.

23 Ohio was one of the states, for
24 example, where a specific sum of money was set
25 aside through the State support process which

1 allowed training of clients by clients in that
2 state. California was another good example.
3 There were other states where the experience was
4 much less satisfying.

5 I think, again, that was not the
6 result of any failure of your staff. I think,
7 again, that was a reflection of an attitude
8 among many project directors that you found in
9 St. Petersburg. There you do not have yet --
10 There appears to be the feel that there should
11 be client involvement, that there is effort to
12 seeking client involvement, but those numbers
13 are increasing, we think.

14 I think that with a series of
15 regional meetings that the corporation is now
16 planning, I think the events of the next year or
17 so will bring us to a point where you will not
18 have to ask that type of question any more. It
19 will just be bringing in the behavior of old
20 project directors and all your staff.

21 MS. SHUMP: Thank you. Thank you,
22 also, Clint.

23 I need the background, you know. You
24 have got to remember that I have not been around
25 as long as you have.

1 CHAIRMAN McCALPIN: The motion which
2 is before us relates to the adoption of the 1981
3 budget and the three elements that were dis-
4 cussed earlier.

5 I have one question for clarifica-
6 tion, Gerry.

7 Do I understand that if this motion
8 is adopted, then the items which are shown on
9 Page 17 will thereafter be transferred to and
10 included in the appropriate line items on Pages
11 10 and 11, that they are not there now?

12 MR. SINGSON: No, they are, in fact,
13 already there as part of our full staff propo-
14 sal, that is, the items presented in the staff
15 proposal column are also presented in their
16 appropriate line items already in the proposed
17 consolidated operating budget. The one item
18 that is not there in -- and it is, in fact,
19 there, almost exactly as it will be in the end
20 -- is the Normalization Allocation, the 1.7
21 million. That money is in the basic field base,
22 Line 1-A.

23 At this point, with normalization, it
24 will be -- Almost all of it with this allocation
25 to cost of living will remain in Line 1-A, but

1 in a one-time application rather than in an
2 annualized application.

3 CHAIRMAN McCALPIN: Will there be a
4 transfer to Line 2-F?

5 MR. SINGSON: Let me check. No, there
6 will not.

7 MR. TRUDELL: There will be a small
8 plus above it.

9 (Laughter.)

10 MR. SINGSON: At the moment, what I
11 would propose -- You mean, as to the remainder
12 of the normalization money?

13 CHAIRMAN McCALPIN: Right.

14 MR. SINGSON: I would propose -- That
15 could possibly be moved in to a statement of
16 funds available. I would not propose a budget
17 transfer, the unallocated line -- The investment
18 income, for example, does not appear in the con-
19 solidated operating budget because it is not the
20 unallocated investment income. The one million
21 is not in a specific line.

22 I would propose that this line for
23 purposes of adoption of the budget dealing with
24 the 321 and the balances forward, that the
25 remainder of funds normalized remain in the

1 basic field line until we allocate them.

2 CHAIRMAN McCALPIN: Well, I am not so
3 sure I agree with that. If it stays there, then
4 under the budget guidelines which we have just
5 adopted, it is subject to reallocation and
6 reappropriation within that category.

7 To take it to another category, you
8 would have to come to the Board. I am not com-
9 fortable with it.

10 MR. TRUDELL: But that takes care of
11 it if it has to come back to the Board.

12 MR. BRADLEY: But I thought, Bill,
13 that was the point, not addressing specifically
14 to F, that was specifically the point I was try-
15 ing to represent to you last night as the
16 staff's proposal, that that money is there. It
17 has to be displayed somewhere, and it will
18 remain sacrosanct, it will not be touched by the
19 staff until we come back to you and discuss that
20 issue with you.

21 I think your question is, are you
22 comfortable with it being proposed there, rather
23 than displayed somewhere else?

24 CHAIRMAN McCALPIN: Well, it would
25 seem to me that total candor would require it to

1 be in 2-F.

2 MR. SINGSON: Or pulled out of the
3 budget and stated as unallocated amount.

4 CHAIRMAN McCALPIN: Well, I am not
5 very happy about a budget which does not reflect
6 all of the funds.

7 MR. SINGSON: Well, let me speak to
8 that.

9 CHAIRMAN McCALPIN: Investment income
10 is a little different. Maybe I can rationalize
11 that. I am not very happy about a budget that
12 purports to dispose of ninety-five percent of
13 the funds and just leaves five percent hanging
14 outside somewhere.

15 MR. SINGSON: Let me make a technical
16 distinction which may help. The budget is the
17 allocation tool. The statement that money is
18 going to be used for a purpose. The statement
19 of funds available is the resource tool.

20 The practical matter here is that
21 this million dollars not yet allocated does not
22 have a purpose assigned to it, so that we could
23 put it in unallocate within the budget, which
24 would suggest that it was there for reallocation
25 by the staff to cost changes and the like.

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1 MR. BRADLEY: Up to a hundred thou-
2 sand dollars a quarter.

3 MR. SINGSON: That's correct.

4 MR. ORTIQUE: It wouldn't take care
5 of the million dollars.

6 MR. SINGSON: It would display it in
7 a line which did not suggest the purpose that
8 the money does not have. It would probably be
9 more appropriate if we want to display it
10 clearly, to move it to our statement of funds
11 available as unallocated in 1981.

12 CHAIRMAN McCALPIN: Let me say this:
13 I think to leave it in 1-A, if that is what we
14 are talking about, really says something that we
15 don't intend.

16 We don't presently think that that is
17 going to be spent in 1-A, and I think that it
18 would be a mistake to leave it there with the
19 expectation of people that it would be spent in
20 that line.

21 MR. ORTIQUE: I agree.

22 MR. TRUDELL: What you might con-
23 sider, Bill, is just creating G, and if you want
24 to set it out under 1, then have an unallocated
25 under 1 and 2.

1 CHAIRMAN McCALPIN: Well, I don't
2 know what good it does us to have 2. Frankly,
3 one of the things we were trying to do was get
4 all of the unallocated into one place so that we
5 could see what they were.

6 MR. SINGSON: I certainly --

7 MR. ORTIQUE: Why can't we have
8 unallocated with a sub under unallocated?

9 CHAIRMAN McCALPIN: We already have
10 \$250,000, in effect, unallocated in 1-A. That
11 is the reserve for contingencies.

12 MR. ORTIQUE: No, I'm talking about
13 under F. Since, apparently, the staff wants to
14 have some type of separation between the two
15 hundred thousand and the two million. That is
16 the impression I got.

17 Gerry, I am afraid I just can't buy
18 technical -- I don't understand. I heard you
19 and I understood it, but I guess I don't appre-
20 ciate that technical arrangement that you were
21 indicating to us, the allocated as opposed to
22 the unallocated.

23 I agree with Bill that we have got to
24 have that money reflected here someplace. All I
25 am saying is that if there is some reason to

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1 want to keep F unallocated two hundred thousand,
2 that maybe we could subdivide F and have an F-1
3 and an F-2 and put the two hundred thousand one
4 place.

5 The field has got to get the impres-
6 sion that they at least have a bite at that
7 allocation.

8 MR. TRUDELL: I guess the reason I
9 made the suggestion is because, you know, with
10 the new budget procedures and terms of the com-
11 mittee as well as the staff being able to shift
12 money around, I would agree with Bill from the
13 standpoint of setting it out.

14 If there is a pile of money there, I
15 would like to have everyone know that it is
16 there. Then, in turn, it still gives the staff
17 flexibility up to two hundred thousand to cover
18 expenses, you have that latitude.

19 MR. BRADLEY: I would certainly
20 recommend, because -- I am not suggesting that
21 we are missing the issue, but the issue is that
22 there is a million dollars that we do not yet
23 propose to allocate and we are going to come
24 back to you at your next meeting with a proposal
25 for that.

1 And I think in that context, and I
2 think most appropriately, and I think that we
3 can all accept that, be it reflected under 2-F,
4 which is unallocated money.

5 MR. ENGELBERG: I agree with that.

6 MS. ESQUER: I do, too.

7 MR. BRADLEY: And we would make that
8 revision to so reflect that.

9 CHAIRMAN McCALPIN: Frankly, I backed
10 into this, because I did not understand that the
11 items on 17 had already been incorporated in 10
12 and 11, and I thought that this would -- that
13 you would do that after these approvals and that
14 that would result.

15 MS. ESQUER: It shows trust and con-
16 fidence in the Board.

17 MR. SINGSON: We will make that
18 adjustment to reflect that consensus.

19 CHAIRMAN McCALPIN: Is there any
20 other discussion with respect to the pending
21 motion?

22 Bruce Morrison?

23 MR. MORRISON: Very briefly. I
24 usually only get the chance to stand up and
25 complain.

1 (Laughter.)

2 MR. MORRISON: I thought I would just
3 take one minute to stand up and not complain.

4 This has been a very difficult budget
5 year, as you all know, because of the ups and
6 downs and backs and forths. And I think the
7 staff has had a difficult time, and I think,
8 more than anything, as last year and again this
9 year, they made a real effort to examine their
10 own expenses and compare the need with the
11 field.

12 And I think that, from my perspec-
13 tive, that they should be thanked publicly for
14 the effort that went into that. The final
15 result is very consistent as, Bill, you know
16 from the meeting in Fulton Valley that you and
17 other members of the Board attended, very con-
18 sistent with the kinds of priority that were
19 worked out with the Funding Committee and the
20 Steering Committee with input from a broad range
21 of clients and staff in the field.

22 I think it is a good budget, and I
23 hope you pass it as it has been recommended.

24 CHAIRMAN McCALPIN: Thank you, Bruce.

25 We will always recognize you to support the

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1 staff.

2 (Laughter.)

3 MS. ESQUER: Will that be in all caps
4 in the transcript?

5 (Laughter.)

6 CHAIRMAN McCALPIN: Cecelia wants
7 that underlined and in all caps in the tran-
8 script.

9 Is there any other discussion with
10 respect to the pending motion?

11 (No response.)

12 CHAIRMAN McCALPIN: I will then put
13 the question. All in favor will please signify
14 by saying "Aye."

15 (Ayes.)

16 CHAIRMAN McCALPIN: Any opposed, the
17 same sign.

18 (No response.)

19 CHAIRMAN McCALPIN: It is approved.

20 Mr. Kantor?

21 MR. KANTOR: Mr. Chairman, I didn't
22 want to raise this during the discussion because
23 I didn't want to confuse the issues, but I would
24 hope that as we discussed last night at the
25 Audit and Appropriation Committee that at least

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1 on an informal, if not a formal basis, that some
2 report be made at our March meeting as to the
3 disposition of the 2.7 million dollars going to
4 State and National support and with special
5 reference in that to Howard's point which, I
6 think, is a very important point about job and
7 economic development.

8 It is up to the staff to make those
9 decisions, and I think they are more than
10 capable of doing it, but I think the Board would
11 like to at least hear at the March meeting what
12 happened to that money or what is planned to be
13 done with that money.

14 CHAIRMAN McCALPIN: There isn't any
15 question in my mind that such a report will have
16 to be made to the Audit and Appropriations
17 Committee, and I think you can expect that com-
18 mittee to bring it to the Board.

19 Mr. Trudell?

20 MR. TRUDELL: Let me add -- My ques-
21 tion is regarding State support of the National
22 issues, or whatever you want to call them, that
23 at the Denver meeting, Clint, that is scheduled
24 next month with the Denver Region and the Indian
25 program components, I certainly don't purport to

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1 speak for them in terms of how they relate to
2 State support and what have you, but I would
3 like to have, you know, some reaction from them.
4 And that would be the appropriate time to tell
5 -- or have you people put on the agenda, because
6 maybe they are satisfied, I don't know.

7 But you may as well take advantage of
8 the opportunity once you have got those people
9 together, how they are going to relate to those
10 separate pots of money.

11 CHAIRMAN McCALPIN: Let me just take
12 a brief moment before we take up the next item
13 on the agenda.

14 As you can see in looking at the
15 room, we are favored with the attendance of a
16 number of representatives of Legal Services com-
17 munity of the State of Louisiana. I think I,
18 unfortunately, could not recognize all of them
19 at this time, but it does seem to me appropriate
20 that, as representing the entire Legal Services
21 community of Louisiana, I do recognize Eva
22 LaGarde, who is the President of the Louisiana
23 Client's Council and a member of the Louisiana
24 Legal Services Association Advisory Council.

25 Ms. LaGarde, we are delighted to have

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1 you here. Thank you for your attendance and
2 your interest.

3 Also, Mr. Joseph R. Oelkers (pho-
4 netic), Director of Arcadiana Legal Services
5 Corporation and President of Louisiana Legal
6 Services Association, who was with us last
7 night.

8 Mr. Olchers, we are delighted to have
9 you with us.

10 We also have with us Mr. Rutledge
11 Clement, Chairman of Legal Aid Committee of the
12 Louisiana State Bar Association, and we welcome
13 you to our midst, too, Mr. Clement. We are
14 delighted to have you and all the representa-
15 tives of Louisiana Legal Services, whom you
16 represent here today.

17 Mr. Engelberg, I think you have one
18 remaining item.

19 MR. ENGELBERG: The final item is the
20 proposed budget for fiscal year 1982 in terms of
21 our budget request. The committee did make,
22 partially or largely because of time pressures,
23 did not make any recommendation. And since we
24 decided not to make any recommendation of the
25 Board, there was no point in our having a

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1 discussion last night.

2 So, really, this will be the first
3 full discussion. I would like to first ask the
4 President, who I understand will make a proposal
5 to the Board concerning the allocation for the
6 proposal on the '82 budget.

7 MR. BRADLEY: I suppose the only
8 Board members that were not present last night
9 when we preliminarily got into this question --

10 Judge, unfortunately, you had to
11 leave and Bob had not arrived yet and Dick had
12 just arrived, I believe. I don't want to repeat
13 all of what we discussed last night. I think
14 just in terms of the understanding of the
15 chronology of the preparation of our annual
16 budget submission to Congress, let me just block
17 out the time frame, and it is consistent this
18 year to previous years. But if I could just
19 reflect on that for just a moment, Mr. Chairman.

20 As you know, one budget year is not
21 over before we start the preparations for the
22 following budget year. It is a long, exhaus-
23 ting, drawn-out process. We have preliminary
24 discussions among the staff, among field repre-
25 sentatives. We have preliminary discussions

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1 with other interested parties as best as we can,
2 especially Hill staff representatives.

3 We engage in mid-level discussions
4 with staff persons at an office of Management
5 and Budget who keep fully informed of our entire
6 budget process and usually attend our Board
7 meetings when they are in Washington, D.C.

8 If you recall, in that process, the
9 staff each year comes to the Board and proposes
10 a tentative budget mark for the next budget
11 year. This mark is always proposed, in years
12 past, before we know what our appropriation is
13 going to be for the year under which we are
14 operating in discussing what the future budget
15 requests are going to be.

16 It is not only true for us, that is
17 true for every agency of the Federal Government.
18 That is how Congress and the Federal Government
19 manages their affairs.

20 What that basically means, as you
21 will recall, at the committee meetings that we
22 have had, appropriation committee meetings and
23 the last Board meeting, we did, in fact, discuss
24 the broad, general parameters of what the future
25 growth direction, if any, of the corporation was

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1 going to be, and the various components of a
2 tentative proposed budget. We submitted those
3 items to you. We spoke not in specific terms,
4 but in general, programmatic conceptional terms
5 of where our weaknesses were, the future direc-
6 tion that we thought we would probably be going
7 into, the pending issues which we will talk
8 about in a few moments.

9 We suggested a mark. You approved
10 that mark and we have communicated that tenta-
11 tive mark to the appropriate officials at the
12 Office of Management and Budget. They know, as
13 we know, that between the time of that decision
14 and the communication of that information, that
15 there would be extensive additional staff
16 meetings, discussions and work. There would be
17 additional committee-Board debate and considera-
18 tion, and a broader debate in field representa-
19 tives and others, about what our '82 budget
20 request should look like.

21 If you will recall, several months
22 ago when Hillary was still our Chair, we
23 received a communication from Mr. McIntyre
24 (phonetic), who is the Director of the Office of
25 Management and Budget at the Carter White House,

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1 indicating their preliminary remarks in terms of
 2 the President's budget comment for 1982. I
 3 think, and Gerry can correct me if I am wrong,
 4 but in years past, they have basically reflected
 5 for the purposes of which they have to do their
 6 work, a static funding level that has not
 7 reflected a "cost of living" kind of growth, in
 8 the base of our program.

9 This year, as you know, they did
 10 indicate that the President would probably
 11 include in his budget message to the Congress a
 12 Legal Services mark of approximately -- I think
 13 it was 343 million dollars, if I remember cor-
 14 rectly.

15 At the same time that that process is
 16 going on, the United States Congress, through
 17 the authorization process, also hears debate and
 18 presentation testimony from witnesses as to what
 19 our ceiling -- authorized ceiling should be for
 20 future years, '81, '82 and '83, and years
 21 beyond. That has consumed a large portion of
 22 our time this year.

23 In trying to, one, get the Congress
 24 to set an absolute high ceiling, meaning, in
 25 fact, what we asked them do is to authorize such

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1 sums that are necessary.

2 I don't have to remind you that we
3 were not successful in getting the Congress to
4 do that. In fact, the House of Representatives
5 did impose a ceiling on our authorized -- on our
6 authorization. The Senate did leave us in, for
7 '82, such sums that are necessary, and author-
8 ized the 321 for fiscal '81.

9 We have not yet had the joining of
10 the debate with the staff at OMB that, at which
11 time, and it usually takes place in December,
12 probably within the next week or so, when Mary,
13 Gerry and myself will meet with officials of OMB
14 and try to persuade them that in the President's
15 comment on our budget and what he includes in
16 his transmission to Congress, that it should be
17 a higher mark than what they have indicated to
18 us is their working figure right now.

19 All of that, basically, is background
20 for you to understand that in years past,
21 between the time of you setting the mark and us
22 coming back to you, always at our December
23 meeting, we do go through the process of debate,
24 discussion to try to refine and perfect a 1982
25 budget.

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1 After the Board makes its decision,
2 which the staff will request to be today, then
3 we will officially communicate on December 15th,
4 to OMB, what the decision of this Board is in
5 regarding the amount of the mark and the general
6 categories and the specifics of that request.
7 We will then, and we have already -- because the
8 process started much in advance, we will then
9 spend considerable staff time, literally, during
10 the month of December and early January, in
11 writing the detailed budget document.

12 As all of you recall, the detailed
13 budget document is a quite voluminous document
14 which we then submit, usually, January 20th of
15 each year, directly to the United States
16 Congress. At the same time, we, for the first
17 time, deliver a copy of our budget request to
18 OMB. Then, the process starts in terms of the
19 hearings and so forth.

20 That brings me up to the discussion
21 of the various components of the 1982 budget as
22 proposed by your staff. I think, Mr. Chairman,
23 in response to Steve's request, I would like to
24 just briefly, without going into every line item
25 that is enumerated in the materials that you

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1 had, I would just like to briefly talk in some
2 of the broad, general, programmatic directions
3 in which this proposed budget addresses itself.

4 Then, I think that we should then
5 take the opportunity for the staff to either
6 respond to further explain for the Board any
7 particular questions or comments or concerns
8 that you might have.

9 I think, if you look at Page 13 in
10 your book that we mailed you, your committee
11 book for the meeting last night, one of the
12 issues that the staff had to consider was
13 whether or not in light of the appropriation
14 that we received this year, in light of the
15 other changes in Washington, whether or not we
16 would recommend to the Board, either a reduction
17 in what you tentatively approve or an addition
18 to what you tentatively approve, and on that
19 issue, after much debate, we decided, and the
20 Board and the committee, I think, is aware of
21 that, that we not change the mark that you set
22 at your last Board meeting, approximately 399
23 million dollars.

24 So, then, your staff has worked with
25 that as a given ceiling on the various

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1 components of that budget mark.

2 Page 13 speaks for itself, but I will
3 also speak for it. The base, as based on your
4 decisions of a few moments ago, is the 321
5 million dollars. We would hope that that would
6 continue to be the base, because that is the
7 core of the Legal Services program and, as you
8 know, most of that money is in annualized grants
9 to our grantees in the field.

10 It seems to me it will have to always
11 be the top priority of the corporation, the
12 Board and the staff, to impress upon OMB and
13 Congress the absolute importance of maintaining
14 and strengthening that base. I don't have to
15 remind most of you in this room what happened
16 during those tragic years of '72-'75 when we had
17 a frozen appropriation of 71.5 million and the
18 effect that that had.

19 So, the first item that we have
20 enumerated on Page 13 is the cost of living.
21 We're using the figure 10.5 percent. Why 10.5
22 percent? Why not 15? Why not nine? Why not
23 two? Why not 14? Why not -- Why don't you
24 actually request what the, in fact, rate of
25 inflation is in the country and why don't you go

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1 through our existing grantees. By your vote a
2 few moments ago, we are going to be spending
3 some money this year.

4 We have spent large sums of money
5 through our Quality Improvement Program. There
6 is much technological improvement activity going
7 on in the field today. It, essentially, seems
8 to me that we continue to support this activity
9 and to direct this activity in the most effi-
10 cient and economical way to improve our pro-
11 gram's productivity.

12 In the client participation, we have
13 it there, stated as client advocacy. When I
14 talk about it, I usually use the word client
15 participation, and I think that there are prob-
16 ably some advantages in terms of the way we
17 explain it on the Hill next year, but it is
18 essential, I think, that we continue to impress
19 upon OMB and the Hill the importance of meaning-
20 ful client activity, advocacy, and participation
21 in the delivery of legal services to those
22 clients for which the program is dedicated to.

23 I am not embarrassed to go back to
24 OMB and to testify strongly before the Hill next
25 year on the importance of awarding us that

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1 request.

2 The last item on Page 13, Steve, you
3 indicated last night that it might be "contro-
4 versial." I don't know if it is or if it is
5 not. Clearly, I think that the discussion and
6 the debate on the appropriate roles, if any, of
7 private attorneys in delivering legal services
8 to our clients is an age-old debate. It goes
9 back many, many, many years.

10 I think all of us in this room, and
11 certainly, everyone sitting at this table, knows
12 exactly and precisely what the issues are, what
13 the arguments are, what the advantages are, what
14 the disadvantages are. And I think that all of
15 us sitting at this table and in the audience
16 have our own opinion as to whether we should do
17 it or whether we should not do it. And if we
18 choose to do it, precisely and exactly under
19 what terms and conditions.

20 And I think that we will be discus-
21 sing and examining some of those issues today.
22 If I could, I am probably one of those persons
23 in this room that is the least concerned about
24 the apparent fear and threat that some people
25 perceive, that involving private attorneys in

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1 helping us to expand services to millions of
2 clients who today are being unserved more than
3 others.

4 I think that there are real ques-
5 tions, genuine questions, serious questions as
6 to the appropriate roles of private attorneys,
7 how best they can be integrated and how best
8 they can supplement the existing staff attorney
9 model, how that money that we are proposing --
10 that we request of Congress, how that money can
11 best be allocated.

12 And I think that is the kind of
13 debate and those are the kind of discussions
14 that we will have in the next few minutes.

15 I don't view the issue of the
16 involvement of private attorneys in delivering
17 legal services to low income persons as a nega-
18 tive. I view it as a challenge, as an opportu-
19 nity for us to try to put together what I would
20 review as a supportable, defensible budget
21 request to this new Congress, this new
22 Administration, trying to solidify as much sup-
23 port as we possibly can in order to preserve,
24 protect and defend the basic structure of Legal
25 Services as we know it and as it exists today.

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1 I don't think, Mr. Chairman, that I
2 need to say much more than that, except that I
3 want to acknowledge, finally, in conclusion,
4 that I know there are people in this room who
5 clearly feel that moving at this time in this
6 direction for this amount of money is not the
7 thing to do. There are others in this room who,
8 I think, feel that we need to move more quickly
9 and request more money and to move in this
10 direction. There in between, I suppose, are the
11 issues that this Board will have to decide.

12 I think that I can certainly speak
13 for myself and for the senior staff in recommen-
14 ding to this Board that we, in developing our
15 budget message to Congress next year, in the
16 testimony, and the negotiations and the work
17 that we will be doing with OMB, with the over-
18 sight committees, with the appropriation commit-
19 tees as we go through the authorization process,
20 as we go through the appropriations process, as
21 we, in fact, go through what I choose to
22 describe as a new period and a difficult period
23 in the development of the Legal Services move-
24 ment as we have known it for the last fifteen
25 years.

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1 I think that this package that we
2 have put together will enhance our ability to
3 try to preserve the Legal Services program as we
4 know it. The staff this morning is not prepared
5 to recommend to you exactly how we propose to
6 allocate this money if we receive it.

7 However, I think that there are three
8 or four basic principles that your staff is
9 firmly committed to, and we offer it to you for
10 your consideration. I think it is important for
11 you to understand it in that context. We are
12 talking about new funds, not the use of our
13 existing funds, but new funds requested of
14 Congress.

15 It would clearly be understood, I
16 hope it will be our message and request of the
17 Congress, that the expansion of Legal Services
18 and the growth of Legal Services by involving
19 private attorneys in any shape, form or fashion,
20 is new growth, not the reallocation of existing
21 resources.

22 We are talking about funds that will
23 supplement the existing delivering models as we
24 know them. We are talking, in my judgment, in
25 almost every instance, about allocating those

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1 new funds to our existing programs.

2 Yes, there may be an exception. I
3 mean, there may be a factual situation or, in a
4 given community, where we may not, for obvious
5 reasons, be able to do it. I cannot predict
6 what those reasons would be.

7 I think that it is essential to the
8 understanding of what we are proposing that you
9 understand it in the context of new funds to
10 existing programs, to expand their capability to
11 involve private lawyers, to complement and sup-
12 plement what our existing staff programs are
13 doing and the exact nature of how those private
14 attorneys in any given community can best relate
15 to the program as we have developed it through
16 the years, in terms of whether or not that local
17 program and its board of directors and its staff
18 will involve private lawyers on a pro bona
19 basis, a compensated basis, an open panel, a
20 closed panel, contracts, legal clinics. Those
21 are issues that I am suggesting that we do not
22 decide today.

23 I think that the ultimate decision on
24 how best to incorporate private attorneys in
25 meeting the needs of clients that today their

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1 needs are being unmet. I think those decisions
2 ultimately must be and should be determined
3 locally by that local board in the local com-
4 munity and that it should not be a rigid
5 National policy adopted by either the Congress
6 or this Board.

7 Finally, in conclusion, it is essen-
8 tial that we be aware of and that we not -- and
9 that we must live up to our responsibilities and
10 make sure that the cost factors and the quality
11 control factors and how the private board is
12 involved in working with our local staffs, that
13 that is a -- if not an absolute, it is a princi-
14 pal priority in how this money would be allo-
15 cated through the way that we are suggesting.

16 I don't know what else that I can do
17 other than present it in those broad, general
18 terms and suggest that this is the appropriate
19 way for us to proceed into 1982.

20 CHAIRMAN McCALPIN: Mr. Engelberg?

21 MR. ENGELBERG: I will move -- sub-
22 ject to discussion, of course -- I will move
23 that adoption of the proposed 1982 budget as it
24 is outlined on Page 13 of the Committee on
25 Appropriations and Audit Book, which is the

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1 budget that the President just discussed.

2 MS. ESQUER: I second it.

3 MR. SINGSON: May I make one comment
4 on behalf of the audience?

5 I understand that if you do not speak
6 into the microphone, that it is difficult to
7 hear.

8 MR. BRADLEY: Don't ask me to repeat
9 that.

10 MR. SINGSON: I was listening. I
11 think you were close enough to the mike.

12 CHAIRMAN McCALPIN: Let me say that
13 the Chair understands that the proposed 1982
14 budget as contained on Page 13 of the agenda
15 materials from the Audit and Appropriations
16 Committee meeting last evening, as described and
17 amplified by the President, has been moved for
18 adoption and has been seconded, and is now the
19 pending of this Board.

20 I will recognize any member of the
21 Board who wishes to speak on the subject.

22 Ramona?

23 MS. SHUMP: Let me start off by say-
24 ing that I would like to take this Board back a
25 year to the time when we decided to allocate a

1 half a million dollars for private Board
2 involvement.

3 Let me state one thing further, that
4 is, that I have a great deal of respect for the
5 legal profession and that, very possibly, one
6 day in the future I may have to swallow what I
7 say right now, because I have two sons who are
8 interested in this profession. What I want to
9 say is this:

10 When we voted to allocate a half a
11 million dollars, I made a statement and I asked
12 a question then. That question was, can you
13 tell me that next year you will not come back
14 for a million. Now, we are talking thirty
15 million. That is ten percent.

16 Yet, we give our staff an eight per-
17 cent cost of living raise. Also, if, according
18 to Howard's plans for the future, we say ten
19 percent this year, in ten years, is it going to
20 be a hundred percent? Also, I believe that
21 there is a place for private board involvement,
22 and I know that our programs in various areas
23 have been attempting to link up with the private
24 board.

25 You people talk about history. I am

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1 sorry I don't have, you know, the history of
2 involvement. What I do have, I suppose, is a
3 very naive understanding of what I thought the
4 corporation was supposed to be all about and
5 that was that it was supposed to be free from
6 political pressures, which I am sure is a very
7 naive notion, in viewing what I have over my
8 past few months on this Board.

9 I, for one, am unprepared and unwill-
10 ing to sell the notion that the corporation and
11 the staff of the corporation intended to provide
12 the highest quality of legal services to the
13 greatest number of poor people possible and
14 that, according to the code of ethics of the law
15 profession, that each attorney had a moral
16 responsibility to donate a certain period of
17 their time.

18 I realize that everyone has to make a
19 living. I also realize that private practi-
20 tioners are having difficulty acquiring paying
21 clients. However, I cannot justify, even under
22 new money, thirty million dollars. I might,
23 with great reluctance, be willing to cut that
24 figure in half and consider it, because in ten
25 years, that still would not add up to one

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1 hundred percent.

2 I would hope that, as we discuss
3 this, that we look at what the effect is going
4 to be from the client community, that, hope-
5 fully, in our open dialogue with the private bar
6 tomorrow, that they also will be able to see the
7 fear, the concerns, the apprehensions of the
8 client community, when we start talking about
9 allocating such a huge sum of money to the pri-
10 vate bar.

11 CHAIRMAN McCALPIN: Is there any --
12 Josephine?

13 MS. WORTHY: I am having some real
14 problems, also.

15 First, I would like to speak to the
16 fact that in my area we have a beautiful pro-
17 gram. There is client involvement, we know what
18 is going on, services are rendered by the pri-
19 vate bar, and I have to support the efforts of
20 the private bar in some of the areas.

21 But, when I sit here and look at a
22 figure like that, it distresses me. I feel as
23 if we are running scared, because of the fact
24 people have recommended that they get so much of
25 our budget already. I am looking at this and

1 saying that -- Maybe the new regime that comes
2 in will say that, "Well, this kind of money has
3 been allocated, put a larger lump sum there,
4 take on the private bar, let them do the work,
5 give Legal Services whatever is out there, a
6 small crumb." making our work -- the attorneys
7 that we have in our program less effective and
8 eventually, some of the services that have been
9 rendered to clients very well from our attorneys
10 will dwindle down.

11 Even though it is 1982, I may not
12 even be around, which I doubt very seriously,
13 but when I leave this Board I would like to
14 leave with a lot of dignity and respect. I do
15 not want to leave saying that I have left this
16 budget here, when I know there are needs in
17 other areas. I agree with Ramona as far as this
18 figure here. I cannot honestly go along with
19 thirty million dollars right now.

20 I don't know what the action of the
21 clients is going to be when they see this kind
22 of figure, even though it is down the line. I
23 just cannot go along with it.

24 CHAIRMAN McCALPIN: Howard Sacks?

25 MR. SACKS: Well, first of all, I --

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1 CHAIRMAN McCALPIN: Howard, I think
2 you may have to get closer to a microphone.

3 MR. SACKS: I look at this request,
4 certainly not in terms of a sellout, and not in
5 terms of political considerations, I go back to
6 the delivery system study and what it found
7 after the expenditure of several million dollars
8 and several years of effort, which indicates to
9 me pretty clearly that the staff attorney model
10 is not superior to a private bar.

11 That is one of the things that we set
12 out to find and we found that with proper staff
13 components and other controls, that the private
14 bar model can deliver high quality legal ser-
15 vices effectively as the staff attorney model.
16 I don't regard the staff attorney model as
17 entitled to a monopoly of Federal Government
18 funds used to deliver legal services to poor
19 persons.

20 I think that the private bar model
21 can do an equally effective job. Given the pos-
22 sibility in a tight budget situation that we may
23 be able to expand the services more easily if we
24 ask for it in this model, rather than in some
25 other model, I think it makes imminently good

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1 sense to ask for it under this particular head-
2 ing, because my aim, along with those of every-
3 one else around this table, is to expand
4 services because, of course, there is a great
5 need out there.

6 I look upon the thirty million
7 dollars as being translated under appropriate
8 controls and policies into the delivery of addi-
9 tional services, and I very much hope that we
10 will adopt this item and that we will be able to
11 persuade the President and the Congress to put
12 it into action.

13 MS. SHUMP: Howard, I don't think
14 that we were disputing the fact that the private
15 bar can do a good job. I know they can.

16 MR. SACKS: Then, what is the prob-
17 lem?

18 MS. SHUMP: The problem is the amount
19 of money.

20 CHAIRMAN McCALPIN: Dick Trudell?

21 MR. TRUDELL: I guess following up on
22 what Howard was saying in terms -- There was
23 more than just one model Howard involved. There
24 was some study effort. I have concern, whether
25 it be from five hundred thousand or whether it

1 be thirty million, it is a considerable jump. I
2 think the staff coming on and saying a lot of
3 those things are being met or that they had
4 developed some kind of plan to address them,
5 there are pockets all throughout the country
6 that will not benefit from what the organized
7 bar possibly will do, because they haven't done
8 anything for those groups up to date.

9 The fact that when I see something
10 locked in just for lawyers, I have real problems
11 with it. I know on probably the majority of
12 reservations, the people that represent most of
13 the people in private courts are not lawyers.
14 They are travel court advocates who function
15 like lawyers, yet, they would not be, you know,
16 if this money were to be realized, they would
17 not benefit from it.

18 I just feel we are moving awfully
19 fast, you know, to set aside or to indicate that
20 we would set aside this amount of money for the
21 organized bar, when there has been a lot of con-
22 cern about the composition of boards or regula-
23 tions. I know Dan addressed the idea that the
24 staff does not have a process and it cannot
25 address a lot of the details that will surface

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1 over the next few months if we move forward. I
2 would venture to guess that if this Board goes
3 on Record as indicating that ten percent --
4 Excuse me, it is less than ten percent -- of the
5 budget would be allocated for the organized bar,
6 that the organized bar would try to stay wedged
7 to that percentage that is spelled out.

8 I just, you know, have some real con-
9 siderations about indicating that we set aside
10 thirty million dollars, the way it is phrased at
11 present, and I would have to vote against this.

12 CHAIRMAN McCALPIN: Revius?

13 MR. ORTIQUE: I would suspect that
14 what I am hearing is that at some point we are
15 going to have to reach some compromise on this,
16 but I don't think that we ought to really allo-
17 cate the thirty million dollars to private bar,
18 because I doubt if the staff is ready to tell us
19 that that is an appropriate figure.

20 I know of no basis that we would know
21 that this is a good figure, nor would I agree
22 that at this juncture, we ought to say that it
23 ought to be ten percent, eight percent or any
24 percent.

25 Howard, I can't agree with you that

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1 the study demonstrated there was any superior-
2 ity. I was not satisfied and have stated on
3 more than one occasion that I was not satisfied
4 with the number of pro bono projects as opposed
5 to the large number of field projects.

6 I have no problem with saying that if
7 we were to receive something close to four hun-
8 dred million dollars, that thirty million
9 dollars would be allocated for expansion pro-
10 grams. Now, whether that would be expansion pro
11 bono or expansion field or expansion in other
12 areas, I think that what we are able to properly
13 spend ought to be the criteria for spending it.

14 Let's talk about where we are now.
15 We have a half a million dollars, special pro
16 bono projects. Some states are just beginning
17 to gear up. I know that in Louisiana there is
18 great interest in that project. But to say that
19 we are ready to spend -- I haven't divided fifty
20 into thirty million -- I just don't think that
21 there are many states that are ready to even
22 talk specifically about that.

23 I don't see how we could say at this
24 time that we want to allocate thirty million
25 dollars or four hundred million dollars to the

1 private bar or any other specific area of expansion.
2

3 As I say, I am ready to say that if
4 we are going to receive four hundred million
5 dollars, or close to four hundred million
6 dollars, that we ought to guarantee, if the
7 staff is so inclined, that the thirty million
8 will go into expansion. I think we ought to be
9 able to take care of the thing that Dick Trudell
10 was talking about, the other areas where we
11 know.

12 For example, when we talk about a
13 statewide program, we know that that does not
14 mean that in every township that there is a pro-
15 gram. We know that large quantities are not
16 represented. We ought to be saying that we will
17 guarantee to the Congress and the President that
18 we will allocate a major portion of any funds
19 over and above 321 million dollars through
20 expansion; that if it is demonstrated to our
21 staff that we are capable of doing more in the
22 area of pro bono, we will do that.

23 As it is indicated that we are
24 capable of doing more in these other areas, we
25 will do that. I would urge that we think in

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1 terms of expansion of field program services
2 without the connotation of private lawyer
3 involvement.

4 CHAIRMAN McCALPIN: Steven Engelberg?

5 MR. ENGELBERG: I think part of the
6 difficulty of this proposal is -- and I think
7 this has always been true when we are dealing
8 with these early budget marks -- is that it is
9 hard to discuss it as if we have gotten the four
10 hundred million dollar appropriation.

11 My experience with the Board has
12 always been that we had general discussion about
13 marks. We would try to set a kind of general
14 tone and philosophy, which, I think, is what the
15 President's proposal has continued to do. And
16 then, when the final figure comes in, we then
17 have to go back and a look at the heart of the
18 budget is required.

19 I think that preliminarily I would
20 like to at least urge you people on the Board to
21 keep that in mind.

22 Secondly, I would like to address
23 some of the statements which I know were sincere
24 about the political aspects of this. I think
25 that, and I have talked to Dan Bradley, I think

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1 that to the extent that this proposal -- that
2 the adoption of this proposal is viewed as a
3 signal to any elements of the organized bar, as
4 some sort of lawyers' relief act. I totally
5 agree with the sentiments expressed by Ramona
6 and Josephine and others that it is precisely
7 the wrong statement that we want to make.

8 I happen to be in a small general
9 practice firm myself, and it disturbs me that
10 certain people -- that the notion that somehow
11 this program is intended for the relief of
12 general practitioners, I think that it cuts
13 against everything that the program stood for.
14 The problem is, and this is where the emotional-
15 ism of the issue comes in, my own understanding,
16 which is certainly probably more limited than
17 many people in the field, is that there are, and
18 not just with the pro bono, there are creative
19 cost effective methods of using, hiring lawyers
20 to supplement the activities of our staff pro-
21 grams.

22 The President informs me, and I know
23 this from my own experience, many programs for
24 years have contracted small law firms often to
25 perform legal services, who, on an ultimate cost

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1 effective basis have handled high volume litiga-
2 tion, high volume areas, that the program just
3 simply is not cost effective or it is too diffi-
4 cult for them to do.

5 The point is that -- I think that if
6 this proposal is perceived as that we are going
7 to try to somehow dissipate thirty million
8 dollars around the country and put it in the
9 hands of individual lawyers, then I think, obvi-
10 ously, it takes on a tone which I do not agree
11 with and I think -- I don't think that --

12 In fact, I know that that is not what
13 the President has in mind and that the staff has
14 in mind. Obviously, as Revius said, no one is
15 yet ready to go forward with the details. I
16 don't think the details are relevant, because we
17 are not faced with the budget of four hundred
18 million dollars.

19 Rather, I think what the President is
20 asking us to do, is to make a general budgetary
21 decision at this point, which will say that we
22 are going as a Board, we are going to look for
23 more creative cost effective ways to supplement
24 Legal Services.

25 I think that if we can get away from

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1 the notion that somehow this is to be somehow
2 spread around and dissipated among, you know,
3 "X" number of private lawyers who are otherwise
4 unable to earn a living, then at least, hope-
5 fully, we can discuss it on the merits in that
6 fashion. I would certainly say to our
7 colleagues, to the extent that we are being
8 asked to help subsidize marginal private
9 lawyers, we are not going to do that.

10 As I would assume, and as my own com-
11 mon sense would tell me, that if a program in
12 Louisville contracts with a small firm, they are
13 not contracting with three lawyers or four law-
14 yers who are going to go out of business. They
15 are contracting with hardworking, efficient
16 entrepreneurs who are delivering a cost-
17 effective product ultimately to the client that
18 they serve under the appropriate controls.

19 That is what I understand that the
20 President's proposal is all about. I don't know
21 whether that proposal will satisfy or not
22 satisfy certain elements or certain general
23 practitioners in this country who have taken
24 other views. I don't care whether it does or
25 not.

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1 I think that we have to make it very
2 clear that we will not -- this Board will not
3 allow any funds from the corporation to be spent
4 to support lawyers. Obviously, the fear of that
5 is certainly not unrealistic, because it is a
6 somewhat radical departure in the way that this
7 program has functioned in the past.

8 I think it is important that those of
9 us who will support the motion get that point
10 across as clearly as we can to others who may
11 view the symbolism as somewhat different. I do
12 not view this as a lawyers' relief act. In
13 fact, I view it, as Howard said, to hopefully
14 increase and improve the delivery of legal
15 service.

16 CHAIRMAN McCALPIN: Dick Trudell?

17 MR. TRUDELL: I think that the pro-
18 viders of legal services, in some instances,
19 probably some of the most effective providers
20 are law students. I would hope that in the
21 future legal services all across the country
22 would begin to effectively use lay advocates
23 more than they currently do.

24 I think the vibes given off, just by
25 saying through private lawyer involvement, I

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1 think, is very narrow and regardless of what may
 2 happen in the future, I would hate to see a lot
 3 of people get the impression that this Board is
 4 selling out in terms of saying that you feel the
 5 political heat, you feel a few other things and
 6 so, therefore, thirty million dollars, we buy
 7 their support.

8 With that, I think the fact that
 9 there is still some flexibility in it and the
 10 details, or whatever else could be worked out
 11 after we are gone.

12 CHAIRMAN McCALPIN: Is there any --

13 MR. TRUDELL: One last comment, Bill.
 14 I think that both Mickey and Howard addressed
 15 the concern about our helping poor people work
 16 their way out of poverty.

17 If you are committed to it, let's
 18 stick it into this very skeleton budget outline.
 19 If you want to pump more money into economic
 20 development efforts to focus primarily on
 21 housing and unemployment, or whatever, then
 22 let's put it on there.

23 MR. SACKS: It is in there, Dick.
 24 Let me point out that this is a balanced budget,
 25 as I see it. I was not on the committee, but I

1 have some detachment -- It is not just thirty
 2 million dollars for bar effort, but there is a
 3 ten and a half percent cost of service in there,
 4 for nearly thirty-four million. There is nearly
 5 twelve million in there for support. This is an
 6 enormous amount of money for support, and I
 7 would feel confident that the needs that Mickey
 8 and I have talked about could be addressed in
 9 that context.

10 As far as direct advocacy services on
 11 the part of poor persons, we are putting a
 12 million more into client advocacy, which is a
 13 very large sum, also. I think you have to look
 14 at the thirty million in the context of an
 15 increase -- a projected increase of seventy
 16 million dollars, which is a very large increase.
 17 And in that context, I don't think that the
 18 thirty million looks like a sellout or that we
 19 are yielding to political pressures or anything
 20 other than the reason that I would vote for it,
 21 and that is that it represents a way to expand
 22 legal services to help meet this great volume of
 23 unmet need that is still out there.

24 MS. SHUMP: Howard, you give the
 25 clients one-thirtieth, and yet, you say in your

1 paper that clients are capable, that efforts
2 have to be made to allow them to escape poverty.
3 I guess I just am not quite understanding. I
4 guess I am just not quite reading the two, per-
5 haps, in their proper perspective.

6 In keeping with what Dick said and
7 the advocates on the reservations, the advocates
8 in the Indian community, and the client advo-
9 cates also, you cannot possibly justify, you
10 know, thirty million as opposed to even one
11 million, as opposed to eleven million.

12 I just cannot understand.

13 CHAIRMAN McCALPIN: Mickey Kantor?

14 MR. KANTOR: I think one thing that
15 might be helpful, it certainly would be to me,
16 if we attempted to bifurcate or divide the dis-
17 cussion between the concept of private bar
18 involvement on a substantial scale in the future
19 in some relevant way, versus the number, thirty
20 million. I think that is hanging us up a little
21 bit right now.

22 I am not so sure that is as important
23 as making the first decision, and then, I think
24 we might be able to -- At least in discussion
25 purposes, Mr. Chairman, one of the things that

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1 has marked this program from its beginning, and
2 I am talking from the very beginning back in the
3 early '60s when there was no Legal Services
4 funding, except for the private foundation, and
5 that was, I think, New York, has been creativ-
6 ity. We have not locked ourselves in to, I
7 think, thought or think or control programs that
8 have been supported in the past and was looked
9 to for the future, because we were facing prob-
10 lems that no one understood very well.

11 And those of us that have been around
12 a little bit and have been through various
13 levels of this program understand. The one
14 thing that changes is how it is best to deal
15 with our client community, how best to serve
16 them and how best this program can effect the
17 kind of changes that we are supported by.

18 One thing that commends, at least,
19 the proposal to me, and I am not talking about
20 money right now, the proposal to me is that
21 after some twelve or thirteen years, it doesn't
22 seem that long, but after twelve or thirteen
23 years of this, it is becoming increasingly clear
24 to me that we will never meet, never meet the
25 legal needs of our client community just by

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1 using the staff attorney model, because there
2 will never be enough money for a closed panel
3 system.

4 Howard, you and I disagree. I think
5 there is a difference in effectiveness between
6 the closed panel, or the model we have now, and
7 using the private bar. That does not mean I
8 would not support a creative, relevant expansion
9 program using the private bar to supplement it,
10 our staff attorney model, because I think in
11 certain ways, because of what Steve indicated
12 and what we all have seen, it can be more cost
13 efficient.

14 The only thing I am concerned about
15 is that we deliver services to our clients which
16 were effective and efficient and which the
17 clients controlled. I think we can do that, but
18 we can't ever do that with the great bulk of our
19 clients, and believe me, we don't come close to
20 meeting the bulk of their problems or getting to
21 the bulk of our clients, without getting to --
22 What is it, Bob, five hundred thousand lawyers
23 in this country and we have how many in this
24 program?

25 MR. KUTAK: Five thousand.

1 MR. KANTOR: Five thousand lawyers,
2 and there is just not enough money, ever enough
3 money to hire all the lawyers we need to repre-
4 sent poor people effectively. I think the
5 President has a creative idea.

6 I think that it is an idea that maybe
7 we should have begun a long time ago. I don't
8 know if it his three hundred thousand or thirty
9 million dollars. I don't think that is the
10 first point. I think the first point is, let's
11 be creative, let's not be tied into what has
12 been good in the past.

13 Let's see if we cannot take what has
14 been good in the past and build for the future,
15 because if we don't, we are going to find our-
16 selves in inflationary times with, I think, an
17 increasing, unfortunate client community in the
18 next few years of this country, with the problem
19 of meeting less and less of our client com-
20 munity, because we have not been able to build
21 upon what we so successfully put together in the
22 past.

23 CHAIRMAN McCALPIN: Cecelia?

24 MS. ESQUER: I think most of the
25 issues, you know, have surfaced. I think it is

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important because it is such an important issue that I state my views on it, because I think that I agree in part with what everyone has said.

First of all, you know, I am not afraid of private bar involvement. Out west where the spaces are large and the cities are very distance from each other, we have had some experience with involvement with the private bar, and I think the delivery system studies show that certainly there have been some very successful experiments.

The things that I fear about were touched on by Ramona and by Steve. I think the most important thing that we as a Board have to show is that we strongly believe in the independence of this corporation and that we strongly believe in keeping the corporation free from outside political interference.

I think that the statements that Steve made are certainly important and very valid, that this should not be taken as a cowardly type. And if we include some of the statements that Steve has made in the guidelines, you know, in the essence in what he said,

1 I think that I can agree, you know, with most of
2 the statements that he made. And I think that
3 they are important.

4 I am not sure about the figure,
5 either. The other thing that we have to do,
6 since we are talking about the mark, we really
7 don't have to be as specific. There are some
8 guidelines that as we move towards the budget
9 preparation, that we really have to keep in
10 mind. And for that reason, I kind of like the
11 wording that Dick suggested, included in the
12 marked thing that is submitted, that we talk
13 about alternative delivery systems, because the
14 wording there that exists there is too close to
15 some of the proposals that went through the ABA.
16 And for that reason, I think that I would like
17 to choose different words because the words that
18 exist now are buzz words, and, I think, to some
19 degree they do carry some connotation.

20 The two things that I think we have
21 to be very careful about, one, with the buzz
22 words that are there, is the expectancy issue.
23 You know, I think that as Steve pointed out, we
24 are talking about a mark and it is very unlikely
25 that the 1982 Congress will allocate the full

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1 four hundred million that we are requesting. It
2 is realistic to expect that we will get some-
3 thing less than that amount, and I do not want
4 for there to be a feeling that any increase
5 above the 321 that we think we will have for '81
6 will be devoted to this one thing exclusively.

7 I think we have to clearly state that
8 there are at least three other things on there
9 and that, hopefully, the amount of money that we
10 receive over the 321 would receive proportional
11 increases as set out by the staff here.

12 There has been too much work put in
13 to putting these tentative figures together and
14 we cannot risk losing that word. The other
15 thing that we have to look at is what the
16 delivery systems study tells us about what are
17 some of the problems that we have come across
18 when we work outside of the traditional staff
19 attorney model.

20 Then, the problems that Mickey
21 touched on, I think, are important. Those prob-
22 lems have to do with the accountability of the
23 attorneys that are non-staff attorneys, you
24 know, how will the supervision of quality be
25 affected when you work outside of that. The

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1 delivery systems study showed that in some
2 instances in some of the models, this was a
3 major problem. In some of the other models,
4 there were ways that were worked out where there
5 was effective control and there was effective
6 delivery but, you know, I think that maybe by
7 the March Board Meeting that the staff will be
8 able to come up with some guidelines on just
9 what are we talking about.

10 I think it is important that we do
11 allow for funds if we do get this increase, for
12 those areas where there is not a local bar,
13 where there is not an active bar and where the
14 local programs are small. I think it is impor-
15 tant to allow for the needs of rural people, for
16 migrants and for Native Americans and the
17 special situations that each of those communi-
18 ties enjoy.

19 You know, I think that we are going
20 to, you know, to a growth rather than a stagna-
21 tion by going along with this recommendation.
22 And, again, I am not with that figure and I am
23 somewhat afraid of that figure because if, by
24 some miracle, we get four hundred million, I am
25 not sure that in that budget year we can put

1 this thirty million into action. That is why I
2 am afraid about that figure, you know, from the
3 way that we have gone in past budget years. I
4 think that we probably know that we are not
5 going to be working with thirty million.

6 Basically, I think we are growing and
7 we have experimented with things along these
8 lines and we have successes as well as failures
9 with those. We just need to continue with that.

10 MR. ORTIQUE: Someone should make a
11 motion to change the wording of that.

12 CHAIRMAN McCALPIN: I think maybe --
13 Let's get the discussion straight. I want to
14 make sure that every member of the Board has an
15 opportunity to address this before I go to the
16 audience. I have been trying carefully to go
17 around the Board and make sure that I recognize
18 anybody who wanted to speak.

19 Let me say, then, because as I under-
20 stand the parliamentary status of a Board such
21 as this, when the Chairman is elected by the
22 members of the Board from among the membership
23 of the Board, the Chairman votes on every issue
24 and not merely to resolve -- break a tie.
25 Therefore, since I will be called upon to vote

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1 on this issue, as Cecelia has just said, it
2 seems to me only appropriate that I make my own
3 views known on the subject so that anybody who
4 cares to may respond to those as well as to all
5 of the comments that have already been made.

6 In a sense, I suppose since all other
7 Board members have already spoken, I will be
8 responding in part to some of the things that
9 have already been said, and I will do my very
10 best not to reiterate some of the points already
11 made.

12 One thing, I think, Ramona, that sort
13 of struck a nostalgic cord in my mind, where you
14 talked about the insulation of this Board from
15 the political process and the suggestion that
16 perhaps we were giving in to it, is to reflect
17 that, I guess, there is nothing perfect in this
18 world of ours.

19 The fact is that we are a lot better
20 off than we were when the head of this program
21 occupying a position such as our President does
22 today, and the deputy head of the program was
23 summarily fired by political officials of the
24 United States Government. We do not have that
25 kind of sort of Democles (phonetic) having over

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1 this corporation any more.

2 We do enjoy a measure of independence
3 which was not possible in those days when this
4 program was a part of the political apparatus of
5 government. However, I think that it would be
6 unrealistic to say that we do not live in the
7 broad, general, political, public world of this
8 country. We do. We must go to the Congress
9 every year for our appropriation. We must go to
10 the Congress periodically, every two or three
11 years, for our reauthorization and in that
12 sense, we are still a part o that process.

13 I think that that needs to be borne
14 in mind at this particular point. As I address
15 this issue, I am reminded of the fact that two
16 years, at least, the Office of Management Budget
17 and its comments to our budget and the requested
18 appropriation talked in terms of our trying to
19 solicit, activate two percent of attorney time
20 in this country, and that they talked about the
21 number of man years of attorney time that that
22 would provide on a pro bono basis.

23 I think that we took our first short
24 step a year ago in recognition of the fact that
25 there is realistically no way that you can get

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1 two percent of all the attorney time in the
2 United States on a pro bono basis without paying
3 something for it.

4 So, we took the initial step to pro-
5 vide the administrative support necessary for
6 that, and we are beginning to learn about it.
7 As I understand today, in Jackson, Mississippi,
8 we will initiate the very first, I think it is,
9 of a pro bono activation project based on the
10 utilization of those funds and others will
11 follow in rapid fire order in the months ahead.

12 Let me say to you that pro bono is
13 not the answer to the problem that Mickey has so
14 eloquently addressed. There is simply no way
15 that we are going to address all of the prob-
16 lems, the presently unmet problems of the poor
17 persons of this country by a pro bono effort of
18 the other 495,000 members of the bar.

19 I think, as you think about this, I
20 in my own mind must reflect upon the fact that
21 when our reauthorization bill went through the
22 Senate in July of this year, there was by agree-
23 ment between Senator Helms and Senator Javits,
24 as I understand, a private bar massive judica-
25 ture experiment mandated in the Senate that sat

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1 in the summer of 1980. We know that we have not
2 been through the reauthorization debate in the
3 House of Representatives yet, and yet, we also
4 know that the proposed amendments which have
5 been filed there indicate a broad general con-
6 sensus in the Congress for the involvement of
7 the private bar in the activities of this
8 corporation.

9 I think that it would be irrespon-
10 sible of us not to see the present situation for
11 what it is and attempt to control it. I say to
12 the legal services community today the same
13 thing that I said to the private bar fifteen
14 years ago, and that is, unless you get involved
15 and attempt to influence it, it is going to be
16 done in spite of you instead of with you.

17 I think that we must become a part of
18 the process which we see evolving in this
19 country in the latter days of 1980 and in 1981
20 as it goes ahead. When I say we must get
21 involved, I mean, we must try as best we can to
22 set some of the parameters within which this
23 debate and development will take place. I think
24 it is extremely important that this proposal is
25 couched in terms of expansion. We are not

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1 talking in terms of taking anything away from
2 the present programs.

3 There are those in this country, as
4 you know, who would do exactly that. I think we
5 must take the initiative, the first step, to see
6 that we are talking about, what I sense is a
7 coming development as an expansion development
8 and not as a retraction of what we already have.

9 Secondly, I think it is extremely
10 important that this proposal is couched in terms
11 of administration through our present grantees.
12 I think it would be extremely unfortunate if
13 this development, which I foresee, were to take
14 place in the context of a whole new set of com-
15 peting grantees, because if you have competition
16 between two sets of grantees, one is going to be
17 the winner and one is going to be a loser.

18 Since the present grantees are all
19 staffed, if there is going to be any success at
20 all in that competition, it is going to go to
21 the other side. I think that it is important
22 that this be operated through present grantees
23 as an adjunct and, as the President has said, as
24 complimentary to the system which has been so
25 successful over the past ten or fifteen years.

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1 Let me refer back to the expansion
2 for a minute. It has been suggested that we
3 deal with this only in terms of expansion gener-
4 ally without stating the precise method of
5 expansion. I think that that is not a way to
6 maximize the possibility of success in this
7 field. I think that unless we give a very clear
8 signal, that we are talking about expansion in
9 terms of alternative delivery systems, that we
10 will not be believed, we will not be listened
11 to, and we will not be successful.

12 We told the Congress in the delivery
13 system study that our movement forward in this
14 area would involve the alternative delivery sys-
15 tems which they mandated us to study. We told
16 the Congress, as Dan said last night, that that
17 would involve more money and more creative ways
18 of doing it. And I think we have got to state
19 it in terms of what we promised the Congress we
20 would do and not just in terms of expansion gen-
21 erally, which the Congress will not see, as
22 meeting the context and the climate of today's
23 atmosphere.

24 Let me say one thing about the money.
25 Obviously, thirty million dollars is not a

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1 scientific sum. It is not a sum which has had
2 careful step-by-step approach with component
3 parts that add up to a sum of thirty million
4 dollars.

5 Let me tell you what it is, however.
6 It is a statement that we intend to do this in a
7 significant and a substantial and not merely a
8 nominal way. That we are serious about this.
9 In my judgment, anything less than approximately
10 ten percent of what we will allocate for the
11 delivery of legal services by field programs
12 will not be regarded as good faith in some
13 quarters, significant in other quarters, commit-
14 ment on our part.

15 I believe that a figure in that area,
16 and obviously, whether it is twenty-nine or
17 thirty or thirty-one million, is one of those
18 things. But in my judgment, the way I looked at
19 it, it was the ten percent figure that I thought
20 that unless we were indicating an intention to
21 go at least that far, we would not be regarded
22 as understanding what is going on in the world
23 and I am very much afraid that the initiative
24 and the momentum would be taken away from us.

25 It is for those reasons that I would

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1 vote in support of the staff recommendation.

2 MR. TRUDELL: As is?

3 MS. ESQUER: As is?

4 CHAIRMAN McCALPIN: I don't have any
5 problems with the alternative that was stated
6 over here, because in the context of the
7 delivery systems study, alternative means the
8 kind of things that Dan put in the parentheses
9 in the budget summary there. I don't have any
10 problem with calling it alternative.

11 MR. TRUDELL: Does that require some
12 kind of motion to amend?

13 MR. ENGELBERG: All I did was move
14 the budget presentation. I think that what I
15 would suggest, Bill, we could go to a second --
16 I did not really make a motion designed to meet
17 on this thirty million dollars. I deliberately
18 stayed away from that because I knew --

19 MR. BRADLEY: Dick, in my judgment, I
20 mean, in the way that we would normally prepare
21 these materials for transmission to the Hill,
22 would not require that kind of refined move. I
23 would certainly, in terms of the consensus of
24 the views that are expressed, you can be assured
25 that when we refine that document, it would

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1 those views.

2 MR. ENGELBERG: And also, Dick, it
3 would seem to me appropriate that if the major-
4 ity of the Board wants to go with this broad
5 presentation, I think a follow-up motion or
6 resolution instructing the staff as to some of
7 the details, for example, substitution.

8 You were suggesting alternative
9 delivery systems for private lawyer involvement.
10 You know, the problem with the debate, I think,
11 is that obviously, maybe we are all kind of
12 reluctant to say it, but this is viewed as being
13 addressed again to what I refer to as, whatever
14 movement there is, and I don't know how serious
15 it is -- I hope it is not serious -- wherever
16 movement is, there is the organized bar that
17 says we want private lawyers to be enriched.

18 If that is the context in which this
19 is being done, then everything that Ramona and
20 Josephine and others have said is absolutely
21 correct. I do not believe -- In fact, I think
22 it is quite clear that that is not what the pro-
23 posal is aimed at.

24 The second thing I want to add
25 quickly, and what Mickey said struck me about

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1 creativity. I think Bruce Morrison acknowledged
 2 well before this debate that -- Well, I'm not
 3 going to give that example. Bruce and I talked
 4 about some of the same things, about is there
 5 ever going to be enough money for staff
 6 programs.

7 What I am interested in, and I don't
 8 know whether it is thirty million or ten
 9 million, fifteen million, or whatever it is,
 10 what I am interested in is -- I believe in the
 11 American free enterprise system. I would like
 12 to see a carrot and stick approach to the span-
 13 ning services. I think that is sort of what
 14 Mickey was saying. I don't think there is any-
 15 thing wrong with that.

16 I think there is nothing wrong with
 17 having our programs in various creative ways use
 18 limited amounts of funds to supplement what they
 19 are doing through contracting, clinics, three-
 20 man law firms, three-women law firms, or what-
 21 ever.

22 This would help absorb demand for
 23 services that is controlled by that local board,
 24 and as Dan said, that each local program would
 25 have to decide how to do it. That is what I

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1 intend for this to be. I do not intend for this
2 to be a signal that we are -- and Bill put it
3 very nicely -- that we want to embark on a
4 series of separate competing grantees who will,
5 particularly on a model that is extremely expen-
6 sive and not cost-effective, and if some of our
7 colleagues in the organized bar, if that is what
8 they have in mind, then I think there is nothing
9 wrong with this Board clearly signaling to them
10 that we oppose this and we are not going along
11 with it.

12 There is no question that there are
13 people who will say, and I'm sure people in the
14 field, lawyers, clients, et cetera, will say
15 that we have sold out, that we are responding to
16 these pressures, et cetera.

17 It is unfortunate that the timing of
18 this probably leads to that impression. I think
19 it is fair to say as a political statement -- I
20 am not going to be on this Board and I don't
21 think most of the people will be on this Board
22 after six months.

23 The people in the field, they agree
24 or disagree with the philosophy of what we are
25 doing, but I think they have to at least give us

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1 credit, in that we are trying to deal with some
2 difficult judgments here and we are trying to do
3 what we think is to the best interest of the
4 program.

5 That's all I have to say right now.

6 CHAIRMAN McCALPIN: Dick?

7 MR. TRUDELL: I agree with a little
8 bit of what everyone has said. I think it is
9 critical that the signal be given, though, that
10 the field and other groups are going to be
11 involved in the debate, not from the standpoint
12 of it being us against them or what have you. I
13 think it is critical to have some flexibility in
14 this, you know, new pot of money.

15 Hopefully, it will be realized so
16 that you can really be creative. I think -- The
17 comment I made about law school, that law stu-
18 dents do play a tremendous role in the public
19 interest area and in other areas. I would hate
20 to see anyone excluded, even though we may not
21 say that, but if we frame it in very tight
22 language, they are going to be.

23 CHAIRMAN McCALPIN: We have a logis-
24 tical problem that we are addressing at the
25 moment. Let me give a solution to that

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1 logistical problem before -- If there is anyone
2 else on the Board who wants to make a comment, I
3 would be glad to entertain that.

4 Howard?

5 MR. SACKS: I just wanted to ask a
6 question. There was circulated to us a one-
7 paragraph statement about this project, and that
8 hasn't been mentioned. Are you waiting to talk
9 about that?

10 CHAIRMAN McCALPIN: As a matter of
11 fact, Howard, I think if you will look at it,
12 you will realize that Dan covered it in his
13 explanatory remarks. He covered each element
14 that is in it. As I understand, that was
15 drafted by the staff as an example of the kind
16 of narrative summary that would accompany the
17 budget presentation.

18 I think that each member of the Board
19 has seen it. It was on the tables last night at
20 the Audit and Appropriations Committee, but it
21 was covered by Dan. And if anybody hasn't, let
22 me read it. I expect Dan won't mind.

23 "The Corporation requests --" And
24 there was a blank which is filled in with
25 "thirty million dollars -- in new funds in 1982

1 to expand Legal Services through the increased
2 use of private, non-staff attorneys. The funds
3 will be used to supplement the staff attorney
4 system and will be allocated through existing
5 grantees.

6 "It is expected that such funds will
7 be used by recipients for a variety of activi-
8 ties to increase and support private attorney
9 involvement that could be alternate delivery
10 systems. The exact nature of private attorney
11 involvement, e.g. open panels, cooperating
12 attorney arrangements, organized pro bono, and
13 the types of service to be provided by partici-
14 pating attorneys, will be locally determined,
15 with particular consideration to relative cost
16 and quality of alternative approaches.

17 "The staff will develop detailed
18 guidelines to be approved by the Board for the
19 allocation and use of these funds."

20 I believe that Dan covered every
21 element of that statement in his explanation,
22 but that is simply an example of the kind of
23 narrative summary that would accompany it, as I
24 understand it. Is that right, Dan?

25 MR. ORTIQUE: I don't think that any

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1 member of this Board has any problem with that
 2 statement. The problem that develops is when
 3 you talk about "through private lawyer involve-
 4 ment," because there are some of us here, as you
 5 well know, Bill, when Oscar Findley started the
 6 movement several years ago, that is really
 7 ancient history.

8 Oscar Findley's concern was that
 9 doctors were moving into the area of Medicare,
 10 Medicaid, and they were doing certain things,
 11 they were accomplishing certain things by making
 12 big bucks. He made no bones about this. I
 13 think that with that type of history, those of
 14 us who remember that have to be most concerned
 15 that this is not used, that no one gets the
 16 impression that this corporation is willing to
 17 do that.

18 I think that that is Mickey's point
 19 and that is everybody's point. If those, as
 20 Cecelia labels private lawyer involvement as
 21 buzz words, and I certainly think she is immi-
 22 nently correct on that, that we ought to state
 23 that we mean something else. The support state-
 24 ment is marvelous. I just need to --

25 CHAIRMAN McCALPIN: I'm sorry, excuse

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1 me.

2 MR. ORTIQUE: -- that lets us know
3 that the things Dick is talking about and the
4 things that I have been concerned about, and I
5 think Dan and I appeared on a program in Los
6 Angeles a year or two ago to say we are inter-
7 ested in engaging the services of small clinic
8 groups and that sort of thing, to do work for
9 these various programs. I am still interested
10 in that.

11 CHAIRMAN McCALPIN: My sense of the
12 discussion up to this point is that there is
13 general agreement with the suggestion made, I
14 think, by Dick, that what we are really talking
15 about is expansion through alternative delivery
16 systems, rather than the particular words which
17 appear on this page which were not intended as a
18 part of the motion, those words being "private
19 bar."

20 But, in the context of the delivery
21 systems study, I think we know what alternative
22 delivery systems are. They are all of the kinds
23 of things that we talked about in that study.

24 Howard?

25 MR. SACKS: I don't have any problem

1 with this narrative statement, except there is
2 one sentence that I hope will not be construed
3 deliberately. It is the sentence that says that
4 "the funds will be used to supplement the staff
5 attorney system and will be allocated through
6 existing grantees."

7 I would assume that 95, or maybe 99
8 percent of the times that the funds would be
9 allocated through existing grantees, but I can
10 envision situations in which we might want to
11 allocate funds directly. And I would not want
12 to have our hands tied to the point that if
13 there were a particularly attractive project
14 that came to us directly, but for some reason
15 the local program dragged its feet and we
16 thought their opposition was not sensible, that
17 we would be tied hand and foot and be unable to
18 support this project.

19 What I am saying, and I don't propose
20 it as a motion or an amendment, because you are
21 not proposing to put this on the floor, but my
22 sense of it would be that except in rare and
23 unusual circumstances, that the funds would be
24 allocated through existing grantees.

25 CHAIRMAN McCALPIN: It is my

1 understanding, Howard, that that paragraph is
 2 not a statutory concept, that it is not some-
 3 thing that would be included in a statute. And
 4 I think we all are in sympathy. I can't remem-
 5 ber who it was that first made the suggestion,
 6 it was Cecelia, that there might, in rare
 7 instances, be the kind of necessity that you are
 8 talking about. But I think what I do want to
 9 make clear --

10 (Laughter.)

11 CHAIRMAN McCALPIN: What did I say?

12 MS. ESQUER: I was the one that got
 13 the existing grantees thing.

14 (Laughter.)

15 CHAIRMAN McCALPIN: What I do want to
 16 make clear is that we want to do this as an
 17 expansion through existing structure and not to
 18 set up a competing system.

19 MR. SACKS: I understand. I am in
 20 thorough agreement with that. I am just very
 21 wary of any statement, any statute or regulation
 22 that says always or all.

23 CHAIRMAN McCALPIN: I understand.

24 Is there any other member of the
 25 Board who wants to address this subject at this

1 time?

2 MS. SHUMP: I have one comment. I
3 want you to throw out "private lawyer involve-
4 ment."

5 CHAIRMAN McCALPIN: We are talking in
6 terms of alternate delivery systems. I think
7 that is understood. I think that is a consensus
8 of that.

9 May I ask, it now being six minutes
10 after 12:00 by my watch, how many members of the
11 legal services community in attendance would
12 like to address this issue. If I could really
13 see a show of hands, please?

14 I count nine. It is clear to me that
15 we cannot take all of those nine before lunch.
16 Judge Ortique and I have a little commitment at
17 lunchtime with respect to another group, so I
18 think that with one -- diverting for one moment,
19 that I would simply in a moment recess this
20 meeting until 1:30. And when we come back, we
21 will begin by going to the group in attendance
22 and asking for your remarks on this subject.

23 Is there anyone who wishes to address
24 this subject who will not be able to be here at
25 1:30?

1 (No response.)

2 CHAIRMAN McCALPIN: I don't see any-
3 thing.

4 Delanore, the one subject that I have
5 in mind before we break for lunch is to -- I
6 don't need to comment on my recent ascension to
7 this position because I think the inexperience
8 of the Chair so far this morning is ample demon-
9 stration of that, but what I do want to recog-
10 nize is my predecessor, who sits to my right,
11 who has been a bullwark of strength for this
12 Board, both as a member and occupying the Chair
13 which I do now.

14 I think that we did not at the
15 September meeting have an appropriate opportu-
16 nity to recognize her contribution to this
17 corporation and to the Legal Services develop-
18 ment in this country generally.

19 It would be my purpose at this time
20 to formally recognize that contribution by
21 presenting to her the usual symbol of excellence
22 and recognition which has been developed,
23 especially by this corporation, for recognizing
24 those who have contributed mightily to this
25 area, and I do so now.

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1 Hillary, if you would come forward, I
2 would present to you.

3 (Whereupon, Ms. Rodham steps
4 forward.)

5 MR. BRADLEY: You have to read what
6 it says.

7 (Applause.)

8 MR. BRADLEY: This is an Academy
9 Award.

10 (Laughter.)

11 CHAIRMAN McCALPIN: Well, I can't
12 read it without my glasses and I was told to put
13 it on lightly, I suppose, so that it could be
14 erased. I hope that it will be taken in good
15 spirits.

16 Hillary, as Chairman, you produced in
17 ways not likely to be equalled.

18 (Laughter and applause.)

19 CHAIRMAN McCALPIN: It is my inten-
20 tion, with all of the Board members here, that
21 they will inscribe their signatures just beneath
22 mine at the foot of this so that you may have
23 this to put in your memory book or on your wall
24 or wherever.

25 MS. RODHAM: I take this partly as a

1 reward for being quiet all morning.

2 (Laughter.)

3 MS. RODHAM: Thank you very much.

4 (Applause.)

5 CHAIRMAN McCALPIN: With that, we
6 will stand and recess until 1:30.

7 (Whereupon, a recess was taken by all
8 present from 12:10 o'clock p.m. until 1:50
9 o'clock p.m.)

10

11 (Whereupon, the meeting was resumed
12 at 1:50 o'clock p.m.)

13 CHAIRMAN McCALPIN: Is there anyone
14 in the audience who desires to address the Board
15 on the subject which is before us, which is the
16 composition of the 1982 budget? I will be glad
17 to recognize --

18 First of all, let me ask if there is
19 anyone who wants to speak who has a time problem
20 and that they must be out of here?

21 (Whereupon, Rev. David Helhams indi-
22 cates such request.)

23 CHAIRMAN McCALPIN: (Addressing Rev.
24 Helhams.) All right, then. I will hear you
25 first. Will you come up and take a microphone.

1 Let me ask everyone, since we are
2 being recorded on the microphones and that sort
3 of thing, if, as you approach the microphone,
4 you will state your name and any organization
5 which you represent. That way we will be able
6 to know from the Record precisely who it is who
7 has addressed us.

8 REV. HELHAMS: Yes, sir. I am
9 Reverend David Helhams from Greenville, South
10 Carolina, the Western Carolina Legal Service
11 Corps of Greenville. I am very concerned about
12 the private attorney taking a part in the Legal
13 Service program.

14 I kindly feel for you Board members
15 who are under the pressure of -- under this
16 literal pressure, that you mandated to give our
17 private law firms a part of this pie. I am very
18 much concerned, knowing that you have to do
19 this, and as long as I have been knowing Mr.
20 Bradley, for him bringing that amount of money,
21 thirty million dollars, he seems to tell us that
22 Congress is not going to accept a smaller amount
23 of money for that.

24 If this program was a public program,
25 they would give us just enough to get by. I

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1 have a feeling that the reason that this amount
2 of money is there, so that Congress will now be
3 able to say that they are going to give private
4 lawyers part of this money.

5 . Seeing that the entire Board knows if
6 they're going to have to do this, my concern is
7 how and who is going to oversee these programs.
8 I would like to know whether it is going to be
9 the regional office -- If the local agencies
10 have these attorneys, who is going to oversee
11 beyond the local board. We have some boards --
12 All boards are a majority of lawyers. I am not
13 saying that lawyers are crooks. I am not saying
14 that.

15 (Laughter.)

16 I'm a preacher. All preachers are
17 not good preachers. Right now, if I had to pass
18 judgment on another preacher, I am sure that I
19 would be very lenient with him. Amen.

20 If a lawyer had to oversee another
21 lawyer's program, I am pretty sure that he would
22 see it his way for a great deal of the time.
23 Since we know that we are going to have to give
24 private bar, or whatever you call it, a part of
25 this pie, the one thing that I am concerned with

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1 is that they do not compete against this agency
2 for the money. If they receive any, they must
3 receive it through this.

4 Secondly, I definitely would want
5 some kind of evaluation of these programs. Some
6 small programs need to have private lawyers. A
7 city like Greenville does not. Greenville has a
8 lot of lawyers. They are not concerned about
9 dealing with the poor, and all lawyers cannot
10 deal with the poor. All of them cannot talk
11 their language. They use law terms and we don't
12 know nothing about them. No one there -- We nod
13 our head and don't know what they are saying.

14 They go in the court with us nodding
15 our head. That is because they haven't been
16 trained in doing poverty law. That is one of
17 the things that bothers me. Every lawyer cannot
18 do poverty law.

19 Greenville slum housing is owned by
20 lawyers. It would disturb me for you to send
21 money to Greenville to hire lawyers to prosecute
22 lawyers. I just don't believe that they are
23 going to be that strong to do so. A small city
24 like Greenwood that we have on another of our
25 programs, the lawyers probably would do a good

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1 job. I am mainly concerned, and very concerned
2 that since we are going to have to give them a
3 piece of the pie, I hope that this will not
4 become a Medicaid program, that it will become
5 abused and the first thing that they will say,
6 Congress and the taxpayer will say, the poor is
7 ripping us off.

8 We all know that it would take an
9 entire year or better for one person on Welfare
10 to receive over \$7,000. In Medicaid, we have
11 had some lawyers to make in fraud over \$100,000.
12 I would not like to personalize, but one of the
13 main Senators in Congress right now, his brother
14 made over \$100,000 in fraud. I just don't want
15 our agency to become a Medicaid program where
16 lawyers, even our leaders or what have you, I
17 don't want it to become a Medicaid program where
18 money is misused.

19 And again, we cannot leave it up to
20 the local boards. I feel that the regional
21 office ought to have some input and some oversee
22 and be of some kind of way to evaluate other
23 lawyers' responsibilities.

24 Thank you.

25 CHAIRMAN McCALPIN: Thank you very

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1 much, Reverend.

2 I don't think that it would be appro-
3 priate to respond to each one, but I can say
4 that the members of this Board, to my certain
5 knowledge, share many of your concerns and, I
6 think, are devoted to seeing to it that those
7 concerns are addressed and that we do not fall
8 into the errors of other programs as we move
9 forward in this area.

10 Mr. Lieberman, if you will identify
11 yourself, please.

12 MR. LIEBERMAN: My name is Hal
13 Lieberman, and I am a Project Director in
14 central Massachusetts. And I stand to speak on
15 behalf of the Funding Criteria Committee of PAG,
16 which has met and discussed at some length the
17 question of private bar involvement and the
18 thirty million dollar proposal.

19 And we in the Funding Committee con-
20 sider this to be an ill-advised proposal. We
21 consider it to be ill-advised for three reasons.
22 We do not agree with the fundamental departure
23 from five years of funding, of expansion which
24 this program represents.

25 In the past, when an expansion grant

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1 was given to a grantee, it was up to that
2 grantee board to devise an appropriate delivery
3 system or otherwise determine how best to use
4 expansion funding consistent with the Legal
5 Services Corporation Act.

6 This proposal, despite the channeling
7 of funds through existing local grantees, repre-
8 sents a fundamental departure, because it man-
9 dates the use of private, non-staff lawyers. It
10 is, therefore, the first time that money has
11 been nationally earmarked in this fashion for a
12 particular delivery model or a delivery
13 approach.

14 We, therefore, consider it as a
15 matter of principle, this is a radical departure
16 which we cannot support as it is currently pro-
17 posed.

18 Secondly, we think that the thirty
19 million dollar figure, the amount that has been
20 proposed, is a wholly arbitrary figure. We know
21 of no particular assurances that this figure is
22 going to be sufficient to nullify certain mem-
23 bers of the -- or certain segments of the pri-
24 vate bar community or certain other forces in
25 Congress. We highly question whether this is a

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1 proper figure, even if one assumes that this
 2 proposal is the way to go in the next several
 3 years. And we don't understand, and maybe it is
 4 not possible for us to understand, based on the
 5 kinds of discussions that have taken place in
 6 other circles, where this thirty million dollar
 7 figure was derived from. But we highly question
 8 the appropriateness of the rationality of the
 9 thirty million dollar figure.

10 Third, we are particularly opposed to
 11 the derivation of the thirty million dollars by
 12 reducing eight or nine million dollars of the
 13 cost of living requested in the original staff
 14 proposal for the 1982 budget. The original 13
 15 percent cost of living figure, which was the
 16 figure just less than a month ago, I believe,
 17 represented a realistic and sensible inflation
 18 adjustment by anyone's standards of what the
 19 actual cost of doing business is.

20 We also note that there is nothing
 21 else in the 1982 budget with respect to salary
 22 comparability, with respect to program improve-
 23 ment, and then, basically, this 13 percent
 24 figure represented, and now, 10.5 percent repre-
 25 sents what the field can expect in 1982 in the

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1 way of any kind of maintenance.

2 If you are really serious about, as
3 you indicate, maintaining field programs, then
4 we think that there is a serious question about
5 the viability of going ahead with a thirty
6 million dollar proposal which reduces the cost
7 of living figure that the field program was
8 otherwise going to receive in the 1982 budget
9 request.

10 For those three reasons, the Funding
11 Criteria Committee has substantial questions
12 about the wisdom of this proposal, and it thinks
13 right now that that proposal is ill-advised.

14 CHAIRMAN McCALPIN: Thank you, Mr.
15 Lieberman.

16 MR. ORTIQUE: Let me just ask this
17 gentleman a question, if you don't mind, Mr.
18 Lieberman?

19 Your first concern was one in refer-
20 ence to, I think, that you said it was ill-
21 advised to earmark -- that we have never ear-
22 marked funds. I don't think that is quite cor-
23 rect. We certainly have earmarked funds. We
24 certainly said we are going to spend "X" amount
25 of dollars or "Y" amount of dollars at various

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1 times.

2 MR. LIEBERMAN: You have not ear-
3 marked a delivery system, though. There has
4 been a rural mark, for example, which has said
5 to spend money in the rural area. But you never
6 said that it has to be by particular delivery
7 system.

8 MR. ORTIQUE: But you have heard our
9 discussions this morning, and I'm sure you have
10 to agree with the President and the Chairman
11 that we are probably out of consensus, that we
12 are talking about innovative, creative programs,
13 whether they be private bar or further expan-
14 sion, or whatever.

15 MR. LIEBERMAN: We are for innova-
16 tive, creative programs that are appropriate to
17 local circumstances. That is not necessarily
18 the same thing as mandating the use of private
19 lawyers exclusively with respect to the thirty
20 million dollar figure.

21 MR. ORTIQUE: Well, if that is your
22 point, then I understand. And certainly, I
23 think that we have all made it clear that that
24 is not what we are going to do on that point.

25 MR. LIEBERMAN: It is not clear to

1 us, but in any event, that is our position.

2 MR. ORTIQUE: Well, we have got a
3 statement that accompanies it, and I think that
4 that statement certainly makes it clear.

5 The other thing is, I'm sure you also
6 agree that we don't have --

7 CHAIRMAN McCALPIN: Revius, you have
8 to speak into the mike.

9 MR. ORTIQUE: There is probably no
10 magic that we can tell you about the thirty
11 million dollars. We would have to admit to
12 that.

13 MR. LIEBERMAN: Well, we appreciate
14 that.

15 CHAIRMAN McCALPIN: Mr. Kantor.

16 MR. KANTOR: Hal, just a couple of
17 questions.

18 What you are saying is that you
19 really are not -- The committee that you are
20 representing is not against private bar partici-
21 pation in the program. Your concerns are over
22 some of the local control, accountability, how
23 much money and so on --

24 MR. LIEBERMAN: That's right.

25 MR. KANTOR: -- but the general,

1 overall philosophy of being, call it innovative
2 or creative or, at least, trying to expand what
3 resources we have available with limited
4 dollars, the committee is not saying that it is
5 opposed to using private lawyers under those
6 circumstances.

7 MR. LIEBERMAN: That's right.

8 MR. ENGELBERG: Hal, what is your
9 evaluation -- I'm talking about PAG's evaluation
10 of those programs that have existing funds
11 engaged in innovative or creative relationships
12 with small law firms, contracting, et cetera.
13 What has been your experience with those
14 efforts?

15 MR. LIEBERMAN: I don't know whether
16 PAG has had any -- the Steering Committee and
17 the Funding Criteria Committee, either of those
18 bodies have had any extensive discussion of an
19 evaluative nature with respect to what has been
20 the experience with private bar involvement. I
21 can only speak -- Well, I can speak for myself,
22 that I have been involved with the private bar,
23 both in the contract and the pro bono area two
24 years before this \$500,000 pro bono program has
25 come into existence, and I am very interested in

1 it, and I think that a lot of other people who
2 have had similar experiences and feel that there
3 is an important need to do just what Bill
4 McCalpin said needs to be done, get involved
5 with the private bar for a variety of reasons
6 that not only have to do with the political sig-
7 nificance of the November 4 election.

8 That is not the same thing as mandat-
9 ing and forcing people to spend money on one
10 particular kind of activity at a local level
11 without -- It is a very severe departure from
12 the notion of a local board, made up 60 percent
13 of local attorneys, mind you, making the deter-
14 mination about what the nature of the delivery
15 system and a particular approach is going to be.
16 It is emasculation of the local control prin-
17 ciple that has been the hallmark of what this
18 corporation has been about since '74.

19 MR. ENGELBERG: Hal, what is your
20 general view, again -- if you have one -- in
21 terms of what I would call the idea, you know,
22 of using money to leverage entrepreneurial
23 efforts along the lines that we have talked
24 about here? Do you feel that that makes sense
25 in terms of a planning point of view?

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1 MR. LIEBERMAN: That is a complex
2 question. Certainly, PAG and the Funding
3 Criteria Committee have not had any conversa-
4 tions about that except in the context of the
5 \$500,000 pro bono proposal.

6 A lot of us have had experience with
7 grants and program development where there has
8 been a leveraging concept in terms of, for
9 example, money under the older Americans Act and
10 putting in a local match to obtain more dollars.
11 It has been, I think, in that particular con-
12 text, successful and most people feel that it
13 has not been a tremendous problem.

14 There have also been a number of
15 people -- There have been a number of people
16 around the country who have been excluded from
17 obtaining older Americans dollars by the inabil-
18 ity to come up with a local match of some sort.
19 And that has been --

20 MR. ENGELBERG: No, I'm not talking
21 about a match. I am talking about more of a
22 concept where you contract, let's say, a small
23 law firm, and the theory being that the local
24 program director and, ultimately, the executive
25 director, has obviously fairly tight control

1 over the performance of that program, that is,
2 the program's incentive to be -- A contract is
3 the incentive on the entity seeking to do busi-
4 ness with the program.

5 Have you had any experience with how
6 effective that is, whether you can motivate the
7 people that are dealing with you, that is, you
8 know, performance based on economic incentives?

9 MR. LIEBERMAN: That is hard to say.
10 We have had some experience on our own program
11 with a particular private attorney who we con-
12 tracted to do some work, who was a former Legal
13 Services attorney, and that has been a mixed
14 experience. But, I think that is an exception.

15 It really depends on the type of com-
16 munity you are in. There are not a lot of com-
17 munities where there are, perhaps, ex Legal
18 Services attorneys who want, if I understand
19 what you're saying, to get involved on a con-
20 tract basis. There may be some situations in
21 larger cities and urban areas, but I don't know
22 whether or not that will be the experience that
23 applies around the country.

24 MR. ENGELBERG: Well, there is cer-
25 tainly a large number of former Legal Service --

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1 highly qualified former Legal Services lawyers,
2 I would assume, throughout the country in rela-
3 tively small, entrepreneurial settings. They are
4 familiar with this work, they are interested in
5 it, and theoretically, under this proposal,
6 might be interested in engaging in various forms
7 of arrangements of local programs.

8 MR. LIEBERMAN: That is one scenario,
9 but another scenario of the organized bar could
10 have different views about this. I don't know.
11 We are not willing to make any judgments or go
12 out on the limb with questions like that.

13 We think that the whole proposal is
14 something that needs a lot further discussion,
15 and that is one of the reasons why we are
16 opposed at this time to a flat arbitrary figure
17 of thirty million dollars without a lot more
18 discussion about what it is that this is really
19 all about.

20 That is not -- We are not inflexible
21 about the concept of private bar involvement, by
22 any means.

23 CHAIRMAN McCALPIN: Ramona?

24 MS. SHUMP: Hal, how do you feel
25 about the original amount that had been proposed

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1 by the -- by the staff, as opposed to the thirty
2 million?

3 MR. LIEBERMAN: You mean, the five
4 million dollar figure?

5 MS. SHUMP: Yes. I think it was six,
6 or something like that, including the client
7 advocates.

8 MR. LIEBERMAN: Well, given the
9 quantum leap from the five hundred thousand
10 dollar proposal -- the five hundred thousand
11 dollar figure from 1979 and 1980 to the thirty
12 million dollars, certainly five million dollars
13 seems to be a more realistic leap. But then,
14 again, it is our position that the thirty
15 million dollars is essentially a meaningless
16 figure to us, from the confirmation that we
17 have.

18 Now, whether five million dollars is
19 more reasonable, I don't know. Five million
20 dollars -- Six million dollars was the figure
21 one short month ago. It may be that the elec-
22 tion has changed some things, but I don't know
23 whether it has changed things to the tune of
24 twenty-four million dollars.

25 MR. KANTOR: I would like to make a

1 point.

2 First of all, let me say, for my
3 part, and I think that maybe I am talking for
4 everyone here, I would be in favor of something
5 like this proposal, whether or not the election
6 had been reversed. I don't think the election
7 has had any -- At least my history is fairly
8 consistent in this area in terms of creativity
9 and in trying to bring new resources into Legal
10 Services.

11 Although the election may have
12 changed, I think, the outward world we deal
13 with, I am not sure that it changed anybody's
14 mind on this Board. It certainly did not change
15 mine. I had a question.

16 Forgetting for a moment that thirty
17 million or five million or thirty-five million
18 or seven million, if you had, if someone pre-
19 sented you or the committee, and just use your
20 best judgment, I'm sure this hasn't been
21 assessed, a phased-in program with goals that
22 might reach ten percent over a certain time per-
23 iod, whatever that would be, would you be more
24 comfortable with it in terms of -- the approach
25 to bringing the private bar in and doing it,

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1 assuming it would be local, assuming through
2 local programs, assuming local control, assuming
3 all the things, I think there is probably wide
4 agreement around this table on?

5 MR. LIEBERMAN: We are not opposed to
6 the notion of private bar involvement. We have
7 had these discussions amongst ourselves, and I
8 want to make that very clear. We don't know
9 what the other feelings are of the thirty
10 million dollar proposal. We don't know what
11 private bar involvement means to the local
12 level. It has not been spelled out.

13 It is a major departure from tradi-
14 tion on the part of the corporations who ear-
15 marked a particular delivery approach, and for
16 those reasons, we simply cannot at this time, in
17 good faith with respect to our own understanding
18 of what Legal Services is all about and our con-
19 stituents and our colleagues in PAG support this
20 proposal.

21 I don't think I can go any further
22 than that. I don't know what you've got in
23 mind. We haven't sat down, I mean, what you are
24 suggesting now may be reasonable or may not be
25 reasonable. I don't know. Our position is that

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1 we cannot support this proposal.

2 MR. ENGELBERG: Hal, maybe I misun-
3 derstood you. There were several earlier com-
4 ments on the Board, and I want to correct what I
5 think is a misimpression. I don't think that
6 there is any direct linear connection with this
7 proposal and the five hundred thousand dollar
8 pro bono proposal.

9 I think they are quite different.
10 They are mechanically quite different. I obvi-
11 ously support both. I proposed the first one.
12 The first one was made certainly well before any
13 political event, and I happen to agree with
14 Mickey, that I don't believe that this proposal
15 is tied into the election.

16 I haven't seen the position of the
17 Reagan administration on private bar involve-
18 ment. But anyway, I do think that it is impor-
19 tant to point out that the pro bono proposal is
20 really quite different and is totally designed
21 in a totally different way and involves a con-
22 cept of matching funds.

23 The proposal here is really talking
24 about a much more fundamental question involving
25 alternative delivery systems which may include

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1 some pro bono, but it is really a different pro-
2 posal. That does not mean you should be for or
3 against it. I just think that they are differ-
4 ent.

5 MR. LIEBERMAN: We think that it is a
6 different proposal, too. Although it does, of
7 course, encompass the notion of pro bono. I
8 think it also should be looked at in the context
9 of the corporation's initial efforts of private
10 bar involvement, and it certainly has a rela-
11 tionship to the first proposal. And I don't
12 want to get into a whole long discussion about
13 that, but I don't think it can be viewed in iso-
14 lation from that five hundred thousand dollar
15 proposal and what the goals and objectives of
16 that proposal are.

17 CHAIRMAN McCALPIN: Yes, ma'am.
18 Would you like to be heard on this? Would you
19 please approach the microphone and identify
20 yourself for the Record.

21 MS. BARNES: I am Gladys Barnes. I
22 am the State Chairperson of Alabama Client
23 Counsels, I am the Vice Chairperson of Region 6
24 National Private Counsels. All of us who work
25 day-to-day with low income people and clients

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1 realize that there are many unmet needs in our
2 communities. Certainly, I don't want to stand
3 in the way of any program or any projected pro-
4 gram or plan that would increase the delivery of
5 quality services to the people whom I represent.

6 However, I do have some concerns in
7 two areas that I would like to address. These
8 are, presently, the Legal Services staff does
9 not take cases that are not civil cases. If
10 this Board votes to go with the private bar seg-
11 ment, will these private attorneys be taking
12 cases that are not now taken by Legal Services,
13 such as, criminal cases?

14 Number two, if the client is not
15 satisfied with the services provided by the pri-
16 vate bar, will they have a recourse or a
17 grievance procedure?

18 Third, will there be a client repre-
19 sentative from the National Client Counsel, our
20 recognized community-based organization, or just
21 from the client community that will be a part of
22 a task force of whatever mechanism there might
23 be used to implement these programs if the
24 private bar is involved. And in this, I mean to
25 sit down and to say what will they be having,

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1 how will it be monitored, what will be the input
2 as far as clients are concerned?

3 Thank you.

4 CHAIRMAN McCALPIN: Ms. Barnes, I
5 think several of the questions that you raised
6 deserve an immediate answer. The first is, that
7 the Statute prohibits the use of any funds
8 appropriated to this corporation for criminal
9 matters. So, none of these funds would go for
10 representation under the present Statute.

11 Secondly, I think the answer to your
12 second question is obviously, yes, of course,
13 there would be a grievance procedure available
14 to the client.

15 And third, I think there is a two-
16 step, two-part answer to that question. First
17 of all, I would expect clients to be heavily
18 involved in the development of those standards
19 -- guidelines to be developed within the corpor-
20 ation for approval by the Board.

21 Secondly, I would hope and expect
22 that clients would be involved in the local pro-
23 grams in the decision-making there with respect
24 to how that particular program will approach
25 this problem.

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1 MS. BARNES: Thank you.

2 CHAIRMAN McCALPIN: Berney Veney?

3 MR. VENEY: I am in the strange posi-
4 tion of agreeing very much with what I have
5 heard today from everyone that has spoken. It
6 is, perhaps, not unusual that I find good coun-
7 sel in Bill McCalpin's words. It is certainly
8 not unusual that I find in Ramona's statements
9 things that I very much agree with and think go
10 to the heart of the matter.

11 I am, however, once again faced with
12 the very real problem that you who are the
13 directors of the law firm for the poor in this
14 country, along with, of course, the programs
15 that you fund, are about to move into a major
16 new endeavor. You are talking about investing
17 thirty million dollars to bring a new partner
18 in.

19 There is not one of you who, in terms
20 of your own private law practice, take a new
21 partner where you had to pay thirty million
22 dollars to that new partner, if you didn't know
23 what the partner was prepared to deliver. You
24 don't know what the private bar is prepared to
25 deliver.

1 We want an increase in the number of
2 attorneys who are available, that is true. We
3 want the private bar involved, that is true. It
4 is not the greater numbers, because I am not
5 persuaded that a hundred thousand dollars to the
6 private bar gets as many attorney hours as a
7 hundred thousand dollars to a staff attorney. I
8 am not at all persuaded about that.

9 I am persuaded that there are skills
10 available in the private bar that should be
11 available to low income people around this
12 country. I say that you don't know what it is
13 that you are buying with the thirty million
14 dollars, because you do not, with any certainty,
15 know that the private bar is prepared to provide
16 the full range of representation. You do not
17 know that they are prepared to submit to quality
18 control. You do not know that they are prepared
19 to participate in training program.

20 You have no information. Yet, you
21 are prepared to send out the signal to the
22 Congress and the Bar, for reasons that I think I
23 can understand, you are prepared to send out the
24 signal without any prior agreement, without any
25 prior certainty, without any prior contracts,

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1 you are prepared to grant thirty million dollars
2 for private bar involvement.

3 I think that you are correct. I
4 think that you are right in terms of having
5 whatever money goes, go through local programs.
6 I think that is absolutely correct. I think you
7 have to hold that to be the principle. I am not
8 talking about staff programs being sacrosanct.
9 I think you know that we have been as critical
10 of some staff programs as we will be critical of
11 private bar involvement, if that is not qualita-
12 tively done, if that does not uphold the dignity
13 of the client community.

14 In simple point of fact, I say to you
15 that you do not yet have an agreement with the
16 private bar, and I don't know how you come to
17 that agreement with the private bar, because, in
18 fact, private attorneys are not of a single
19 mind.

20 I would like to suggest to you that
21 we looked at your budget for 1982 and was quite
22 pleased as clients, because we saw the creeping
23 incrementalism that is represented by the move
24 from three hundred thousand dollars for client
25 advocacy to one million dollars for client

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1 advocacy.

2 Now, I am prepared to come to you and
3 say the one million dollars is not sufficient,
4 it is grossly insufficient, we want fifteen.
5 Well, what is it that you are going to do with
6 the fifteen million, Berney? How would you use
7 it?

8 I don't know. But, Dan sat there and
9 said that he didn't know how the private bar
10 would use it. I don't think where there is any
11 great difference. I simply suggest to you that
12 private bar involvement is, in fact, desirable
13 as long as it is on agreed-upon terms.

14 I am aware of the fact that you feel
15 very much in the middle, caught between a
16 Congress and caught between a public that may,
17 in fact, not understand what it is that you are
18 about. An issue may be credibility, but I sug-
19 gest to you that credibility comes from depen-
20 dable performance, predictable performance.

21 Predictable performance needs to be
22 performance that says, "We have a set of values,
23 a set of principles, and we will march down a
24 particular path, we will take on those who
25 challenge us, we will hear, we will listen, we

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1 will grow, but we will not deviate from the
2 norm."

3 The norm has been local decision-
4 making. Please do not tell me that some of our
5 Boards of Directors are really not involved in
6 decisions. I have suggested to you that the
7 corporation needed to look at the local govern-
8 ing structure for many, many years. Recognize
9 the fact that there are those clients who are
10 smart enough to read the publications of people
11 in the Senate who say the only major overall
12 difference between private and staff programs
13 comes in the area of "impact," a measure of
14 projects held to the individual client and the
15 entire community through such vehicles as class
16 action suits, preventive legal education or
17 legislative lobbying.

18 LSC officials place a high priority
19 on impact work as an effective way to get the
20 maximum results for the least money. Many pri-
21 vate lawyers and critics say that LSC has over-
22 emphasized the importance of impact and should
23 concentrate on providing basic services instead
24 of trying to change the world.

25 I don't want to take too much more

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1 time, but I do want to read one more thing to
2 you.

3 I quote: "At this time in history it
4 is as clear as ever that the American Bar
5 Association and Legal Services Corporation have
6 common goals. We both have committed signifi-
7 cant and valuable resources for reaching those
8 goals. The Legal Services Corporation has made
9 great strides over the last few years, but the
10 corporation lacks the resources to meet its
11 goals.

12 "The private bar must complement the
13 work of the corporation and its field programs,
14 if poor people are to have equal access to jus-
15 tice. It is time for the Legal Services
16 Corporation and the ABA to join forces. Only by
17 working together can we translate the good
18 intentions of our organizations into actual pro-
19 grams with meaningful impacts on the issues con-
20 cerning poor people.

21 "The American Bar Association will
22 meet its goal in developing fifteen pro bono
23 programs within the next year. I find this
24 strange --"

25 MR. ORTIQUE: What are you reading

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1 out of?

2 MR. VENEY: I'm sorry, this is a pro-
3 posal submitted to you under the signature of
4 Reece Smith, the President of the Bar Associa-
5 tion, who is here in the room and, I'm sure,
6 would be open to any questions that you might
7 have around how they plan to meet their goals.

8 "-- fifteen pro bono programs as
9 opposed to thirty million dollars." A lot of
10 difference. A lot of difference. It may very
11 well be that the predictable behavior that you
12 want to have is to challenge the Bar to live to
13 the Canon of Ethics and, in fact, provide what
14 the Bar should have always provided, and that is
15 consistent, high quality representation.

16 One last thing. I have said it
17 before and I will say it again, that is, I do
18 not understand why we should think that thirty
19 million dollars thrown into the civil, Howard,
20 will do anything more than we find on the
21 defender's side, the criminal side, by constitu-
22 tional right people have on the criminal side, a
23 right to counsel.

24 What we find in this country is an
25 inability of the private bar or an unwillingness

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1 of the private bar to provide that constitution-
2 ally guaranteed counsel. Why, suddenly -- Why
3 is it that we feel that by throwing some money
4 out there the private bar is suddenly going to
5 find quality representation on the civil side?

6 If you are going to enter into a con-
7 tract, if you are going to put the money out
8 there, if you are going to acquire a new partner
9 in providing legal services for the poor,
10 please, do not do it without making sure that
11 you have prior guarantees that say "Quality
12 representation, willingness to participate in
13 training, accountability to the client commu-
14 nity, and -- and a willingness to provide a full
15 range of services."

16 CHAIRMAN McCALPIN: Thank you,
17 Berney.

18 As usual, you are vocal, articulate,
19 persuasive. As you said when you began, we all,
20 I think, are in the position of agreeing with
21 much of what everybody says in here today. I
22 think that I would only respond to you by saying
23 that it seems to me that the proposal which is
24 before us will create the conditions which will
25 make it possible to reach the kind of agreement

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1 and the arrangements which you and I both agree
2 are necessary for this. It is my hope and
3 expectation that if this proposal passes, then,
4 in the next eleven months we will be preparing,
5 negotiating those agreements, first of all, at
6 our level and thereafter, in the succeeding
7 months at the local level to make sure that we
8 do get quality performance service which is
9 meaningful to the poor, which is on a basis that
10 they can understand, and which recognizes their
11 dignity and their worth, and which is fully com-
12 patible with the highest traditions of the bar.

13 I think we all want that, and I hope
14 and expect that this proposal will make that
15 possible.

16 Revius?

17 MR. ORTIQUE: Berney, I didn't hear
18 you say in your summary statement, I may have
19 missed it in your initial presentation, that you
20 want -- that this corporation would guarantee
21 that these programs would be under the stages of
22 local programs or regional programs. I notice
23 that that was left out, and that bothered me.

24 MR. VENEY: I hope I did not leave it
25 out.

1 MR. ORTIQUE: Well, maybe in your
2 summary you touched on it.

3 MR. VENEY: I hope I indicated that,
4 in fact, we think it is absolutely necessary
5 that the monies go through the staff. It is the
6 only way that we know that the training is going
7 to be provided. It is the only way that we
8 think we have any hope of accountability to the
9 client community. It is the only way that we
10 can assure that quality control is continued.

11 One of our problems with the existing
12 judicature programs is that we know that there
13 is no system of quality control. One of the
14 problems that we have is that we know, despite
15 the fact that one of them is headed by a client,
16 that is, a Chairperson of the Board, that there
17 really is not client involvement. There really
18 is no client accountability.

19 We think that the staff programs are
20 the only appropriate vehicles for any money
21 given by the program.

22 MR. ORTIQUE: And they would be in a
23 position to put to rest the concerns that I
24 expressed about the Oscar Findley matrix that I
25 described earlier. But more important than that

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... if you insist that all of the programs be done at a local level stage, or do you envision that we could do some of this regionally?

MP. VENEY: I think there is ample room for experimentation. I think there is a great need to look at various methods of providing services. I have no problem with that.

MR. ORTIZ: Let me throw one other question at you, the American Bar Association proposes thirty programs or fifteen programs, or whatever number you said. Do you see any problem with the rise of National Bar Association and ABA sponsoring programs on an either national basis or a National basis using various entities of private bar?

MR. VENEY: I think, Revis, you know from my policy responses I absolutely have no problem with that. One of my problems with Steve's problem, around seed money, carrot and stick approach, is the fact that we know the minority boards don't have the money to respond to that. It is the minority boards, in very real terms, that may be the only people prepared to be sympathetic and understanding

1 with the private low income people.

2 In terms of the pro bono programs, I
3 mean, I -- Howard's quoting of the DSS study, I
4 think, serves us very well. I think we really
5 need to re-look at that study, revisit the
6 study. What the DSS says, in fact, that a
7 judicature program doesn't work unless it is
8 attached to staff, and that the best of the pri-
9 vate bar novels is pro bono. That is what it
10 says.

11 The only one able to provide impact
12 in that DSS study, and you know I am critical of
13 the DSS study, but the only one that provided
14 impact was the pro bono model. Judicature
15 didn't do it. The quality data -- I won't even
16 discuss the quality data.

17 CHAIRMAN McCALPIN: Bruce Morrison?

18 MR. MORRISON: I will try not to be
19 repetitious of some things that were said
20 before.

21 Let me start by saying, to some
22 extent, that the debate here does get focused on
23 the wrong issue in this sense. The real issue
24 is what kind of work is going to be done for
25 poor people with these resources, more than the

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1 debate is what -- who is the lawyer or who is
2 the staff person or who is it that is going to
3 be carrying out that work. And I think we have
4 to be careful of having these debates go on in a
5 way that says only staff attorneys can provide
6 effective services for poor people, or that
7 there is some magic in it being a private
8 attorney who is going to provide those services.

9 With that in mind, look again at the
10 importance that we attach to the local determi-
11 nation of what kind of delivery approach will
12 work, make sense, addresses the priorities of
13 the clients in that community.

14 The danger of thirty million dollars
15 -- and I emphasize the thirty million because it
16 is a huge amount of money in this context -- The
17 danger of thirty million as opposed to five
18 million, what it was in the original proposal,
19 is that it does set in motion, if that money is
20 available or any amount like that is available,
21 and is earmarked nationally for private
22 attorneys only, it does set into motion a
23 pressure in terms of what kinds of expansion can
24 occur.

25 There really does override the basic

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1 question, the basic question of what are the
2 priorities in the community that need to be
3 addressed and how can we, in an innovative
4 fashion, expand the services, improve the ser-
5 vices that we are going to provide.

6 And I think that we have to keep com-
7 ing back to that sort of determination of the
8 priorities, because these are going to continue
9 to be scarce resources. That argues, I think,
10 for several different things.

11 What is -- Taking a minute and draw-
12 ing from the amount, the ten percent notion that
13 kind of gets talked about from time to time in
14 this discussion about the thirty million
15 dollars, is a promiscuously dangerous idea,
16 because if this Board endorses some sort of
17 magic percentage in terms -- Even if it is
18 underlying the discussion, percentages of how
19 much of our resources ought to be going to using
20 private attorneys, I think that very quickly
21 gets turned back on us by other folks who don't
22 look at what we are about in the same way that
23 we do and who suggest that, "Why don't you have
24 ten percent of your current resources going in
25 that way?"

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1 I know that the proposal that is on
2 the table is for expansion, but our words will
3 be used by people who have different objectives
4 from the objective that the people in this room
5 have.

6 Those words have already been used.
7 Words in the delivery systems study being used
8 by Senator Helms office turned back on us and
9 said, "We can replace this whole program with a
10 judicature program because the delivery systems
11 study program said they are equivalent except
12 for impact, and who wants impact, anyhow?"

13 So, the point is, I think that we
14 should be careful about something that could be
15 turned back upon us, and I think jumping to
16 thirty million, the suggestion of ten percent,
17 really may put us in a much more difficult posi-
18 tion in terms of assuring that this is expan-
19 sion, rather than replacement and reorientation.

20 That is not to say that some
21 reorientation cannot occur or ought not occur
22 with local decision-making, local consideration
23 of what is the most effective way to use the
24 resources. It may very well be private
25 attorneys. That is being done already in many

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1 places, should be continued to be done if it
2 makes sense in terms of local priorities.

3 Another thing about the thirty
4 million dollars is where it is coming from,
5 plain and simple. It is coming in large part
6 from not doing something we decided last year
7 was a priority, which was reaching out to the
8 institutionalized, people who were not covered
9 by minimum access funding and who were defi-
10 nitely being underserved and are among the most
11 needy in terms of legal assistance.

12 We are removing them from our list of
13 priorities, fifteen million dollars' worth.
14 That seems to me to be a mistake. The second
15 thing, the second major source of this funding
16 is to reduce the cost of living from 13 percent
17 to 10.5. Now, it said in the papers that we are
18 presenting to you, well, you can't sell 13 per-
19 cent anyhow. That may be true, but there was
20 something very important and symbolic about
21 this.

22 Going back to something Steve
23 Engelberg said, certainly, in large measure this
24 is a symbolic document at this point. We are
25 not going to get 400 million dollars unless the

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1 world changes very much very quickly. What we
2 are saying is messages to various people about
3 what we are trying to do and where we are going.
4 When we said 13 percent, we said something about
5 maintenance of the existing program and that
6 that meant you had to compensate the programs
7 for the effect of inflation, and that is where
8 13 percent came from. Ten and a half is a bal-
9 ancing figure out of the air.

10 It does not say that any more, and
11 taking a million dollars away from the number
12 says, at the same time you are putting it into
13 private attorney, says symbolically, to me and
14 to the people in the field that you talk about
15 maintaining the current program and using this
16 as expansion, that is a little bit hedged. I
17 mean, when you got to balance it out and find
18 the dough, you are going to go to cost of
19 living.

20 When you only get 350 million
21 dollars, how is that going to pay off? With 350
22 million, you don't have any room to expand, to
23 do new things. I think you are going to split
24 it and you're going to be down to five percent
25 on cost of living, and the rest is going to

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1 expansion. I think we made that mistake in the
2 past. We ought to make it again.

3 I urge you, for that reason, to think
4 again about going the full thirty million. What
5 about the institutionalized? What about the
6 statement that maintenance of existing programs
7 mean making up for inflation? Certainly, in the
8 symbolic document as opposed to the final budget
9 where you have to make compromises, I think that
10 is a bad statement to be making.

11 Some may be just minor things that I
12 hope you'll keep in mind before you come to your
13 final vote. One is -- I think it is an excel-
14 lent idea for whatever funds you put into this
15 area, that you not say only private attorney
16 involvement, but that you say alternative
17 delivery.

18 I suggest you not say alternative
19 delivery systems, because we are talking about
20 buzz words. Buzz words -- That is a buzz word,
21 and that means DSS. I don't think you want to
22 say DSS, either. I think you want to say some-
23 thing else. I think you are trying to say some
24 innovation and flexibility. I suggest something
25 more like alternative delivery approaches. It

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1 may seem minor, but if we are going to stay away
2 from words that mean things to people, try
3 things like that.

4 Finally, there is a document floating
5 around that was referred to and that was read,
6 and the question as to whether or not you were
7 going to pass any kind of resolution other than
8 just an amount of money. I suggest that you
9 ought to, and that it ought to be essentially
10 the resolution that was -- or the paragraph that
11 was passed around with the change to alternative
12 delivery approaches rather than private attorney
13 involvement, so that it will be clear as we go
14 down the road and as a new Board may come here
15 and as the documents are drafted and given to
16 Congress.

17 You are saying some pretty precise
18 things if you agree with that statement, differ-
19 ent from what the words either alternative
20 delivery approaches or private attorney involve-
21 ment might mean to someone else in this room.

22 I think that it is important that
23 you, you know, sort of sign onto those concepts
24 as I have heard them expressed by the people
25 around the table.

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1 So with those admonitions, pieces of
2 advice, I would hope you keep that in mind and
3 try to bring down the number and bring up the
4 opportunity for alternatives. Thank you.

5 CHAIRMAN McCALPIN: Thank you very
6 much, Bruce. One thing that I think needs to be
7 said before we go any further is that there was
8 not any previous figure, five million, six
9 million or whatever, for this particular con-
10 cept. There was a six million dollar figure in
11 an earlier '82 budget proposal, which was quite
12 a different element.

13 So far as I know, this number is the
14 first number that has been put on paper for this
15 particular purpose. There have been other num-
16 bers mentioned conversationally, but the six
17 million dollar number that was in an earlier
18 draft was not for this purpose. So that it is,
19 I think, inaccurate to say that what was a five
20 or six million number has become a thirty
21 million dollar number. I think that is not so.

22 MR. MORRISON: Could I respond to
23 that?

24 CHAIRMAN McCALPIN: Certainly when
25 those -- Certainly, the Funding Committee and I

1 personally participated in the putting together
2 of those numbers, and it was certainly discussed
3 as one of the activities under the six million.
4 And I think it is, in a sense, generous to the
5 proposal to say that five million of it was for
6 this activity and one million was for the client
7 activity which is separated out.

8 It is not our intent to paint it --
9 In other words, we are saying the most generous
10 interpretation of the first proposal would be
11 that it was five million, from what now is pro-
12 posed to be thirty.

13 Secondly, I have previously pointed
14 out to you what I think is the inconsistency in
15 your position of advocating a Federal and, in
16 fact, a National level priority with respect to
17 spending funds to represent the institutional-
18 ized and, thereby, imposing a purpose for the
19 dispensation of these funds, while at the same
20 time saying that it is a violation of the local
21 control concept to suggest that within a variety
22 of alternative approaches, these expansion funds
23 are to be determined -- are the approaches to be
24 determined locally in support of the rationali-
25 zation that the latter is not really the kind of

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1 violation that you and others have suggested.

2 Let me point out that enacting the
3 Legal Corporation's Act in the first instance,
4 the Congress reached a compromise with respect
5 to mandating delivery systems by inserting the
6 requirement for the delivery systems study. I
7 suggest to you that Congress did not intend a
8 meaningless study.

9 That it intended that if that study
10 approved that alternative delivery systems were
11 viable, then the corporation should recognize
12 that fact and move in that direction. That is,
13 in essence, what the delivery systems study pro-
14 vided, as Dan read from our delivery systems
15 recommendation to the Congress last night. We
16 did tell the Congress that we would be moving in
17 this direction so that if it represents a depar-
18 ture from local control to national control, I
19 suggest that it is within the framework of what
20 the Congress has indicated to us is its wishes
21 and desires.

22 Ramona?

23 MS. SHUMP: Bill, why? Why does it
24 have to be thirty million dollars? Why can't it
25 be ten million dollars?

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1 To begin with, you are talking per-
2 centages. Grant you, I am no mathematical
3 genius, nor am I an attorney, nor am I a politi-
4 cian. What I am is concerned. I know what it
5 is like to need an attorney. I know what it is
6 like to not be able to afford an attorney. I
7 also know what it is like to have someone from
8 the private bar come forth and help me out with
9 one of my difficulties.

10 In turn, I also know that it was the
11 Legal Services attorney that carried our case,
12 the impact case that I was involved in, and won
13 for us. So, you see, I really don't have to
14 claim any loyalty to anyone in particular.

15 What I do have to claim is responsi-
16 bility for my actions today in setting aside a
17 specific amount of money, namely, thirty million
18 dollars, and labeling it for alternative
19 delivery systems, for alternative delivery
20 methods, for private bar involvement, for inno-
21 vative creative expansion in the area of provid-
22 ing legal services, which I prefer over the
23 latter two.

24 I am having difficulty understanding
25 where the thirty million dollars came from and

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1 why, you know, if you had to pull a figure out
2 of somewhere, you had to come up with thirty
3 million?

4 CHAIRMAN McCALPIN: If the question
5 is addressed to me, I will be glad to answer it.
6 I think I addressed that this morning.

7 When I said that I -- I'll apologize,
8 Bruce. I understand what you are saying by
9 using percentages and I corrected the minutes of
10 the Audit Appropriation Minutes last night in
11 this respect. And what I said was, that in
12 order to be credible and to be perceived as pro-
13 ceeding on something more than a tokenism basis,
14 that I thought we had to get up to a level
15 approximating ten percent of the sum that would
16 be spent in the field for providing legal
17 services to individuals.

18 I didn't say thirty million dollars.
19 I didn't -- Bruce was addressing me when he said
20 ten percent. I recognize that because that was
21 my statement on the 18th of November at the
22 Audit Appropriations Committee Meeting. I
23 recognize the dangers that he talks about and
24 yet, I say to him that whether I used that or
25 not, it seems to me that it is not beyond the

1 realm of probability that someone in the months
2 ahead is going to talk in terms of using a per-
3 centage of sums already there for this purpose.

4 We know what the Since and Brenner
5 (phonetic) Amendment is. We know other propo-
6 sals, but that is the long answer to your ques-
7 tion of where I got ten percent. I thought we
8 needed it to be credible.

9 MS. SHUMP: All right. But, Bill, if
10 we are going to be credible to the Congress,
11 don't we also have to be credible to the client.
12 And hasn't tokenism been the name of the game
13 all these years where the clients are concerned?

14 And if we are talking about moving
15 ahead and demonstrating a substantial interest
16 and a dedication to making sure the clients are
17 served, not only by the private bar, but are
18 afforded an opportunity to serve and to help
19 themselves and to help others in a similar situ-
20 ation, then don't we also have an obligation to
21 set up a percentage there alongside the private
22 bar figure?

23 CHAIRMAN McCALPIN: We have proposals
24 before us with respect to client participation
25 which has been developed by the staff and, I

1 think, have been accepted.

2 Mickey?

3 MR. KANTOR: Bill, I agree with the
4 need to your concern about being credible. I
5 think that we all agree with that. We don't
6 want to do anything that is not credible to the
7 outside world, not credible to our clients, not
8 credible to anyone. I have trouble with thirty
9 million dollars. I would have trouble with
10 thirty-five and I would have trouble with
11 twenty-five.

12 I'm not sure what that figure repre-
13 sents. I understand what you are saying. I
14 know we are not in the business right now of
15 offering amendments, and I won't. I will just
16 recommend to all of my fellow Board members con-
17 sideration that we might look at a five-year
18 phased-in program beginning at two percent and
19 going up to ten percent.

20 This might, in fact, satisfy a lot of
21 our concerns here. Number one, it satisfies the
22 concern of credibility. I don't think anyone
23 can -- I don't think anyone should doubt the
24 wisdom of looking at any new program and phasing
25 it in. I don't think you can spend thirty

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1 million dollars, frankly, even if you have got
2 it. And let's assume you get it, for the
3 moment.

4 I think what you would do, that if
5 you tried to spend it in one year, you would
6 have a lot of programs out there none of us, no
7 matter what our philosophical bent might be,
8 would support because it is just impossible to
9 spend the money.

10 Second, I think a lot of people here
11 in the room and outside this room and maybe here
12 at the table do have a problem with looking at
13 thirty million dollars in the face when we have
14 a program, a very good program come in last
15 night that needs \$50,000 or \$100,000, or even
16 \$400,000 and we can't find any way to get the
17 money there.

18 Or, we find client counsel or client
19 advocacy programs which are seriously under-
20 funded.

21 As I have said before, I am for this
22 idea. I think it is critically important, but I
23 think that if we look at this too, to be
24 credible, number one, but be responsible, number
25 two, we might look at a phased-in approach,

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1 maybe over five fiscal years, two percent a year
2 to reach goal by fiscal year '86 of the ten per-
3 cent goal you are thinking of.

4 I know there are going to be pres-
5 sures in other places to maybe get 50 percent,
6 40 percent, 30 percent, but I think our respon-
7 sibility is to give the Congress, the
8 Administration, those who watch this program our
9 best judgment. My best judgment is that thirty
10 million dollars, ten percent at this point,
11 given the nature of the program, how new it is
12 and what has to be done in format, if you look
13 at accountability problems, if you look at prob-
14 lems of training, if you look at problems of
15 supervision, if you look at problems of all the
16 mechanisms that might be available, private bar
17 or not, I believe it is impossible to put a
18 rational thirty million dollar program together
19 in fiscal year 1982.

20 I don't think it is impossible to put
21 together -- What would two percent be, Dan? Six
22 or seven million dollars? I don't know.

23 Anyway, somewhere in that nature, I
24 don't think it would be impossible next year to
25 double that program if it worked. But at least,

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1 it gives us a sense that we have gone at this in
2 a responsible way and we can build on it. And
3 if it is successful, maybe we will go up to 15
4 or 20 percent, maybe we will find that that is
5 the way to supplement in many areas our staff
6 attorneys in order to have more impact.

7 I just don't think it makes good
8 sense to go to what is our goal, which is ten
9 percent, immediately.

10 CHAIRMAN McCALPIN: Dick?

11 MR. TRUDELL: Bill, I have a few
12 things.

13 I am in agreement with Mickey and I
14 think everyone around is. I think that the
15 thirty million dollar figure, and it is unfortu-
16 nate that we have a figure to look at, but I
17 think that we have to give a realistic picture
18 to the Congress and to the White House in terms
19 of the cost of living increase.

20 Why should we say that we project
21 that it is only going to require a 10.5 percent,
22 when the projections that you read about others,
23 the economy far exceeds 10.5. I think we ought
24 to pick a realistic percentage, because, basic-
25 ally, it is a dream budget anyway. I think that

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1 if you are talking about, you know, client advoca-
2 cacy and really doing the job that is needed,
3 you take a million dollars, you take nine
4 regions of the corporation, if that were laid
5 out on a regional basis, you are talking a
6 little bit into \$100,000 dollars for each
7 regional.

8 You try to put on a training session
9 or any kind of session, and you are not going to
10 get much for \$100,000. I would think that if we
11 are committed to client advocacy, we are com-
12 mitted to a minimum of, you know, six million
13 when we start out. I think that the concern is
14 about the language regarding the private lawyer
15 involvement or alternative delivery systems.

16 Since I have suggested that, you
17 know, the language alternative delivery models
18 and it would change to systems, then I again
19 would change it to something like innovative
20 delivery approaches, or whatever. That seems
21 to, I guess, throw some new buzz words on the
22 table, or whatever, if that is what it is going
23 to take.

24 I said at the outset that I was
25 opposed to, you know, a thirty million dollar

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1 figure. I think even to set a goal, you know,
2 for the organized bar, thirty million dollars or
3 ten percent of this corporation's budget in the
4 future, I think it is doing it without any real
5 planning. In a sense, we are just quickly grab-
6 bing a percentage, incorporating it in a pro-
7 posed budget, and off we go without any track
8 record.

9 CHAIRMAN McCALPIN: Cecelia?

10 MS. ESQUER: Bill, I also feel more
11 comfortable with Mickey's suggestion. I don't
12 know whether I am tied to two percent, you know.
13 I might even be willing to say three or four. I
14 don't know why we have to work on percentages.

15 But at the outset, I said that thirty
16 was kind of scary to me. I really like Mickey's
17 suggestion that we look at the phased-in thing
18 so that, you know, policywise we do show a com-
19 mitment to that type of expansion. And I think,
20 as far as fiscal policy, I think that it is very
21 responsible to talk about long-term planning,
22 and I really like Mickey's suggestion about a
23 phase-in.

24 And maybe what we need to do is ask
25 Dan to get together with staff again and see if

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1 they can come up with a different figure, you
2 know. I don't know if time pressures permit
3 that, but I certainly could not vote for this
4 total mark, suggestion with a thirty million
5 dollars there at that specific slot today.

6 I do like Mickey's idea and I think
7 it is something worth considering.

8 CHAIRMAN McCALPIN: Howard Eisenberg?

9 MR. EISENBERG: My name is Howard
10 Eisenberg and I am Executive Director of the
11 National Legal Aid and Defender Association,
12 although I should make clear that I am not
13 speaking on behalf of the Association, but
14 speaking from my own perception.

15 My own perception is that the staff's
16 recommendation with regards to the thirty
17 million dollars is just about right. It should
18 be adopted by this Board. I look at three
19 issues that are really before the Board. The
20 first issue is whether, as a matter of policy,
21 this Board should line item funds for alterna-
22 tive delivery.

23 Secondly, how you are going to
24 deliver those alternative services if you decide
25 to line item them. And thirdly, and what I

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1 really think is least important, at this point,
2 particularly, is how much money you set aside.

3 In terms of the basic policy issue of
4 whether you are to line item money for alterna-
5 tive delivery systems, I break that down into
6 one, substance and, one, political. I think
7 both of those areas, substance and politics,
8 leave me to support the recommendation of thirty
9 million dollars.

10 My understanding is that the Congress
11 mandated the Corporation to do the delivery sys-
12 tems study to determine whether alternative
13 delivery systems to the staff model were viable.
14 For better or for worse, this Board has trans-
15 mitted to the Congress and the President a
16 report which reaches certain conclusions. I
17 don't want to characterize them. I do believe,
18 however, that it is fair to say that the report
19 concluded that with some restriction, substan-
20 tial in some areas. private lawyers have a very
21 definite role in delivering legal services to
22 the poor.

23 They can make a substantial differ-
24 ence in making services available in areas where
25 the staff model perhaps is appropriate for all

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1 types of different reasons.

2 Secondly, there are ongoing models
3 utilizing the private Board that do deliver ser-
4 vices with client involvement, with quality con-
5 trol, with all the requirements that this Board
6 has placed on the grantees. I think you should
7 look to those models. No one has said the dirty
8 word that I am about to say, but there are some
9 effective judicature programs in this country
10 that have to be looked to.

11 One cannot just assume, particularly
12 in line with what the DSS study said, that those
13 models are no good because they are called
14 judicature. While no one has said that, there
15 is certainly an underlying current that either
16 the delivery systems study was incorrect and
17 should be abandoned, or that those programs
18 which have been existing seemingly successful,
19 and maybe they're not, but seemingly success-
20 fully, really are not providing effective repre-
21 sentation.

22 I do not understand the proposal that
23 the President has made to mandate upon any
24 grantee, the obligation to provide services
25 through alternative delivery. Whether that be

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1 private bar, lay advocate or anything else. I
2 understand that the President is recommending to
3 this Board, that as a matter of policy, a fund
4 be established for alternative delivery that is
5 available to grantees if they so choose.

6 If they choose not to tap into that
7 thirty million dollars, they can continue to
8 utilize the staff delivery model exclusively.
9 There is no requirement to do that. I think in
10 terms of the substance, the private bar has a
11 role, the delivery systems study has demon-
12 strated that, the ongoing programs have demon-
13 strated that, and, particularly, as I will dis-
14 cuss in a minute, if the restrictions and the
15 requirements placed upon those are consistent
16 with other things we believe in, I think that it
17 can expand Legal Services to the poor and prob-
18 ably in an effective way in many places.

19 The political issue. I think it is
20 all well and good to talk about this Board being
21 politically independent, and I think it is. To
22 the best of my knowledge, no one, neither the
23 Carter or the Reagan Administration said to any-
24 one in this room that we want you to do thus and
25 so.

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1 In fact, I think a number of us would
2 be very interested in knowing how the President-
3 elect feels about this particular issue. This
4 is certainly not something that where there had
5 been political pressure brought upon anyone here
6 that I know of.

7 On the other hand, it is an error, I
8 submit, for you to operate in a political vacuum
9 and not to see what is going on in the halls of
10 Congress in this session. To say nothing of
11 what is apt to go on in the next session of
12 Congress. The amendment offered by the repre-
13 sentatives from Wisconsin would mandate. Not
14 only would it mandate this particular type of
15 delivery, but it would mandate certain per-
16 centages of funding in every area.

17 The amendment which is agreed to by
18 our best friends in the Senate, both of whom
19 were defeated by more conservative people last
20 time around, would have mandated the establish-
21 ment of a judicature program in one total state.
22 I think it is in error to say that this Board
23 should be so independent that it does not look
24 to the alternative to this Board taking on this
25 issue now and moving forward.

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1 For the last year this Board has been
2 defensive about the private bar. We have met
3 with people trying to work out compromises. We
4 have been unable to move forward, saying this is
5 what we believe. We believe the private bar has
6 a role and we believe that the private bar has a
7 role consistent with things that we believe in.

8 That brings me to the next -- Excuse
9 me. One other point.

10 In terms of a sellout, I am not at
11 all sure that those people that I have talked to
12 who favor private bar involvement are buying, if
13 this is anticipated to be a sellout. I would
14 rather anticipate that there will be many pri-
15 vate bar people who will be absolutely appalled,
16 not so much by the level of funding, although
17 that is going to be part of it, but by the
18 restrictions that have already been basically
19 agreed to, that is, that the money go to
20 existing grantees, number one. And -- I'm
21 sorry. I lost my train of thought.

22 -- that they go to existing grantees
23 and that it be a supplement to the delivery
24 systems. Many people who I have talked to in
25 the private bar want to abolish the staff model

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1 altogether. Secondly, I think there will be a
2 substantial body of people within the bar who
3 think that the ten percent, even at ten percent
4 is too low a figure and that it should be
5 reduced.

6 Going on to what I think is the next
7 issue, that is, once you make that policy deci-
8 sion, which I urge you to make as the President
9 has recommended, how do you deliver those ser-
10 vices with the private bar. Many people, both
11 on the Board and from the audience, have spoken
12 to that question, that is, is there client
13 involvement, is there quality control, is there
14 screening at intake, is there all of those other
15 concerns that we have withstanding the program?

16 I urge you to give that prompt atten-
17 tion after adopting the resolution or the budget
18 which is before you. I understand that the pro-
19 posal that Mr. Bradley has drafted, that the
20 staff will do that. I would hope that there
21 would be a broader process than just the staff.
22 I think the client community must be involved
23 from today on in determining if this is the
24 Board's policy, how are the private lawyers
25 going to be involved, what kinds of

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1 restrictions, what kind of accountability, what
2 kind of monitoring is going to be employed?

3 I think that if that is done, many of
4 the concerns that have been voiced here about
5 this new idea and about this new policy can be
6 overcome. Again, it is going to alienate many
7 of those same people who -- People have
8 suggested that this money is to buy off. We are
9 not going to buy off those members of the bar
10 who want to rip off the poor people by taking
11 money that is designed to deliver legal services
12 to them so that they can just support their
13 inadequate law practices.

14 I don't think anyone in this room
15 would buy into that. What we are looking for is
16 efficient ways to deliver services in a cost-
17 effective and qualitative way.

18 Finally, the amount of money that we
19 are talking about. I understand that we began
20 with the premise that the 1982 fiscal year
21 budget would not exceed a certain figure. I
22 don't know where that figure came from, but I
23 assume it came from someone's gut reaction that
24 it would be in error to exceed 400 million
25 dollars in 1982.

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1 With that in mind, I think that you
2 should all know that the issue of what substan-
3 tial involvement means, or what any kind of
4 involvement means, has been widely discussed,
5 literally, from Honolulu to San Juan this past
6 eight months. It is my respect for observation
7 that the present level of funding is inadequate.
8 It is inadequate for political reasons, perhaps,
9 but also in terms of delivering those kinds of
10 substantive services that the DSS study said was
11 possible.

12 I think ten percent is probably more
13 in the ball park than two percent. Beyond that,
14 I guess like that old advertisement that the
15 prune growers used to have, is three not enough
16 or is six too many? I don't know what the real
17 answer is in terms of how much money is ade-
18 quate. I do know that the ten percent sounds
19 like it is in the ball park.

20 Whether, if it is reduced to eight
21 percent or seven percent, I think you are talk-
22 ing -- right now, we are talking about funny
23 money. I think if the Congress and the
24 President would appropriate 399 million dollars,
25 that is a subject that we would all love to

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1 discuss. I think we are going to go down the
2 line and see exactly where we are when we actu-
3 ally know what the figure is. My understanding
4 is that the Carter White House has recommended a
5 figure which will leave about two and a half
6 dollars for the private bar, if we were to sub-
7 tract that from what is currently allocated.

8 With that mythical 399 in mind, to my
9 senses, it makes real sense to exceed the ten
10 and a half percent cost of living increase for
11 the program. I think that perhaps we want to
12 get beyond that ten and a half percent, that we
13 want to perhaps exceed the 399 and to perhaps
14 advocate guns and butter. That is advocated and
15 expanding the private bar, but also, recognizing
16 that we need to keep the people in the field and
17 account for inflation. And we need to give the
18 field people a message, just as we want to give
19 the private bar a message.

20 CHAIRMAN McCALPIN: Dick?

21 MR. TRUDELL: I have three questions
22 for you. In terms of the proposal before us,
23 what do you feel would be adequate for client
24 advocacy, in terms of either a dollar figure or
25 a percentage?

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1 MR. EISENBERG: That gets close to
2 the same kind of issue. I think probably talk-
3 ing -- I am going to try to answer your
4 question.

5 The problem is that there has been
6 discussions directed towards the extent of the
7 corporation's commitment in terms of dollars and
8 cents to the private bar. I have not heard that
9 discussion. Maybe it has taken place. I have
10 not heard that same discussion about client
11 advocacy, that is, from 300 to a million
12 dollars. I feel much more comfortable talking
13 about what my gut says about the private bar,
14 because that has been discussed in a number of
15 different circles. It may be that a million
16 dollars is inadequate.

17 If it is, I think that has to be
18 looked at, too. What I am saying is that I do
19 have a feel for the private bar where I do not
20 have a feel for the client advocacy.

21 MR. TRUDELL: Well, I guess I was
22 just picking up on your gut feelings about keep-
23 ing under 400 million because of the other areas
24 I have concern about, and I raised it in terms
25 of what do you feel is a realistic cost of

1 living increase for the existing program, the
2 staff program? What kind of percentage do we
3 factor in?

4 MR. EISENBERG: Realistic in terms of
5 what you now propose? I would go to 13 percent.
6 I am saying that we will see the 399. I would
7 be willing to fight for that. I am not at all
8 certain that the difference between 399 and 407,
9 or whatever it would amount to, is going to make
10 any political difference at all. Maybe I am
11 wrong. That is my judgment.

12 MR. TRUDELL: A number of people seem
13 to find problems with the language, the alterna-
14 tive delivery system or approaches or what have
15 you. Do you have any suggestions in terms of
16 what the language should be?

17 MR. KANTOR: I think it is now inno-
18 vative, creative alternatives --

19 (Laughter.)

20 MR. EISENBERG: I think, to be
21 honest, you have to make clear of that, a good
22 deal of this money is going to go to the private
23 bar. I mean, if you start hedging it too much
24 and calling it by more and more obscure names,
25 it is not clear exactly what we are talking

1 about. The Congress commissioned a study to
2 look at alternative delivery systems and that
3 was to my mind, primarily private bar. There
4 was also some looking at clinics, and you have
5 suggested looking at lay advocates in such areas
6 as tribal courts.

7 I think that those are all consis-
8 tent. I think alternative delivery, meaning
9 alternative to the traditional staff model, is
10 fine. I am comfortable with that.

11 MS. SHUMP: Bill, Eva LaGarde has her
12 hand up.

13 CHAIRMAN McCALPIN: Yes, I will call
14 on her in a moment.

15 Are there any other questions
16 directed to Howard?

17 MR. EISENBERG: Thank you.

18 CHAIRMAN McCALPIN: Ms. LaGarde, did
19 you want to speak?

20 MS. LA GARDE: Thank you very much.
21 My name is Eva LaGarde. I am with the Client's
22 Counsel Club, State of Louisiana.

23 My concerns have been quite ade-
24 quately discussed. However, I have one
25 question.

1 If you do go outside of the programs
2 to grant pro bono services, I think that you
3 would take extreme caution. It was stated that
4 it should go through the programs, but one of
5 the Board members this morning wanted assurance
6 that you would not stick to the programs and
7 would probably -- If someone had a problem or
8 did not have the cooperation of the program,
9 that some outsider could come in if the program
10 did not cooperate.

11 Who will determine what cooperation
12 is as far as whether the program is cooperative
13 or not? And if you do grant it outside of the
14 program, how will clients be involved? How will
15 the program be implemented? Who will monitor
16 and evaluate its effectiveness?

17 CHAIRMAN McCALPIN: The only response
18 that I could make to that at the moment is that,
19 of course, the issues which you raised are those
20 to be determined initially within the context of
21 staff and ultimately, of the Board and finally,
22 at the local level.

23 But if there were to be a different
24 grantee, then that different grantee would have
25 to meet all the requirements of the statute and

1 the regulations with respect to client involve-
2 ment and everything else that already exists.
3 It is perfectly clear that we could not, I
4 think, have a grantee which was totally indepen-
5 dent of the kind of structure that we have under
6 the statute and the regulations.

7 MS. LA GARDE: Let me ask you another
8 question, then.

9 Would that not pose a threat to the
10 existing program and eventually, you would have
11 grantees outside, and this would probably even-
12 tually engulf and take over all the programs?

13 CHAIRMAN McCALPIN: I think you're
14 right, and that is why, I think I stated this
15 morning, that it is, I believe, the clear thrust
16 of the President's proposal and the consensus of
17 this board that in the vast majority of the
18 cases we are talking about present grantees.

19 I think Professor Sacks simply wanted
20 to inject a cautionary note that in some unusual
21 instances, it might not be possible to do it
22 through an existing grantee. And he didn't want
23 to paint us into a corner where we could not
24 recognize that kind of unusual situation.

25 MS. LA GARDE: I certainly hope that

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1 you all will be painted into a corner, because I
2 think, as clients, we saw so much concern on our
3 side, of the programs already established.

4 One other thing that I would like to
5 address. We have been trying to sensitize
6 attorneys to poor people's needs and aspirations
7 and to go into new grantee programs where we
8 would again have to start the same thing. It
9 will take and put us back about twelve or thir-
10 teen years if this is not considered.

11 CHAIRMAN McCALPIN: Your comment is
12 certainly noted. Thank you very much.

13 According to my count, there are two
14 people who indicated this morning a desire to
15 talk, and I would like to recognize those two
16 whose hands are not raised and then hope that we
17 can move to determination of this item and --

18 Yes, ma'am. Come right ahead while I
19 am talking.

20 -- and get to the rest of the agenda.

21 MS. SMART: I am Ann Smart from
22 Region 6, National Client Counsel.

23 I have a great concern because of the
24 amount of money that is going to be given to
25 this new program which is not new. It is just

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1 an old program with a new name, pro bono. It is
2 something I was raised up with and I can't for-
3 get how much property and stuff my folks lost to
4 private attorneys with this same kind of
5 program.

6 I would like to know from you on this
7 Board what guarantee do we have as eligible
8 clients that we are not going to be tricked out
9 of our program we presently have? What guaran-
10 tees do we have? I would like to have that
11 answered. I am very concerned that you are even
12 considering giving that amount of money to pri-
13 vate attorneys who we have problems with in
14 everyday life.

15 I just can't see it, and I just would
16 like to know what guarantee do we have that we
17 are going to remain with the same program we
18 have? That it is not a trick, that we will end
19 up in the next -- that in 1983 it will not end
20 up with us not having any program?

21 CHAIRMAN McCALPIN: All I can tell
22 you is, that as far as this Board is concerned,
23 that won't happen. What will happen in the
24 future beyond our life here is something that
25 none of us can predict. What we are doing, I

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1 submit to you, is our level best to insure the
2 continuation of this program in a viable state,
3 in an improved state, in a continuing state.
4 That is what all of us here are bending our
5 efforts to.

6 We had different ways of approaching
7 that, but I think in terms of objectives, there
8 is just no doubt at all that we all want to see
9 you not only continue to participate, but your
10 participation expanded and improved.

11 MS. SMART: One other thing I would
12 like to see you do is to reduce the amount of
13 money. I think for a new program -- Everytime
14 we get a new program, they start us out little
15 bit by little bit. I don't see no difference
16 with the Board and the attorneys that they
17 should start out slow and end big.

18 I have been started out little for
19 thirteen years and I am still not big.

20 CHAIRMAN McCALPIN: Thank you very
21 much.

22 Yes, ma'am. Come right ahead,
23 surely.

24 MS. THOMAS: Thank you. I am Audrey
25 Thomas, Louisiana State Public Relations

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1 Director. I was late getting here, so this area
2 would have probably already been touched. My
3 concern is preventive education.

4 In regard to the thirty million that
5 you are planning on allocating the private bar,
6 I can't help but remember one of our attorneys
7 saying that he was not going to get back on the
8 Board, because he had heard through the wind
9 that money was being allocated where private
10 attorneys would be given access to Legal
11 Services through contractual services.

12 For that reason, he was not inter-
13 ested in serving on the Board any longer. That
14 is not my concern. I think that is your con-
15 cern. Once you allocate money, it is hard
16 enough now getting private attorneys to serve.
17 We should anticipate a decline in attorneys
18 willing to serve on the Boards.

19 We are out there trying to train our
20 people to recognize that ignorance of the law is
21 no excuse. For that reason, non-advocacy train-
22 ing should be as important to you who are our
23 protectors under the law as private bar involve-
24 ment. I employ you today to think about preven-
25 tive measures. Try to train our people to

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1 recognize problems before they come into exis-
2 tence.

3 I feel, and Louisiana feels, that if
4 we can have money, adequate funds to get out and
5 train people what to do before they need to go
6 to Small Claims Court, what to do before they
7 put their homes up for mortgages, what to do
8 before they have a problem within the educa-
9 tional system.

10 Legal Services will not be as over-
11 loaded as it is now and we will have no need to
12 contract out services. I know that you have a
13 mandate and that this is something that you need
14 to do. However, I do feel that you should think
15 in terms of percentages, as I have heard here
16 today.

17 If you think in terms of a smaller
18 percentage to involve the private bar, perhaps
19 you will have a larger percentage to give us.
20 Although we do not mind volunteering our time,
21 we who are on fixed incomes and we who are on
22 low incomes and we who are on no incomes will
23 need funds from you to travel, to go to places,
24 to locate the people who are having problems.
25 To locate the children who you anticipate will

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1 need problems in the near -- will need services
2 in the near future. If we can catch those chil-
3 dren at day one, then perhaps these are clients
4 that you will not see at Legal Services' doors.

5 Please think about this. Look in
6 terms of providing more services in preventive
7 education.

8 Thank you.

9 CHAIRMAN McCALPIN: Thank you very
10 much.

11 Revius?

12 MR. ORTIQUE: I just want to under-
13 score a point that the lady made. If we get to
14 the suggestion that perhaps we ought to take
15 another look at what the figures should be, I
16 indicated earlier that I certainly think that
17 the principle that we have got to do this, but I
18 think the lady really touched a point that has
19 been demonstrated probably all across the
20 country.

21 And that is, that if there is money
22 out there to pay people to do a job, what hap-
23 pens to the pro bono components that we are
24 hoping to encourage. I know for a fact that
25 when we have the system in Louisiana of

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1 volunteer lawyers in criminal cases at a point
2 of about ten or fifteen years ago, they insisted
3 that the corporate lawyers get on the panel and,
4 you know, we private practitioners were carrying
5 the load. And we decided we weren't going to do
6 that without any big law firms.

7 Then the big law firms decided that
8 we better get behind the Public Defender pro-
9 grams and find the funds necessary to hire
10 public defenders. Therefore, we private practi-
11 tioners, as well as the big law firms, were
12 relieved of our responsibility to represent
13 indigents in our courts here in Louisiana.

14 My concern, then, is, why should the
15 lawyers that we are encouraging in the Louisiana
16 State Bar Association to come up with matching
17 funds on your pro bono program, why should they
18 feel that they are compelled to work in that
19 area and do the things that their canons require
20 them if a half million or 750 thousand dollars
21 is allocated to Louisiana, because obviously, we
22 are going to get our share, too, if you put
23 thirty million dollars out there.

24 Once 750 thousand dollars is avail-
25 able in Louisiana, what does it do to those

1 volunteer lawyers in criminal cases at a point
2 of about ten or fifteen years ago, they insisted
3 that the corporate lawyers get on the panel and,
4 you know, we private practitioners were carrying
5 the load. And we decided we weren't going to do
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20 them if a half million or 750 thousand dollars
21 is allocated to Louisiana, because obviously, we
22 are going to get our share, too, if you put
23 thirty million dollars out there.

24 Once 750 thousand dollars is avail-
25 able in Louisiana, what does it do to those

1 lawyers who conscientiously have provided legal
2 services? What does my United Way say to us
3 when they know that there is 750 thousand
4 dollars available for legal services? They are
5 not saying we no longer need -- It is a very
6 small allocation, but it does help, you know.
7 What do they say about that?

8 I think, at least, we ought to look
9 at the level of funding of this idea and I am
10 committed that it is a good idea.

11 CHAIRMAN McCALPIN: Revius, let me
12 just quickly say that I think we have to lever-
13 age this money into giving an increment of ser-
14 vice over the dollar we are talking about. I
15 think we have to do that, and that is the answer
16 to how you do the pro bono thing.

17 As far as the United Way is con-
18 cerned, I've met that same problem, too, and
19 until we are able to say that we have satisfied
20 all the needs, it seems to me we have got a good
21 answer to United Way.

22 What I would like to do is terminate
23 the public discussion part of this by calling on
24 PAG for one last word, and then bring it back to
25 the Board level and see if we can take some

1 action.

2 Will you identify yourself, please?

3 MR. DORSEY: My name is Charles
4 Dorsey. I am the Chairperson of the Project
5 Advisory Group. I am a lawyer. I am a part of
6 what I feel is a local and ancient profession.

7 Sometimes I get a little confused
8 when I hear discussions such as this. Sometimes
9 in discussions such as these we talk as though
10 responsibility for providing services to those
11 who cannot afford them rests solely on Legal
12 Services Corporation, on the Legal Services
13 movement. This is not so.

14 Canon Two provides that every lawyer
15 is responsible for helping the effort to see
16 that people who cannot afford lawyers get them.
17 So, this means to me that the question is not
18 whether the private bar participates in the pro-
19 vision of legal services.

20 I think it is fair to say that this
21 corporation was set up by the realization that
22 the private bar alone could not or would not
23 provide services for poor people. What I am
24 suggesting to you is that the responsibility for
25 providing services for poor people is not that

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1 solely of the corporation, but of the entire
2 bar, of which I am a part.

3 The question, further, is how can we
4 meaningfully involve the private bar in distribu-
5 ting the responsibility that rests upon all of
6 us.

7 Bill, you know, I agree with you that
8 fifteen years ago it would have been desirable
9 for us in Legal Services to have gotten more
10 involved in the private bar, to have gotten the
11 private bar more involved in the work that we
12 do. But I think that it is improper, fifteen
13 years later, recognizing that mistake, to try to
14 overcome that mistake by throwing money at it.
15 That is not going to help.

16 We are talking about embarking on an
17 organized approach of getting the private bar
18 involved in something that they have responsi-
19 bility for. How can we help the private bar
20 meet their responsibilities, which we are help-
21 ing along?

22 I was very pleased to hear what
23 Mickey had to say about moving purposefully in
24 this area, instead of throwing thirty million
25 dollars at it. You can draw all the

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1 distinctions you want. I am here to say that
2 there are many of us in the field who will see
3 \$500,000 going, as it was discussed prior to the
4 last PAG meeting, to five million dollars and
5 mushrooming to thirty million dollars.

6 I agree that thirty million dollars
7 could not be used, even if Reece Smith got all
8 of his pro bono programs off the ground, it
9 could not be used in a meaningful way. So, I
10 would urge the Board to consider seriously what
11 Mickey is urging, that we proceed purposefully
12 in this area.

13 I get a little disturbed when I hear
14 people quote the delivery systems study as
15 though it were sacred writ. It is not. All
16 that it was was a study. There were twelve
17 staff programs, which my program was one. There
18 were a number of experimental programs started
19 up in a lot of different places. I submit to
20 you that those programs and the selection of the
21 sites were done very carefully.

22 Boston and New York are not
23 Baltimore. They are not Little Rock. They are
24 not Galveston. They are not perfect, Texas.
25 You cannot quote the delivery systems study as

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1 the basis of saying that pro bono, judicature,
2 or anything else will work everywhere.

3 I think that we are still in the
4 process of testing and experimenting with pro
5 bono, with private bar involvement, and I think
6 that it would be improper to throw thirty
7 million dollars at it.

8 One other thing. One other thing.
9 Talking about this Board, I have been to a num-
10 ber of Board meetings and I know the people
11 here. I would like to be able to say that this
12 Board will stay in place to set up thirty
13 million dollars for your successors, who are
14 unknown to us. It seems to me we are playing
15 Russian roulette with the things that are very
16 important to our clients.

17 Think very carefully before you do
18 that. You throw thirty million dollars out
19 there, I can tell you that the majority of the
20 people in the field are going to say that this
21 decision was not based upon principle, and I
22 know all of you are people of principle.

23 But the decision was made as a result
24 of pressure. That is the risk that you run.

25 Talk about symbols, I think the corporation in

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1 particular at this time must be a symbol of
2 strength for all of us laboring in the field.
3 You have a very difficult decision to make.

4 I am sure that the decision that you
5 will make, because I know each one of you, will
6 be based upon principle. Thank you.

7 CHAIRMAN McCALPIN: Thank you,
8 Charles.

9 In view of the fact that the proposal
10 which is before us emanated from the staff, it
11 seems to me only appropriate that as we come
12 back to this table that I ask Dan to reflect on
13 what has been heard this last hour and three-
14 quarters.

15 Dan?

16 MR. BRADLEY: Thank you, Bill. Not
17 only reflecting on what has been said the last
18 hour and three-quarters, but I would like to
19 reflect on what has been said for the last fif-
20 teen years.

21 I doubt if there is an issue, and I
22 have been involved in Legal Services as long as
23 most everyone in this room, that I feel as
24 strongly about as I do this issue. Absolutely,
25 unequivocally, positively, there is no issue, as

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1 long as I am the President of this Corporation
2 and I am charged with the responsibility of being
3 your advocate before the United States Congress
4 next year, dealing with the new Administration
5 next year, dealing with the realities of 1982,
6 there is absolutely no way, in my judgment, that
7 I can carry the arguments, fight those fights,
8 win those battles to preserve, protect and
9 defend an aggressive, independent Legal Services
10 program that is responsible to the needs of
11 their clients, if we do not move in this direc-
12 tion.

13 There are very few people on the face
14 of this earth that I have greater respect for
15 than my good friend, Mickey Kantor. I think his
16 suggestion and his approach is not only wrong,
17 but it would be self-defeating and it would be
18 devastating in us dealing with our friends, our
19 supporters in the United States Congress, whose
20 support, whose understanding, whose defense of
21 the independence and the protection and the
22 continuation of this program rest upon.

23 I started making notes as these argu-
24 ments were made. There is not a single argu-
25 ment, there is not a single observation, there

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1 is not a single issue, there is not a single
2 factor that we have not talked about last night,
3 previous meetings, this morning, this afternoon,
4 that all of us in this room have not heard
5 countless times before. I am not trying to make
6 a closing argument in behalf of the staff's pro-
7 posal or my proposal.

8 I have to simply express my genuine,
9 my heartfelt opinion. I know what lies ahead.
10 I have spent more hours than I care to recall in
11 this last year trying to maneuver through 1979,
12 to save, to preserve, protect and defend this
13 Legal Services movement and this Legal Services
14 Program.

15 It has been a tough year. It has
16 been a difficult year. It is going to be a
17 tougher year next year. It is going to be a
18 more difficult year next year. It is going to
19 be a more challenging year next year.

20 If I have to be prepared for oral
21 arguments, if I have to be prepared for doing
22 what most of you in this room understand has to
23 be done in an effort to save this Legal Services
24 Program, all I can tell to this Board, and
25 strongly, unequivocally, emphatically recommend

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1 to this Board that we have got to move in this
2 direction, at this time and take this opportu-
3 nity and move forward, being fully aware,
4 totally aware that everything that every Board
5 member has expressed and every participant in
6 the debate and the discussion has expressed.

7 I think we should stipulate for the
8 Record that we are aware of all of those
9 factors. We are prepared to address all of
10 those factors. I know that there is no way, and
11 in the final analysis it came down to a judgment
12 that I had to make as your chosen President,
13 after participating in the same debates, the
14 same discussions that you heard today at my
15 staff level, at the field level, at the client
16 counsel level, and a lot of other levels.

17 All I can say, considering all of
18 those things, trying to put together, and if you
19 ask me what is my considered opinion, all that I
20 can tell you, as strongly as I can possibly tell
21 you and as deeply as I possibly feel it, that
22 the direction in which we are trying to move
23 with full consideration to those concerned that
24 all of you have expressed, the amounts of money
25 that we are talking about, fine, we can make it

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1 29.2 million. We can reduce it to 26.3 million,
2 but what is embodied in this and what we are
3 suggesting, I don't think that if we spend the
4 rest of the afternoon that we are going to be
5 able to develop figures, concepts, language that
6 will increase our ability, especially during the
7 next critical six months, the next six months
8 when Bill McCalpin, Dan Bradley and Mary and all
9 others of you in this room will be joining with
10 us in dealing with certain key events that are
11 going to take place in the United States
12 Congress in the next six months.

13 And I am absolutely convinced that
14 this is the only direction -- excuse me -- that
15 this is the best direction that we can proceed in
16 at this time in the life of the Legal Services
17 Program.

18 Bill, I would just prefer not to try
19 to respond to all the points of the notes that I
20 have made. And it bothers me and it concerns me
21 as deeply as it does my friends, Bruce, Berney
22 and all the others, and Charles' eloquent state-
23 ment. I share every concern that Charles
24 expressed. We just have a difference of opin-
25 ion. Whose opinion is right? Charles' opinion

1 or mine? I just don't know.

2 All that I can tell you is that this
3 document, this staff proposal and my recommenda-
4 tion to you represent, in our judgment, the best
5 approach to deal with this issue at this time
6 and for the next six months. I cannot add any
7 more to it.

8 CHAIRMAN McCALPIN: Thank you very
9 much.

10 The proposal which is before us and
11 has been since before lunch is the adoption of a
12 recommended breakdown, itemization of a proposed
13 fiscal 1982 budget. It has been thoroughly dis-
14 cussed by members of the Board. We have heard
15 from members of the public. What is the plea-
16 sure of the Board at this time?

17 The proposal is before us -- Dick?

18 MR. TRUDELL: I would suggest that we
19 revisit some of these areas before we adopt the
20 total budget. I can't agree with Dan any more,
21 I think, from his position. He has a good feel
22 for what can be expected. I think, realistic-
23 ally, if the fight was so tough to get seven
24 percent, I can't conceive getting in excess of
25 twenty percent.

1 So where does that really place us?
2 I think, in terms of looking at some of these
3 figures, if the cost of living should be a
4 higher figure and if we should put more money to
5 client advocacy, then I think we'll have to take
6 a quick look at some of this.

7 CHAIRMAN McCALPIN: It seems to me
8 that the orderly way to proceed is that if any-
9 body has any proposed amendment to the pending
10 motion, I think we ought to offer it, we ought
11 to consider it, I hope as much as necessary, but
12 briefly, and then move on to an ultimate deter-
13 mination.

14 MR. TRUDELL: I would propose that
15 the cost of living increase should be thirteen
16 percent.

17 CHAIRMAN McCALPIN: Just for purposes
18 of understanding the motion, are you proposing
19 that as an addition to the total or as some
20 rearrangement?

21 MR. TRUDELL: I guess I should have
22 asked for some clarification or comments about,
23 is there something magic about 400 million?

24 Are we trying to talk about keeping
25 it under that figure or add on, or whatever?

1 Dan, do you want to address that?

2 MR. BRADLEY: In the context of the
3 issues and the questions, Dick, as it has been
4 framed, in my opinion, if the question is, is
5 the 400 million mark sacrosanct beyond which we
6 cannot go, I think my recommendation is -- I
7 think it is important for us not to exceed that.

8 But I would not say to you that it is
9 a point beyond which we absolutely could not go.
10 If you ask me the next question, okay, Dan, if
11 we wanted to move in that direction, could we
12 take it from the thirty million item and stay
13 within the 399, I would strongly, strongly
14 recommend against that. And if those were my
15 options, I would rather exceed the 400 million
16 by three or four million, whatever the figure
17 you have in mind, rather than to take it from
18 that line item.

19 MR. TRUDELL: Let me just phrase my
20 complete motion and I will shut up.

21 I would move that we ask for or pro-
22 pose a thirteen percent increase, which figures
23 out to another eight million, thirty-two five --

24 CHAIRMAN McCALPIN: 80325?

25 MR. TRUDELL: Yes, 8,032,500. I

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1 would further recommend that client advocacy,
2 that figure be increased to five million. I
3 would, finally, suggest that the language,
4 expansion of field program services through
5 innovative delivery approaches, or whatever we
6 are struggling towards, be changed.

7 I will not -- That's it. I am not
8 going to touch the final figure.

9 CHAIRMAN McCALPIN: I think that it
10 is important that we know whether you are making
11 these proposals as additions to the 399,636,500
12 or whether you propose some compensating reduc-
13 tions to accommodate the twelve million dollars
14 that you have proposed to add.

15 MR. TRUDELL: I would have to reduce
16 -- It would have to come out of the thirty
17 million.

18 CHAIRMAN McCALPIN: Then, I under-
19 stand that your motion is to increase the second
20 line by \$8,032,500, to increase the fifth line
21 by four million dollars and to reduce the sixth
22 line by \$12,032,500. Do I accurately state your
23 motion?

24 MR. TRUDELL: And the change of the
25 wording, I guess, through individuals --

1 CHAIRMAN McCALPIN: Let me say that I
2 don't think we consider that the words are part
3 of it.

4 MR. TRUDELL: Basically, that's it.

5 MS. ESQUER: I didn't get that last
6 figure.

7 CHAIRMAN McCALPIN: As I understand
8 the motion, it is to increase line 2, the cost
9 of living, from 10.5 percent to 13 percent,
10 which adds, taking Dick's figure, \$8,032,500; to
11 increase the fifth line, client advocacy, from
12 one million dollars to five million dollars, a
13 four million dollar addition. The total of
14 \$12,032,500 is proposed in the motion to come
15 from line six, the thirty million dollars.

16 That takes it to approximately
17 \$17,900,000 or thereabouts and leaves the total
18 at \$399,636,500. Have I accurately restated
19 your motion?

20 MR. TRUDELL: That's it. I would
21 prefer not to mess with the thirty million
22 dollar figure, but I guess that has to be used.
23 The thirty million figure, I just don't -- I'm
24 trying to defer to, I think, Dan's judgment is
25 what that figure should be, and I would prefer

1 to hear further comments on that particular
2 figure.

3 CHAIRMAN McCALPIN: I have not heard
4 a second to the motion.

5 MS. ESQUER: I'll second.

6 CHAIRMAN McCALPIN: Okay.

7 MR. KANTOR: Excuse me. I'm sorry,
8 Mr. Chairman. I just want one clarification
9 from Dan, but your proposal, Dick, is to add
10 eight to the cost of living, add four to the
11 client advocacy and take away twelve from the
12 thirty million dollars for the innovative crea-
13 tive alternative delivery systems; is that it?

14 MR. TRUDELL: Yes.

15 CHAIRMAN McCALPIN: Howard?

16 MR. SACKS: Well, I have sat here and
17 listened to all the discussion on the thirty
18 million dollar figure pro and con, and I think
19 that I am going to go with the President of the
20 Corporation. He is the man that has to go for-
21 ward and defend the Corporation, and it is going
22 to be a very tough year.

23 I don't want to cripple him in
24 advance. I have never heard the President of
25 this Corporation speak with such firmness,

1 perhaps even ferocity on an issue as he has just
2 spoken. It is quite uncharacteristic of Dan
3 Bradley to express himself so strongly. If Dan
4 Bradley says this is what I need to protect and
5 advance your interest, the interest of the
6 entire community, I don't want to be in the
7 position of saying to him, "Well, you're wrong
8 and I'm right and I know more about what goes on
9 on the Hill, Dan, than you do. And, therefore,
10 I am prepared to overrule your judgment."

11 I am not prepared to do that. While
12 I have the floor, let me just say a couple of
13 more things to the substance of this. The
14 thirty million dollars is probably -- we are
15 probably not going to get it. It is largely
16 symbolic, but the symbolism is very important
17 for the reasons that Bill McCalpin expressed so
18 eloquently this morning.

19 We have to demonstrate to the
20 Congress that we are really sincere and serious
21 in involving the private bar. Let us call it
22 what it is, the private bar. It is important
23 because there is a whirlwind blowing through
24 this country. It began to blow in the last
25 session of Congress and it picked up additional

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1 momentum in November. And if we are not care-
2 ful, it is likely to blow us away.

3 Bill McCalpin has said what we must
4 do is try to ride that whirlwind to try to con-
5 trol the forces of change that will be at our
6 throats within about a month. And one way to do
7 that is to try to control this movement towards
8 the private bar. If we don't try to control it,
9 if we take a position of negativism, we may wind
10 up with a large part of the staff program being
11 destroyed by those who believe, not in the staff
12 program, but believe in pure judicature across
13 the board in all the fifty states.

14 So, the symbolism is terribly
15 important.

16 On the other hand, if we are lucky
17 enough to get the thirty million dollars, it
18 doesn't mean that we have to rush out and spend
19 it. Unlike most corporations, we are in a posi-
20 tion to retain the funds. If we can't spend it
21 all intelligently and wisely in the first year,
22 then maybe we are going to have some left over
23 that we can spend in the second year.

24 I know what the argument is. The
25 argument is, "Let's wait for 1983 and then we

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1 can go back for more. Is there anybody in this
2 room that is prepared to say that 1983 is going
3 to be a better year than 1982?

4 If anything, it is likely to be
5 worse. Therefore, I think if we don't get the
6 thirty million, we still have gotten the
7 symbolic value of making a strong case. And if
8 we are lucky enough to get the thirty million,
9 we can have it and can use it intelligently.

10 Those arguments, I think, have to be
11 considered. The more important argument, to me,
12 is that I don't want to say to Dan, that you go
13 into battle with one arm tied behind your back,
14 because I know better than you, Dan, what is
15 required to fight the battle on Capitol Hill.

16 CHAIRMAN McCALPIN: Ramona?

17 MS. SHUMP: Let me start off by say-
18 ing that I don't believe that Dick's reduction
19 of that figure, and I'm certainly hopeful that
20 no one on this Board would say to Dan that we
21 know better than he, what is going to be neces-
22 sary upon the Hill. I think we all have a great
23 deal of trust and faith in Dan.

24 However, Howard, we are not telling
25 Dan to go up with one arm tied back of him.

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1 Perhaps what we need to say is that we will go
 2 up with you. And let me tell you one other
 3 thing. All those people were elected by poor
 4 people, too. And the same way that they were
 5 elected by poor people, they had better realize
 6 that they have a commitment to poor people and
 7 there are a lot more poor people in this country
 8 than there are rich people.

9 There are a lot more poor people in
 10 this country than there are private attorneys.
 11 One other thing, if you talk in terms of allow-
 12 ing the clients to help instead of constantly
 13 being told that someone knows more than they do,
 14 because they hold a degree or because they have
 15 some political pull, then you will never accom-
 16 plish what we hopefully were intending to accom-
 17 plish, and that was to insure that poor people
 18 would be served.

19 I would hope that in supporting
 20 Dick's motion, that we would be saying to Dan
 21 that we are prepared to go with you, ahead of
 22 you, behind you, alongside of you, any way that
 23 we can go to help obtain what we need.

24 MR. BRADLEY: Mr. Chairman, may I ask
 25 a question? I apologize. I stepped away, also,

1 and I didn't know if I understood Dick's motion.
2 And I don't want to speak either in favor or
3 against it.

4 CHAIRMAN McCALPIN: Sure.

5 MR. BRADLEY: Let me just explain,
6 because maybe I was unresponsive to your last
7 question. I want to make myself perfectly clear
8 on it.

9 If the suggestion is that additional
10 items are to be added on any additional amounts
11 to any of these particular items, if the ques-
12 tion is the appropriateness or whether or not
13 certain amounts should be added to any of these
14 additional items and thus, exceed the 400
15 million dollars as opposed to staying within the
16 400 million dollars, and adding those items and
17 taking it from the thirty million dollars, I
18 just want to make sure, and I am not speaking
19 for or against your motion, I just want to make
20 sure, I would much prefer that you exceed the
21 400 million dollars, if those are the items that
22 we need to add in those amounts, rather than to
23 sacrifice and reduce that thirty million dollar
24 line item.

25 MR. TRUDELL: I guess that is the

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1 reason that I suggested to Bill that we maybe
2 revisit these items item by item.

3 I just feel that, you know, I'm not
4 going to withdraw my motion or add to it, but in
5 terms of the symbolism, I think if that is what
6 we are looking for, it has to be sent to more
7 than just the Congress or the Bar or whoever. I
8 think that 18 million, if that is the figure
9 that we were to leave there, that represents
10 pretty close to five percent of a 400 million
11 dollar budget.

12 I think if people don't consider that
13 symbolism, then I don't know what they are look-
14 ing for. The comment I had made about that if
15 you're going to do the job and start off doing
16 it the right way, then I think a million dollars
17 for, you know, was laid out here for client
18 advocacy, I feel this barely scratches the
19 surface.

20 I think that realistically we are
21 just reaching for pie in the sky when we exceed
22 that 400 million dollar figure.

23 CHAIRMAN McCALPIN: The issue that is
24 before the Board is Dick's amendment to the
25 pending motion. Is there any further discussion

1 of the amendment?

2 (No response.)

3 CHAIRMAN McCALPIN: Are you ready to
4 vote?

5 All in favor -- I'm sorry. Howard?

6 MR. SACKS: I just want to make it
7 clear that as I understand the amendment, it is
8 to leave the 399 figure intact; is that correct?

9 CHAIRMAN McCALPIN: That is my under-
10 standing of the motion -- of the amendment;
11 that's correct.

12 All in favor of the amendment will
13 please raise your hand.

14 (Show of hands.)

15 CHAIRMAN McCALPIN: Trudell, Shump,
16 Worthy, Ortique.

17 All opposed, please raise your hand.

18 (Show of hands.)

19 CHAIRMAN McCALPIN: Kutak, Sacks,
20 Esquer, Rodham, McCalpin, Engelberg, Kantor.

21 The motion fails.

22 The pending business now is the
23 original motion with respect to the 1982 budget
24 as contained on Page 13 of last night's agenda.

25 Cecelia?

1 MS. ESQUER: Mr. Chairman, I would
2 like to offer an amendment to that motion. I
3 think that the symbolism does go both ways. I
4 think that the symbolism in the fact that we had
5 looked at a mark of 399 with a 13 percent cost
6 of living increase is important, and I really do
7 not want to go away with less than 13 percent
8 for cost of living.

9 What I propose -- At the same time,
10 though, I do not feel that it is realistic to
11 present the mark at this time, that exceeds the
12 level of 399, because we have seen what the
13 President's recommendations are. We have
14 received, you know, some documentation from OMB,
15 and what I would like to suggest instead would
16 be that I would support Dick's figure of 13 per-
17 cent, and I don't have the math on that, and I
18 don't know if we have to have an exact figure at
19 this particular time, but that it be 13 percent
20 over the 321 base.

21 I think that I can go a maximum of
22 20, because when Dan started his entire conver-
23 sation, and I think even you, you know, at the
24 previous Audit Appropriations Committee Meeting,
25 everyone has said that thirty is not a magic

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1 figure. I really do not think that it is.

2 Howard, I don't think that we are
3 putting Dan in an indefensible posture when he
4 has unanimous consent and direction from this
5 Board telling him that it is important for us to
6 continue and to enlarge our efforts with the
7 private bar involvement. And so, seeing that
8 the thirty million figure is not magical, I
9 think that I would have no problem going with
10 the twenty million and then whatever balances
11 are left there, and I haven't done any math
12 because I don't have calculators and I am ter-
13 rible at adding and subtracting, whatever the
14 differences there are, I do think that this
15 Board has expressed time and again a commitment
16 to client participation.

17 I would suggest that whatever
18 balances there are, that they be put in that
19 particular column right there.

20 CHAIRMAN McCALPIN: Let me restate
21 your motion to make sure that I understand it.
22 You propose to amend the second line by adding
23 what we understand is a figure of 8,032,500 to
24 accept Dick's arithmetic of previously. You
25 would reduce line six from thirty million to

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1 twenty million, and you would take whatever
2 excess which, I believe, is approximately
3 \$1,961,500, and add it to line five, client
4 advocacy. Does that properly state your motion?

5 MS. ESQUER: It does.

6 MR. BRADLEY: The balance is slightly
7 different. It is 1967.

8 CHAIRMAN McCALPIN: All right. I
9 don't subtract very well in my head.

10 Is there a second?

11 MS. WORTHY: I second it.

12 CHAIRMAN McCALPIN: The motion has
13 been made and seconded. Is there any discussion
14 of this motion?

15 (No response.)

16 CHAIRMAN McCALPIN: Hearing no
17 request, I will put the question forth. All
18 those in favor of the amendment, please raise
19 your right hand.

20 (Show of hands.)

21 CHAIRMAN McCALPIN: Esquer, Shump,
22 Worthy, Ortique.

23 All opposed, please raise your hand.

24 (Show of hands.)

25 CHAIRMAN McCALPIN: Kutak, Sacks,

1 Rodham, McCalpin, Engelberg, Kantor.

2 The motion fails.

3 MR. SINGSON: Mr. Chairman.

4 CHAIRMAN McCALPIN: Did I do some-
5 thing wrong?

6 MR. SINGSON: For the Record, I
7 believe Mr. Trudell voted for the motion.

8 CHAIRMAN McCALPIN: I'm sorry.
9 Trudell. One, two, three, four, five -- The
10 motion fails five to six.

11 We are back to the main motion, which
12 is the approval of the budget contained on Page
13 13 of the agenda materials. Is there any fur-
14 ther discussion of that item?

15 MR. KANTOR: Mr. Chairman, since it
16 appears, as I thought it would turn out, I
17 figured I would be the sixth vote on one of
18 these. I want to make a couple of observations.
19 I think that would be the best way to put it.

20 Since, in 1968, the first time I met
21 Dan Bradley, we were in a meeting and I saw him,
22 Howard, just as emotional as he was here today
23 and I voted for him then. I'm going to do the
24 same thing now.

25 I think it is important to support

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1 Dan in this. I don't think that the Legal
2 Services movement has ever been in a greater
3 crisis, whatever the situation has been.
4 Whether it has been the Murphy Amendment or the
5 Firing of Lindner or the veto by President Nixon
6 in '71 or the first Board that Nixon nominated
7 in -- what? -- '74, I guess, we have never been
8 in a greater crisis.

9 So, I am going to, as I think we all
10 should, defer to Dan's judgment. A couple of
11 things that I want to make clear for as long as
12 I sit here, and longer, because I will always,
13 obviously, be concerned about what happens to
14 this corporation and this movement, is that,
15 number one, if we were so lucky to get thirty
16 million dollars, then I think Howard Sacks makes
17 the correct point and I think Dan understands
18 and has said, at least implicitly, that you
19 don't have to spend thirty million dollars in
20 one year, that it ought to be spent wisely as we
21 spend all our dollars.

22 These are very limited dollars and it
23 is very precious money.

24 Secondly, we are to be concerned
25 about accountability to the client community,

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1 and I think it ought to be our number one con-
2 cern. We ought to be concerned about the
3 quality of services delivered. We ought to be
4 concerned about standards. We ought to be con-
5 cerned about local programs being the grantees
6 of this money.

7 I think we are all talking about the
8 same thing. I wanted to make that clear before
9 we went into this, because we are embarking, not
10 in a new direction, but we are certainly supple-
11 menting where we have been before. It is impor-
12 tant to me that I articulate where I am on this
13 issue. I, for one, would have wanted a situa-
14 tion that would have allowed a phase-in, but I
15 think that is what we are going to be faced
16 with, anyway, frankly.

17 I think that is what limited money in
18 the Congress is going to do. I think we are
19 probably where most of us in the room would have
20 wanted to be, but I think it is incredibly
21 important at this time, given what just hap-
22 pened, that we support Dan and support Bill.
23 Ramona, all of us are going to be involved in
24 this as we go up to the Hill in probably, the
25 most crucial year that Legal Services has ever

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1 faced.

2 Thank you, Mr. Chairman.

3 CHAIRMAN McCALPIN: Mr. Kutak?

4 MR. KUTAK: I have been uncharacter-
5 istically quiet. I guess it is because so much
6 has been said that speaks from so many of our
7 views, but in the last few minutes I have
8 minutes I have observed a few things that I hope
9 we all agree upon.

10 In our discussions today, and cer-
11 tainly, our actions tomorrow, none of us feel
12 that this is a question between the poor and the
13 prosperous. It is not a question between client
14 and lawyer. It is not a question between staff
15 attorney system or the private bar.

16 These are not choices that we are
17 making among those various categories. From the
18 day that we first came together and the time
19 that we have sat since, we have had one over-
20 riding principle and one common concern. That
21 is the delivery of legal services. It is not
22 the form, but it is the purpose that we should
23 be concerned about.

24 We should keep our minds as well as
25 our doors, if you will, open not only to all

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1 that need those services, but to those who can
2 provide them. I would hope by the spirit of
3 this motion and by, indeed, the accompanying
4 text that suggests the commonality of our
5 effort, we emerge not divided, but united.

6 MS. RODHAM: Mr. Chairman.

7 CHAIRMAN McCALPIN: Ms. Rodham?

8 MS. RODHAM: Let me just say that I
9 will support the motion and I have not spoken
10 about it in part, because I think in many ways
11 it has been the most difficult decision that has
12 faced the Board in many, many months. I think
13 it is a very high risk strategy. I think that
14 the whole business got high rewards commensurate
15 with the high risk.

16 I have thought about it a great deal
17 in the time since it has been brought to my
18 attention and really, Charles Dorsey, you really
19 had me when you finished. Unfortunately,
20 Bradley may have understood that and came
21 charging in. I think in large part because he
22 is charged with the responsibility that we have
23 given him and also, because he has spent so many
24 hours working on this, I am deferring to his
25 judgment.

1 I think that it is important that, as
2 we finalize this, because apparently the votes
3 are here for the proposal and it will be
4 adopted, that every person here and every person
5 whom the people here represent understand what a
6 high risk proposition it is. There is no guar-
7 antee that it will be successful.

8 There is certainly less than optimism
9 that we will get any increase and that what we
10 are doing is fighting for the principles and
11 beliefs that the Corporation has stood for and
12 for the Corporation's survival. I think it is
13 very essential that in the next couple of
14 months, around this issue as around so many
15 issues, people separate the forest from the
16 trees and put aside differences about strategy
17 and about tactics in order to realize that there
18 is going to have to be a great deal of unifica-
19 tion around the very simple and straightforward
20 objectives.

21 With that in mind, I think that the
22 President's proposal is a very well thought out
23 and very hopeful approach to offering the kind
24 of good faith support for this enterprise that
25 the Board wants to see adopted by the Congress

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1 and adopted by the community. It is not an easy
2 decision and I don't think any one of us here
3 feels one hundred percent comfortable, including
4 the President, but I feel that it is appropriate
5 that we move on and that we work to support the
6 particular goals of the '82 budget and the
7 strategy that we have opted to follow.

8 CHAIRMAN McCALPIN: Dick Trudell?

9 MR. TRUDELL: I think that there
10 isn't anyone seated around this table that is
11 anti-bar, and I think especially the lawyers.
12 But I think, again, I guess my amended motion
13 really spelled out my position of thinking. I
14 think we have given lip service to the client
15 community if we adopt this proposed budget as it
16 is. I think to a certain extent to the field as
17 well.

18 I think we all agree that we are
19 reaching for pie in the sky. We are the people
20 that Congress are going to look to in terms of
21 the action of the Board. On one hand, we are
22 willing to give an increase that is much less
23 than what the projected cost of living increase
24 will be during the next year.

25 We are, once again, telling clients

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1 that they are not quite ready yet, and we will
2 get to you once we get to the bar. In the mean-
3 time, we will go on the record as, you know, be
4 willing to allocate the thirty million dollars
5 to the private sector.

6 Again, I mean, I'm not anti-bar, but
7 I think there has to be a balance. I think this
8 reflects a real unbalance.

9 CHAIRMAN McCALPIN: Jo Worthy?

10 MS. WORTHY: I would like to say in
11 respect for our President, I think Dan knows I
12 have high regards for him and the work that he
13 has to do. I know how our vote is going to go.
14 I have to agree with Dick, I am not anti-bar,
15 either. I always say that we have a dynamite
16 program in my area.

17 We have a program that answers to
18 clients and works with clients. I heard Howard
19 say that he had not heard as much argument as
20 far as client money involvement, as he did on
21 issues as, say, private bar money. I hope that
22 we have just as strong of an argument on the
23 program or the quality of services that clients
24 are going to receive from the pro bono program,
25 or however this money is set up.

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1 I hope that whomever is sitting here
2 on this Board will hear our President give such
3 an emotional speech when he finds out that
4 clients are not involved in setting this up,
5 that you have not come to us and talked about
6 this. I hope that kind of argument is very
7 strongly held amongst any Board members and,
8 hopefully, our President is still around, that
9 he can almost make them cry, also, and realize
10 that this Board sat here out of sincerity, and
11 say that we want a program set up where clients
12 are involved in saying what happens in their
13 life with this money.

14 Now, if that does not happen, I don't
15 know where I'll be. I'll be somewhere working
16 with Legal Services or whatever. I hope I will
17 be able to come back and remind our President of
18 this touching and all the speeches that have
19 been made in support of this thirty thousand
20 dollars -- I mean thirty million. I hate to say
21 the word, really.

22 I hope, and I am sure, knowing Dan as
23 I do, and how concerned he is about clients,
24 that I will hear the strong support coming from
25 him in regards to the input or setting up for

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1 every type of program that you are going to set
2 up with the private bar.

3 CHAIRMAN McCALPIN: Revius?

4 MR. ORTIQUE: I would like to say
5 that I think that the message, and I underscore
6 what Josephine so eloquently said, the message
7 that some of us were trying to say is that we
8 don't believe that or we didn't believe, or we
9 wanted it known that we were not supportive of
10 thirty million dollars, although we were
11 supportive of the principle that had been
12 brought to us by the President.

13 There had been two votes, one at 18
14 million, the other at 20 million, and if I
15 thought there was a chance to do it, I would
16 suggest 25 million dollars. I'm not going to do
17 that.

18 I would hope that we would realize
19 that a vote that would leave here six to five or
20 even seven to four, would not be the type of
21 vote on such a crucial issue that we ought to
22 present to the Congress or to anyone else that
23 wants to examine these records.

24 I want to state that I am going to
25 vote for this thirty million dollars with the

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1 message that has been so eloquently put here. I
2 have confidence that the staff and our President
3 will understand our concern and that we will
4 find a way to express in the immediate future
5 the notions that have been expressed in these
6 two votes that have gone down indicating that a
7 majority of the Board favors the thirty million
8 dollars.

9 CHAIRMAN McCALPIN: Cecelia?

10 MS. ESQUER: I guess I came to just
11 the opposite conclusion, Revius.

12 I think that in this particular
13 issue, because it is so vital and so important,
14 that the message that we need to send out is
15 that this is a very close question. I think
16 that Dan knows that we support him, that we
17 think that he is an excellent President, that he
18 has shown some excellent leadership in these
19 very difficult weeks that we have experienced.

20 The one thing that I think that is
21 important is that the message that goes out of
22 here is that this is a very close question.
23 Only time will tell who is right. Since the
24 motion will pass, I will continue to -- I will
25 support the decision of the Board, but I will

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1 register my vote against the proposal here
2 today.

3 (Applause.)

4 CHAIRMAN McCALPIN: I do not note
5 that any other member of the Board wishes to
6 address the question.

7 The motion which is before us is the
8 adoption of the budget breakdown on Page 13 of
9 last night's agenda that we have been discussing
10 since morning.

11 All those in favor will please sig-
12 nify by raising a hand.

13 (Show of hands.)

14 CHAIRMAN McCALPIN: Kutak, Sacks,
15 Rodham, McCalpin, Engelberg, Kantor, Ortique.

16 All those opposed, a like sign, if
17 you please.

18 (Show of hands.)

19 CHAIRMAN McCALPIN: Trudell, Esquer,
20 Shump and Worthy.

21 The motion passes seven to four.

22 I want to express my own appreciation
23 to my fellow Board members, to those of you who
24 have addressed this issue as has been stated
25 very recently by Cecelia and by Hillary. It is

1 a very difficult issue. It is certainly the
2 most difficult issue to come before this Board
3 since I have been a member of it.

4 It has received careful attention.
5 The arguments that have been made have been
6 clear, have been cognizant, have been heartfelt.
7 All that it represents, I believe, is that rea-
8 sonable men and women, united on an objective,
9 can differ with respects to the means of attain-
10 ing that objective. And as Cecelia says, only
11 time will tell which of us is right.

12 The next item --

13 MR. ORTIQUE: May we go to a lighter
14 note?

15 CHAIRMAN McCALPIN: The Lord knows we
16 need it.

17 MR. ORTIQUE: Mr. Chairman, you know,
18 because you were there, the Mayor arrived this
19 morning just after we broke for lunch, arrived
20 upstairs and sent his emissary down here to see
21 if we were still meeting because he wanted to
22 address us.

23 Unfortunately, we had broken for
24 lunch. You met him upstairs instead of down
25 here. The Mayor asked me to express to you his

1 sincere regrets that he was not able to be here
2 because he certainly wanted to address you in
3 person. He also asked me to perform a task for
4 him and that is to make each one of the members
5 of the Board an Honorary Citizen of the City of
6 New Orleans and to present each of them with --

7 CHAIRMAN McCALPIN: Is there an
8 implied condition that we vote for his
9 re-election?

10 (Laughter.)

11 MR. ORTIQUE: We will just look at
12 Steve Engelberg's.

13 MR. KANTOR: I would hope that his
14 would be blank.

15 (Laughter.)

16 MS. RODHAM: Even Engelberg gets one.

17 MR. ORTIQUE: Yes, even Engelberg
18 gets one. I'm not going to present them indi-
19 vidually. If you would just take your own. I'm
20 embarrassed about this one (indicating). I
21 really am, because of the last vote.

22 I am sure that you realize that I
23 could not possibly have had this made up since
24 the last vote and right this morning. The Mayor
25 and I discussed that it was important that his

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1 expression on behalf of the clients would be
2 made through a presentation of the key to the
3 City and Honorary Citizenship on Berney Veney,
4 symbolic of all the clients throughout the
5 country.

6 MR. VENEY: Thank you.

7 CHAIRMAN McCALPIN: I think it is
8 important that we try to move along.

9 The next item on our agenda is the
10 report from the Committee on Operations.
11 Josephine Worthy.

12 MS. WORTHY: As you have before you,
13 in your Board Book, Page 27, the meeting of the
14 Operations Committee. As you can see, it was a
15 very good meeting, a lot of input from staff and
16 people from the field. Most of the information
17 that you have is just information right now. As
18 you can see and has been stated before, we would
19 have an affirmative action plan drafted for you
20 to see by this need. I hope every Board member
21 has received a draft of that plan. I am not
22 sure.

23 The final plan, hopefully, will be
24 presented to this Board for recommendation
25 coming from the Committee for approval by the

1 Board by the March Board meeting. I would like
2 to say that Charles is working very hard, along
3 with Clint Lyons and Dan and Mario to have a
4 plan to present to you with some teeth in it.

5 It does not make sense for us to put
6 out all this work and effort and say we need a
7 plan and to present you with a plan that is not
8 workable or a plan that we can work by. I have
9 some other areas in the plan that have been pre-
10 sented that I would like to work on before it is
11 presented to you in final draft.

12 We have, also, a Civil Rights Regula-
13 tion presented to us just for our information.
14 That will also be finalized in January.

15 Most of our Board members, I think,
16 have read through the Minutes of the Operations
17 Committee meeting, and I don't know if they are
18 really upset right now because of the last vote
19 or what, but it doesn't seem -- they don't seem
20 to be really, you know, listening to what is
21 going on right now.

22 We do have one recommendation coming
23 from the Operations Committee for this Board to
24 consider, and I think that is one of our Regula-
25 tions, 1612.4. Mario will speak to that.

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1 CHAIRMAN McCALPIN: Mario Lewis?

2 MR. LEWIS: The committee chose to
3 recommend to the Board that you adopt for publi-
4 cation for comment a proposed amendment to
5 Regulation 1612. The draft comment and amend-
6 ment are to be found on Page 29 in the Board
7 Book through Page 31. The draft represents a
8 key element in the staff effort to satisfy
9 Congressional concerns that the Corporation has
10 the capacity and the ability to monitor, on a
11 day-to-day basis, on a regular basis, that pro-
12 grams are observing the limitations on legisla-
13 tive advocacy.

14 The comment outlines that this is
15 part of the strategy. It is a part that we had
16 notified the Oversight Committee, Congressman
17 Klassenmeier (phonetic) and Congressman
18 Railsbach (phonetic), intending to propose, and
19 it is a series of two changes, two additions to
20 the regulations which we believe would ade-
21 quately satisfy Congressman Moorehead's specific
22 concerns which he has communicated to us on a
23 number of different occasions.

24 The specific requirements being pro-
25 posed are, one, that each program adopt

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1 procedures and forms to assure that in each case
2 they are providing legislative advocacy. They
3 have reached the determination that they are
4 meeting the statutory requirements, that is,
5 that they are conducting a kind of activity
6 which is authorized.

7 The second proposed requirement would
8 be that in every case, the program proposes to
9 open up a legislative office, the Board of
10 Directors of that program pass upon the policy
11 of opening such an office. We understand that
12 if that, in fact, does take place, we wish to
13 assure Congressman Moorehead that the program
14 Boards of Directors are aware that they have
15 that policy authority.

16 We are proposing, if you will, that
17 the proposed amendment be published for sixty
18 days for public comment, and we would return to
19 you at your March Board Meeting with a final
20 draft after consideration by the committee.

21 CHAIRMAN McCALPIN: Josephine, may I
22 raise a question that I have with respect to
23 this? It is on Page 30 in the third line.
24 Actually, it says -- It begins just at the end
25 of that -- "The recipient will secure a

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1 retainer or other appropriate documentation."

2 As a lawyer in private practice, a
3 retainer says to me a sum of money. That would
4 be contrary, as I understand it, to our statute.
5 And I just wonder if there is some reason why
6 that particular word was employed there.

7 MR. LEWIS: I think we used retainer
8 generally to mean agreement, a specific agree-
9 ment in writing. I recognize that within the
10 private bar it means something totally differ-
11 ent, and we will, if you will address that in
12 the final draft published for comment.

13 CHAIRMAN McCALPIN: I think it may be
14 misunderstood if it is published with the impli-
15 cation that we are looking for a sum of money.

16 MS. WORTHY: Mr. Chairman, I misun-
17 derstood it, but it was explained to me and that
18 is why, because I looked at it as money.

19 CHAIRMAN McCALPIN: I understand,
20 Josephine, that you have moved that the Board
21 approve publication of this proposed amendment
22 to Regulation 1612. Is there a second?

23 MR. SACKS: I'll second it.

24 CHAIRMAN McCALPIN: Is there any
25 discussion of the motion?

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1 (No response.)

2 CHAIRMAN McCALPIN: All in favor will
3 signify by saying "Aye."

4 (Ayes.)

5 CHAIRMAN McCALPIN: Any opposed, in
6 like sign.

7 (No response.)

8 CHAIRMAN McCALPIN: There being no
9 opposing votes, it is approved for publication.

10 Next item on the agenda is a report
11 from the Committee on Provisions of Legal
12 Services. Dick Trudell.

13 MR. TRUDELL: Mr. Chairman, the Pro-
14 visions Committee held a meeting in San Juan
15 during the Convention and there were a number of
16 Board Members present at that meeting.

17 At that meeting, we spent the bulk of
18 the time discussing the paper that Howard
19 drafted, the PLAN FOR THE FUTURE, and at that
20 meeting we came up with the motion that has been
21 changed a little bit to make it a little more
22 clear as to what we would expect.

23 I don't know if it is necessary to
24 have a discussion of the changes within that
25 paper. If there are, I am not prepared to, you

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1 know, articulate those changes and to assure the
2 people that they have been incorporated in the
3 most recent draft.

4 Maybe the logical thing for me to do
5 is to make a motion that may need some discus-
6 sion and then proceed from there. The motion
7 has been redrafted that was given to me at the
8 outset of today's meeting.

9 It reads, in lieu of that --
10 "Distribute the most recent draft of the PLAN
11 FOR THE FUTURE to all Legal Services Programs,
12 National, State, minority, bar organizations,
13 client organizations, and other interested par-
14 ties in a manner which will insure the widest
15 possible circulation. The circulated draft will
16 contain revisions, reflect concepts of programs
17 serving individuals and the political indepen-
18 dence and the local nature of programs. Those
19 receiving the draft of the plan will be asked to
20 submit comments for consideration by the Board's
21 Provision Committee at its next meeting prior to
22 final action on the PLAN FOR THE FUTURE by the
23 Board of Directors next March, 1981 Board
24 Meeting."

25 CHAIRMAN McCALPIN: Is there a

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1 second?

2 MS. SHUMP: I'll second.

3 CHAIRMAN McCALPIN: Let me ask, first
4 of all, is there any Board member who would like
5 to address this motion?

6 Howard Sacks.

7 MR. SACKS: Let me just ask one ques-
8 tion.

9 You haven't put in any date by which
10 the comments have to come to the Provisions
11 Committee. Did you leave that out deliberately?

12 MR. TRUDELL: I left that out
13 deliberately because I don't know when the next
14 meeting is going to take place.

15 MR. SACKS: That can be done adminis-
16 tratively so that -- All this does take some
17 lead time.

18 MR. TRUDELL: Those members on the
19 Provision Committee can set that date so --

20 MR. BRADLEY: We are going to work
21 consistent with what we talked about this morn-
22 ing, Howard. We are going to work back from
23 that date to give you a couple of weeks before
24 the Provision Committee meets.

25 CHAIRMAN McCALPIN: Do I understand

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1 that when the circulation is made, a date will
2 be stated --

3 MR. BRADLEY: Yes, definitely.

4 CHAIRMAN McCALPIN: -- in that circu-
5 lation by which responses are to be made?

6 MR. BRADLEY: Definitely.

7 CHAIRMAN McCALPIN: Is there any
8 other comment or question from members of the
9 Board?

10 Bruce Morrison?

11 MR. MORRISON: The silence makes
12 this, what I am about to say, I guess, spitting
13 into the wind. I am really bothered by the
14 position of the enactment of this document at
15 this time and the action that has just been
16 taken about the decision on the budget.

17 As I said when I spoke earlier, the
18 real debate isn't who does the work, but what
19 the work is about. I think this is a good docu-
20 ment. I went to Omaha and I said I thought it
21 needed some work and that we ought to get on
22 with it and that at the December meeting of the
23 Board we ought to pass a document that could
24 come to an agreement at that time.

25 I am speaking most of all about the

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1 mission statement. I heard the explanations
2 about why we are delaying, but I don't under-
3 stand. I think the mission statement has been
4 discussed and distilled and reworked and editor-
5 ial and substantive concerns and the political
6 concerns have been accommodated.

7 And now, we have a statement there
8 about what the Legal Services Program is. In
9 the coming months, the coming weeks, people all
10 over the country are going to be meeting
11 together with representatives of regional
12 offices and the like to talk frankly about the
13 difficulties that Dan talked about in his state-
14 ment in the coming six months, the difficulties
15 that this program is going to have, the politi-
16 cal difficulties.

17 We have right now in front of us a
18 statement of principle about what we stand for
19 and what we are trying to do and what we are
20 going to be measuring, private attorney involve-
21 ment, and other kinds of changes again.

22 March is not a long time from now,
23 but a lot of things are going to come down
24 between now and March, and I think just a dis-
25 tribution of this document without endorsement

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1 by this Board is saying at least that the
2 mission statement reflects our understand of
3 what this program stands for, now so that the
4 staff of the Corporation is instructed to say
5 that to the community now, rather than in March
6 when the momentum is in the other way.

7 I would like to reconsider what you
8 decided in Puerto Rico, to delay. I think the
9 points that were raised there about the politi-
10 cal concerns of the document have now been
11 accommodated in the mission statement. Why are
12 we waiting another three months?

13 Let's send it out with the message
14 that this is what we are about, rather than, we
15 are not sure what we are about, what do you
16 think? I think there has been enough discussion
17 and I think, against a background of moving for-
18 ward on something else today where we are going
19 to need to say very strongly what we are about,
20 that you can do more than just send it out.

21 CHAIRMAN McCALPIN: Dick Trudell?

22 MR. TRUDELL: Bruce, I can appreciate
23 your frustration or feelings about this, but I
24 think you have been to all the meetings, you can
25 appreciate the lack of consensus of the Board

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1 members in terms of what should be incorporated
2 in this document.

3 Also, the fact that there was really
4 no process in terms of cutting it up and taking
5 it part by part. That has never been decided.
6 For us just to turn around and move without con-
7 sulting the field, and I think the suggestion
8 was made quite some time ago, that this document
9 should have went out long ago.

10 I think that in terms of waiting
11 until March, as you point out, it is not much
12 time and I don't think there will be that many
13 changes. I don't know, maybe there will be a
14 lot more, because I think the previous motion or
15 discussion about the '82 budget will probably
16 have an impact.

17 I don't know if it would do us any
18 good to adopt it because I think if you are ask-
19 ing us to break it down again, I don't think
20 there is anyone on this table with the exception
21 of Howard who can appreciate everything in the
22 plan.

23 MR. MORRISON: I was speaking just of
24 the mission statement which, you know, captures
25 something I thought there was an agreement on.

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1 CHAIRMAN McCALPIN: Mickey?

2 MR. KANTOR: Just very quickly,
3 Bruce, you and I probably agree with everything
4 in that mission statement. We probably have
5 agreement around the table. You know you can
6 read a situation two ways. One way is the way
7 you read it, that we are delaying and possibly
8 losing support because we could use that.

9 The other way to read that, of
10 course, is by delaying, in your words, and send-
11 ing out we are seeking support. In fact, we are
12 going to get a lot of people who are not signed
13 onto this document right now and organizations
14 to sign onto it.

15 I can remember a situation somewhat
16 like this back in 1971, and I think that if I
17 had to choose, and obviously I did choose, I
18 would choose in the latter category. To have
19 people sign onto this document before we
20 formally adopt it, I don't think anyone will be
21 confused as to the nature of the document or to
22 the commitment of this Board.

23 I think we give a lot of organiza-
24 tions and people the opportunity between now and
25 March to sign on and join us in this statement

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1 at a time that is very critical.

2 MR. BRADLEY: Bruce, I thought cer-
3 tainly in my discussions with Dee, who has
4 followed this, as you know, with some interest,
5 in my most recent conversation with him on the
6 telephone, and maybe there is just miscommunica-
7 tion, because clearly, the one group that hasn't
8 received the document, the mini drafts have been
9 broadly disseminated to a lot of people, but not
10 to most of the 350 local programs.

11 The transmittal letter that we plan
12 to send out next week is going to be a positive
13 reaffirmation of, this Board thinks, especially
14 the mission statement, you know, represents what
15 it is is that mission statement and what we are
16 hoping at the appropriate time, that local pro-
17 grams and local boards will also adopt that
18 mission statement as their local guiding prin-
19 ciple.

20 I thought -- I mean, I was a little
21 puzzled to hear your statement, because we are
22 not trying to avoid any issue. I thought that
23 we were trying to make sure that not just this
24 Board sitting in this room appreciates the
25 support of what is invited in the mission

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1 statement, but the people north, east, south and
2 west do so. That is certainly the kind of
3 letter that we are trying to draft as the trans-
4 mittal letter that will go out next Wednesday to
5 every local program in the country, all of the
6 other groups that Dick spoke about.

7 I am just concerned that you seem to
8 view it that the Board is ducking the issue.

9 MR. MORRISON: I didn't mean to use
10 the word ducking. I guess my sense of timing is
11 different. Dee and I discussed this this
12 morning. I just disagree.

13 CHAIRMAN McCALPIN: Charles Dorsey?

14 MR. DORSEY: I really don't want to
15 make another speech, but for me, the mission
16 statement is the important thing in the whole
17 document. The other things you say, how you do
18 it, this, that, and the other, there can well be
19 differences. I am aware of the fact that in
20 March this will be a very different Board.

21 There is that possibility, I believe,
22 and I believe that right now it is important for
23 the field to know that this Board, that this
24 Corporation supports this mission statement as
25 the purpose of what we are doing in Legal

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1 Service. I would urge the Board to consider
2 adopting if not the whole document, the mission
3 statement.

4 CHAIRMAN McCALPIN: Thank you. Is
5 there anyone else who wishes to be heard on this
6 matter? Anybody on the Board want to address
7 it?

8 I'm sorry. Ms. Thomas, come forth.

9 MS. THOMAS: I am reading this mis-
10 sion statement and I have heard a lot of lip
11 service today. And this mission statement says
12 that you are going to use methods of counseling
13 and representation to provide services in a man-
14 ner which best enables poor people to assert
15 their rights and their interest in ways that
16 they, themselves, choose.

17 I think this is good. But, do you
18 mean it? I am very much in favor with it, if it
19 is more than lip service. If it is lip service,
20 then perhaps you should remove the last line.

21 Thank you.

22 CHAIRMAN McCALPIN: Thank you. I
23 hope we mean it. I think we mean it.

24 MS. THOMAS: Search your hearts,
25 gentlemen.

1 CHAIRMAN McCALPIN: Howard?

2 MR. SACKS: I just want to point out
3 that the long-range plan and the short-range
4 plan have specific proposals designed to imple-
5 ment that part of the mission statement and all
6 of the other parts of the mission statement.

7 If the long-range plan and the short-
8 range plan is adopted, we will be moving in the
9 directions that we were talking about and we
10 will be demonstrating by our deeds that we are
11 really sincere about it. I would be glad to sit
12 down with you and point out specific things in
13 the long-range plan and the short-range plan
14 that do address this particular item.

15 MS. THOMAS: Thank you, sir. You
16 will be hearing from us.

17 And I might point out that I am not
18 new to Legal Services. I have been involved
19 since 1969 and I realize that babies must crawl
20 before they walk. Even when it takes ten years.

21 CHAIRMAN McCALPIN: Is there anyone
22 else who wishes to address this matter?

23 MS. SHUMP: I have a question.

24 CHAIRMAN McCALPIN: Ms. Shump?

25 MS. SHUMP: Would there be a problem,

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1 Dick, or Howard, would there be a problem in
2 deciding to adopt the mission statement without
3 necessarily accepting the whole document at this
4 time?

5 MR. SACKS: Well, I think I would
6 rather let Dan or the Chairman talk to that,
7 because I know they have thought about that
8 problem. I mean, my role has been more limited
9 kind of as the drafter and to serve the various
10 interests represented.

11 MR. BRADLEY: I am still bothered
12 somewhat by the impression that the Board is
13 trying to avoid adopting it. Clearly, I thought
14 that if anything, the Board was in unanimous
15 agreement that the current draft of the mission
16 statement -- I don't quite know how to respond.

17 What I was going to suggest, Dick, if
18 you didn't think that -- The sense that I got
19 from the eight persons, eight committee members
20 -- eight Board members who attended the meeting
21 in San Juan and certainly, the impression that
22 we as the staff are operating under, the docu-
23 ment when we send it to all of our local pro-
24 grams next week is going to be a positive, very
25 positive statement that this is -- I mean, I'm

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1 not going to quibble on it.

2 We voted on such-and-such a day by a
3 vote of 11 to 0 that we formally adopted this.
4 We are certainly going to say that the Board,
5 the staff, the field, the large number of per-
6 sons that have been involved in this discussion
7 and this exercise now, almost for a year, and
8 this is close to a perfect statement and we are
9 proud of it. We want you to review it. We want
10 you to join with us in supporting this, and we
11 invite you to, in effect, join with us as Mickey
12 indicated, in the support of that document.

13 That certainly is the message and the
14 transmittal communication that is going out from
15 the Corporation next week. It will not, unless
16 you choose to change the motion, it will not say
17 on such-and-such a date that they voted this.

18 Then we are telling all of our field
19 programs and others, and maybe that is the
20 issue, that the Board has already considered it,
21 they have already formally approved it. Here it
22 is, we don't care what you think. You can
23 accept it if you want to. You don't have to.
24 And we were going to try to use it as a vehicle
25 to do what Mickey was suggesting.

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1 MS. SHUMP: But it is one thing to
2 have a mission statement and another thing to
3 work out the mechanics of the plan, isn't it?

4 MR. BRADLEY: No, it is the mission
5 statement that, in my judgment, that is more
6 important than --

7 MS. SHUMP: Okay. Would there be a
8 problem, then, what I am asking you, would there
9 be a problem if today, say the Board would
10 decide to adopt the mission statement without
11 necessarily putting a big stamp of approval on
12 the whole document, the mechanics?

13 CHAIRMAN McCALPIN: Let me see if I
14 could respond to what I think Dan and others
15 have been saying. That is that we hope that
16 others, local programs, will be able to adopt
17 this mission statement to guide their programs
18 as well as our adopting it to guide us at this
19 level.

20 We have two ways of going about that.
21 One, we could adopt it today and send it to
22 them. And as Dan says, tell them, "You can't
23 tamper with this; this is our approved state-
24 ment, this is what we are going to do."

25 Or, we could say, as Dan suggested,

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1 "This represents our best judgment. We worked
2 at it over a long period of time. We earnestly
3 solicit your acceptance and support of it,"
4 recognizing that if we give them a chance to
5 look at it and react before we act, we are more
6 likely to get their support and cooperation than
7 if we adopt it and send it to them as something
8 we have done and that they can take it or leave
9 it.

10 MR. ENGELBERG: Could I have the
11 motion repeated?

12 CHAIRMAN McCALPIN: Dick, Mr.
13 Engelberg would like to have the motion
14 repeated.

15 MR. TRUDELL: The motion reads that
16 the staff distribute the most recent draft of
17 the PLAN FOR THE FUTURE to all Legal Services
18 programs, National, State and minority, bar
19 organizations, client organizations, and other
20 interested parties in a matter which will insure
21 the widest possible circulation.

22 The circulated draft will contain
23 revisions to reflect the concept of programs
24 serving individuals and the political indepen-
25 dence and local nature of the programs. Those

1 receiving the draft of the plan will be asked to
2 submit comments for consideration by the Board's
3 Provision Committee at its next meeting prior to
4 final action on the PLAN FOR THE FUTURE by the
5 Board of Directors at its March 1981 Board
6 Meeting.

7 CHAIRMAN McCALPIN: The question has
8 been called for. Let me avoid a two-step pro-
9 cedure, if I may, and simply put the question on
10 the motion.

11 All those in favor of the motion,
12 please signify by saying "Aye."

13 (Ayes.)

14 CHAIRMAN McCALPIN: Any opposed?

15 (No response.)

16 CHAIRMAN McCALPIN: There are none
17 opposed. The motion carries without dissent.

18 Is there any further report from the
19 Committee on Provision of Legal Services?

20 MR. TRUDELL: Nothing other than
21 that, I guess, at the next Provision Committee
22 Meeting there is some other laundry that will be
23 taken care of in terms of the monitoring evalua-
24 tion reports on the rating program and the Legal
25 Services Institute.

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CHAIRMAN McCALPIN: Let me, then, move to Item 7, future meeting dates, on Page 95 of your books, or set forth some alternative dates for future meetings of this Board. I suspect that some of us may have only academic interest in some of these dates.

It is appropriate, I think, for everybody's planning purposes to fix with such certainty as we can what those dates will be. In each instance, you will notice there is a Thursday-Friday, Friday-Saturday option for the first weekend in March, June, October and December, with the statement at the end that in recent years contrary to the specific provisions of the By-Laws, we have tended to meet on a weekend in September, rather than October.

I solicit your wishes and views. And maybe what we are going to do is just take them up as they come. Let's just take -- Steve?

MR. ENGELBERG: I would just request that March be Friday, the first of March being the 6th --

CHAIRMAN McCALPIN: You mean 6th and 7th?

MR. ENGELBERG: Right.

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1 CHAIRMAN McCALPIN: You are sugges-
2 ting the second option. Is there any disagree-
3 ment with that?

4 (No response.)

5 CHAIRMAN McCALPIN: All right. How
6 about June? 5 and 6 has been suggested; is
7 there any disagreement with that?

8 (No response.)

9 CHAIRMAN McCALPIN: With respect to
10 the next one -- Well, I think it is possible
11 that some of us may be here if it is in
12 September, less likely if it is in October. I
13 suggest we vote on these as though we intend to
14 attend.

15 MR. KANTOR: I suggest that we set
16 this meeting early in September.

17 MS. SHUMP: September?

18 MR. KANTOR: Well, there is the pos-
19 sibility that, in fact, the same wonderful per-
20 sonalities will be around this table in
21 September, and there is a lesser possibility in
22 October.

23 CHAIRMAN McCALPIN: You will notice
24 that the reason the first weekend was not sug-
25 gested because that is part of the Labor Day

1 weekend, and we thought it inappropriate to make
2 it part of the Labor Day weekend.

3 The suggestion is September 11th and
4 12th. Is that what I hear? Is there any
5 dissent from that?

6 MR. BRADLEY: Congress will be in
7 recess for the month of August.

8 CHAIRMAN McCALPIN: Berney Veney?

9 MR. VENEY: On behalf of the client
10 community, I am going to suggest to you enjoying
11 the hospitality of New Orleans. I am going to
12 suggest to you that this Board seriously
13 consider an August meeting back here in New
14 Orleans at a point in time where you all can be
15 involved in lobbying with us of the Assembly of
16 Delegates to change the attitude and role of the
17 American Bar Association. The A.B.A. will be
18 meeting here in August.

19 Whether that is a special meeting or
20 whether that is a scheduled meeting, I cannot
21 say one way or the other. But, we need you
22 here, we need your presence, we need your activ-
23 ity as a total Board at that particular moment
24 in history.

25 MS. SHUMP: What are the dates,

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1 Berney?

2 MR. VENEY: The Secretary of the
3 American Bar may be able to provide you with
4 those.

5 CHAIRMAN McCALPIN: Well, you know,
6 that is a very long circus. Actually, it will
7 begin as early as the 5th of August and continue
8 as late as the 13th of August.

9 I will be here and be pretty busy
10 between those two dates. Berney, you can be
11 sure that I will be here.

12 MR. BRADLEY: Berney, I think your
13 point is valid and well-taken. When we had dis-
14 cussed the advantages of the Board meeting in
15 conjunction with the A.B.A., I think, you know,
16 the more experienced hands on the Board felt it
17 was not a good idea, but that individual Board
18 members should attend the A.B.A. and participate
19 in those functions.

20 I don't know if there are any advan-
21 tages to having a Board meeting worked into an
22 A.B.A. type meeting.

23 MR. VENEY: The one way to make sure
24 that all the Board members are here is to
25 schedule a meeting for that period of time. I

1 would suggest that it not be part of the whole
2 long circus, but, in fact, it be part of or as
3 close to the meeting of the Assembly of
4 Delegates as is possible. I suspect that is
5 where the crucial times are going to be.

6 CHAIRMAN McCALPIN: Berney, I can
7 tell you, the meeting, the opening meeting of
8 the Assembly will be on Monday, the 10th of
9 August. In all likelihood, the House will not
10 begin to meet until the morning of the 11th.
11 The likelihood of my being able to participate
12 in any significant business of this Board is
13 very dubious.

14 Mr. Kutak, I think, also may be
15 pretty occupied during that period of time. He
16 has a noncontroversial matter in which he --

17 MR. ORTIQUE: It appears to me,
18 though, that we may just be needed during that
19 period of time.

20 CHAIRMAN McCALPIN: May I suggest we
21 do it this way: That we set regular Board
22 Meetings the way we set out to do and that we
23 leave open the possibility of calling a special
24 Board Meeting at that time, which, I suspect,
25 would be light on the kind of business that we

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1 have addressed today and heavier on the kind of
2 business that Berney has talked about.

3 MR. VENEY: May I make one other sug-
4 gestion?

5 I suggest that you do the same kind
6 of preparation in terms of style that you do for
7 a Board Meeting. You see, I think it is impor-
8 tant that you be here, but I would also like to
9 have the various members of staff who are so
10 very capable here, too. If you just invite the
11 eleven Board members to come, we lose the advan-
12 tages of the additional staff.

13 CHAIRMAN McCALPIN: Certainly, if we
14 had a special Board Meeting, we would handle it
15 and address it as a Board Meeting. I heard, I
16 think, at the initiation of this discussion a
17 proposal for September 11 and 12. Is that the --

18 MR. ORTIQUE: Is that the Friday and
19 Saturday?

20 CHAIRMAN McCALPIN: Yes, it is.

21 Now, to go back to December of 1981.
22 The options are at the bottom of Page 95. Okay.
23 December 4 or 5 -- Let me make a statement on
24 what I understand that we have agreed on and let
25 somebody put it in a motion. We have decided

1 that the meetings of this Board for the next
2 year will be March 6 and 7, June 5 and 6,
3 September 11 and 12 and December 4 and 5, 1981.

4 MR. KUTAK: So move.

5 CHAIRMAN McCALPIN: Is there a
6 second?

7 MR. TRUDELL: I second it.

8 CHAIRMAN McCALPIN: Any discussion?
9 (No response.)

10 CHAIRMAN McCALPIN: All in favor,
11 please signify by saying "Aye."

12 (Ayes.)

13 CHAIRMAN McCALPIN: Any opposed?
14 (No response.)

15 CHAIRMAN McCALPIN: So ordered.

16 Let me take up, very quickly, so as
17 not to trespass on your time, there are several
18 things which I indicated to you this morning
19 that I would raise under the heading of Other
20 Business.

21 First of all, let me say a word to
22 the Board with respect to tomorrow. I think
23 that many people have felt that we should have
24 had more dialogue with the bar than we have had
25 in the past. I am reminded of the fact that

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1 when this Board was initially constituted and
2 began to meet, there was regularly in attendance
3 a representative of at least the American Bar
4 Association. I do not find such representation
5 in attendance, most recently, since I have
6 become a member of the Board.

7 More to the point, it seems to me, I
8 think that the American Bar Association is not
9 the organized bar. There are other bar associa-
10 tions in this country. There are Loraza
11 (phonetic), N.B.A. We have tried to reach out
12 to the American Trial Lawyers Association.
13 There are other segments of the Board who are
14 organized who are to be heard from and who ought
15 to be given an opportunity to have a voice in
16 our proceedings.

17 I think it is unfortunate that the
18 differences between or among people tend to be
19 more publicized and talked about than the areas
20 of agreement and common understanding.

21 I hope and expect that tomorrow we
22 will find that there is substantial agreement
23 among all of those people in attendance with
24 respect to the objectives of this enterprise.

25 There may well be differences as to how to

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1 accomplish those objectives. I think it is high
2 time -- We began to think about this last summer
3 when we were in Vermont and we thought about it
4 through the September Board Meeting and other
5 Board Meetings that I have had. It is high time
6 that those of us who are here from the PAG or
7 the clients as we meet here and who hear from
8 the private bar as we attend other meetings, sit
9 down with all of those people around one table
10 and let everybody have the opportunity to under-
11 stand the perspectives, the needs, the desires
12 of everybody engaged in the enterprise of Legal
13 Services.

14 It is with that in mind that we have
15 put together this dialogue for tomorrow. One of
16 our guiding principles was that it be big enough
17 to be representative of the various constitu-
18 encies, but not so big that we couldn't sit
19 around one table.

20 The idea was not to break down into
21 small groups, so that some people would hear
22 what some few people had to say and others would
23 hear what others had to say, but so that all of
24 these representatives could hear what everybody
25 else had to say.

1 Dan and I went over the areas that we
2 wanted represented very carefully and we
3 selected the individuals that we wanted. There
4 were two or three things that we had in mind.

5 One was that we wanted people with
6 some knowledge, background, understanding with
7 respect to the Legal Services enterprise. Two,
8 we wanted people with some status, stature
9 within their particular organization so that
10 they could speak knowledgeably to us and serve
11 as a conduit of communication back.

12 Finally, we wanted people who would
13 not be unwilling or afraid to state their views
14 openly and publicly, even recognizing that there
15 may not be agreement with those views. I expect
16 that within the areas that I have mentioned,
17 that there will be some differences of view
18 tomorrow. I think it is extremely important
19 that those differences of views be stated and be
20 understood.

21 I think that from the conversations
22 that I have had on the side that it was helpful
23 that some of our Board members attended the
24 House of Delegates Meeting last summer in
25 Honolulu and began to hear what was being said

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1 in circles other than meetings of this Board.

2 It was in part on that basis that I
3 decided to do it. Obviously, the one controver-
4 sial area which has surfaced and as Dan has said
5 has been with us for fifteen years, is the
6 method of delivery. There may very well be some
7 disagreement tomorrow among the people in atten-
8 dance on that.

9 But as I said before, I think differ-
10 ences tend to be exaggerated. They are the
11 things that get in the newspapers and publica-
12 tions, I guess to sell them, and areas of agree-
13 ment tend to be slumped over. It is for that
14 reason that I really hope and expect that we
15 will talk in three areas tomorrow.

16 One, obviously, the delivery area,
17 and there are certain people who have been pre-
18 selected to state positions for people, pre-
19 selected to state positions in that area tomor-
20 row. I hope to generate discussion. I hope to
21 be able to pick up that discussion if it lags.
22 I hope to carry it on for as long as may be
23 necessary so that all of the different points of
24 views can surface so that when we leave that
25 meeting, at least everybody will understand

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1 where everybody else is coming from on that
2 issue.

3 Secondly, as I read through the
4 material which we had in preparation for the
5 meeting in Vermont, particularly, the meetings
6 on technology, I was impressed with the fact
7 that much of what this Corporation is doing in
8 that area should be of benefit and assistance to
9 the private bar.

10 We are talking about how to make the
11 benefits of technology available to relatively
12 small offices in different kinds of settings all
13 around the country. I have spoken with Andy
14 Lewis and Dan has spoken with Alan Hauseman and
15 others, and we have put together a presentation
16 to come out at an appropriate time tomorrow from
17 Andy Lewis on how we may be of assistance to the
18 private bar by a transference of what we devel-
19 oped in the area of technology.

20 Third, you may know that in the April
21 issue of the American Bar Journal Reece Smith
22 wrote an article on "Peer Review, It's Time Has
23 Come", addressing the question of quality of
24 Legal Services.

25 More recently, ALIABA, American Law

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1 Institute-American Bar Association, which is a
2 continuing legal education entity, has published
3 in its news a seven or eight part study on eval-
4 uation of the quality of Legal Services.

5 Obviously, this is already an impor-
6 tant issue to us. Howard's paper talks to us a
7 lot about the quality of Legal Services. The
8 delivery systems study went into this in ways
9 that were not wholly satisfactory when we came
10 to it. This is an area where maybe the bar, in
11 the form of ALIABA and others, has moved a
12 little bit in ways that could be of assistance
13 to us.

14 I explored this with Leona and Dan
15 and others. I am sorry to say that we haven't
16 been able to put it together quite the same way
17 we did with Andy Lewis, but for lack of doing it
18 otherwise, I am prepared to make some remarks
19 which I think may be supplemented by Reece Smith
20 in that area tomorrow, as an indication again of
21 an area where our aims and objectives are con-
22 gruent with those of the organized bar so that
23 we can be talking, not solely in terms of dif-
24 ferences, but in areas of common interest and
25 possible cooperation as we move ahead.

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1 I don't have any expectation of
2 action out of this session tomorrow. I will be
3 personally satisfied if we leave there with a
4 better understanding of each other and how each
5 think and how each other look at and approach
6 the problems of the delivery of Legal Services
7 to the poor people of this country.

8 After that, something may grow. I
9 guess I have not permitted myself to be so opti-
10 mistic as to try to judge what may grow from
11 that and I think the bar may have its own ideas
12 of what will grow out of that. The client may
13 have its own ideas what may grow out of that.
14 The field may. This Board may.

15 We simply will have to see what
16 develops tomorrow before making any kind of
17 determination of where we go from there.

18 Dick?

19 MR. TRUDELL: What lawyers are you
20 talking about and who are the people?

21 CHAIRMAN McCALPIN: I have asked a
22 representative of the general practice session
23 to lead off with a statement of what was behind
24 the resolution which they presented, what it
25 was, why it was, why they supported it, why they

1 supported it, why they have the view they do
2 with respect to delivery of legal services.

3 Secondly, I have asked the PAG to
4 give a statement of how they view the delivery
5 of legal services to the clients that they serve
6 and without any preconception of what they are
7 going to say, but as a different point of view.

8 Third, I have asked, we will have
9 here a representative of the Wisconsin Bar which
10 also offered a proposal with respect to delivery
11 of legal services in the context of the American
12 Bar Association last year. What I have is the
13 Chairman of the State Bar Committee from which
14 this proposal came.

15 Finally, we have asked the clients to
16 respond. A representative of the clients has
17 been selected to state the clients' perspective.
18 The only thing that is intended by this is to
19 get the discussion going. I hope that by having
20 chosen these four sources we will get different
21 points of view and from then on, it is going to
22 be open to the people around the table to carry
23 on the discussion and make any additional con-
24 tributions that they may wish.

25 MS. SHUMP: What room?

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1 MR. BRADLEY: It is going to be here
2 in this -- The meeting will be in this room
3 around a four-cornered table.

4 CHAIRMAN McCALPIN: The table -- I
5 didn't realize it was going to be in this room,
6 but the table will be set up in the form of a
7 hollow square with approximately ten people on
8 each side of the hollow square and chairs set up
9 otherwise for -- It is open for the public; any-
10 one who wants to come may.

11 Howard?

12 MR. SACKS: I am really responding,
13 in part, to Ramona. We are also going to have a
14 Continental Breakfast, the Board, in the Gold
15 Room at 8:00. Is that still on the schedule?

16 CHAIRMAN McCALPIN: Oh, yes.

17 MR. BRADLEY: Yes, that is the room
18 down from where we had the committee meeting
19 last night. We're just going to have coffee and
20 donuts and orange juice.

21 CHAIRMAN McCALPIN: That is for 8:00
22 or 8:30. We will then assemble in here for 9:00
23 o'clock. We will break for lunch. The partici-
24 pants, those sitting at the hollow square table
25 have a lunch somewhere, I don't know where.

1 Then we come back in the afternoon.
2 I don't have any preconceived idea of how long
3 this is going to last. I think it ought to last
4 for as long as people want to talk about any of
5 these subjects. It should not be carried on to
6 any artificial hour simply for the sake of stay-
7 ing in our chairs to a predetermined time.

8 I expect that it will go on after
9 lunch, but how long, I don't know.

10 Is there any other question with
11 respect to tomorrow?

12 Yes, ma'am?

13 MS. LA GARDE: I don't have a ques-
14 tion. I just have a comment to make.

15 This is something that should have
16 been done quite some time ago, and I am happy to
17 see this happen. Unfortunately, it is going to
18 happen and I won't be able to participate. This
19 has been something that I really had hoped would
20 happen.

21 I have just been elected to the City
22 Board, and we are about to unveil the desegrega-
23 tion plans. I have to be at a meeting for 10:00
24 o'clock tomorrow morning.

25 CHAIRMAN McCALPIN: Our

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1 congratulations to you.

2 Let me move on quickly to the next
3 thing which follows from it. As I indicated to
4 you, in looking at this and trying to find areas
5 and ways we could build bridges between our con-
6 stituency and the private bar, I looked into
7 this quality thing. I think that there is not
8 an adequate understanding at the Board level of
9 what the Corporation is doing in this area.

10 What we ought to do is a follow-up to
11 Howard's paper in terms of stressing quality and
12 improving quality. I know that Clint Lyons has
13 a group working on it, and what I am going to
14 request is that that committee present a report
15 of what it is doing in the area of measuring,
16 enforcing and improving quality at our programs
17 to the Provisions Committee at its February
18 meeting so that the Provisions Committee may
19 report what the Corporation is doing to this
20 Board at the March meeting in this area of qual-
21 ity.

22 I will talk to Clint and I will talk
23 to Dick about it. I've got some ideas because
24 of what I have done in preparation for tomorrow.
25 I simply want to ask that this be brought to the

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1 Board at the March meeting.

2 Dick, do you have a problem with
3 that?

4 MR. TRUDELL: No.

5 CHAIRMAN McCALPIN: Steve?

6 MR. ENGELBERG: Bill, your last line
7 or paragraph, you note to the Board, you raise
8 the question about --

9 CHAIRMAN McCALPIN: Well, I'm going
10 to get to that in just a half a moment. One
11 more thing.

12 It seemed to me that except for hav-
13 ing Hillary replace me on the Audit and
14 Appropriations Committee, in view of the failure
15 of the Congress to act on the nominations which
16 were sent to it by President Carter, the likeli-
17 hood that at least some other nominations might
18 be submitted by the President-elect after he
19 takes office, that it did not make very much
20 sense to upset the present committee arrange-
21 ment.

22 Therefore, I would propose to you,
23 unless someone has a strong objection, that we
24 maintain the committee structure that we have
25 had with the exception of Hillary replacing me

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1 on for what, I guess, is going to be the dura-
2 tion of the terms of office of the eleven of us
3 sitting here.

4 Unless there is some strong objec-
5 tion, I would propose that we simply leave it
6 that way. Otherwise, particularly in an area of
7 Audit and Appropriations as an example, there is
8 so much involved in it that to get in it for
9 just a couple of months and then have to get out
10 of it, it seems to me that it would be an
11 uneconomic use of our time.

12 MS. SHUMP: I have one suggestion.

13 CHAIRMAN McCALPIN: Yes, ma'am?

14 MS. SHUMP: That perhaps you consider
15 the switching of the Chairmanship on the Audit
16 and Appropriations Committee to another member
17 of that committee. I am sure poor Steve might
18 be relieved and perhaps it would be appreciated
19 as a symbolic measure.

20 CHAIRMAN McCALPIN: All I see is dis-
21 may on the faces of the two possibilities.

22 MS. SHUMP: I could go further and
23 tell you who I would like to see, if you want to
24 know.

25 CHAIRMAN McCALPIN: I don't have any

1 problem about that. If the Board thinks that
2 that is appropriate.

3 MR. BRADLEY: You know, one of the
4 considerations, and I think all three of the
5 committee members would be more than willing and
6 anxious to come to Washington frequently, is
7 that the way we have chosen to handle some of
8 the audit appropriations and internal budget
9 reviews, I think Steve would love to be relieved
10 of most of it, is that the Appropriations
11 Committee Chairman in the past has spent con-
12 siderable time just representing the committee
13 as the chair at the staff budget review and
14 these kinds of things.

15 The new procedures that we are
16 adopting will sort of distribute some of that
17 liability and responsibility to, you know, to
18 the entire Board and the other committee
19 members. That has been one of the -- The person
20 who takes on that awesome task, you know, has to
21 be available to do more than the other committee
22 members.

23 MS. SHUMP: I understand that. I
24 just think that perhaps it has been in one area
25 of the country too long.

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1 CHAIRMAN McCALPIN: I think my dispo-
2 sition at the moment is to leave it to the Audit
3 and Appropriations Committee to select its
4 chairman.

5 MS. RODHAM: Anyone out there like to
6 be chairman?

7 (Laughter.)

8 CHAIRMAN McCALPIN: If they can't
9 agree, I guess I'll step in and exercise some
10 executive authority.

11 One last thing and I am through, and
12 then I will come to you, Steve.

13 Yesterday, the Board should know that
14 I had my first contact with the transition team
15 representing the incoming Administration. I
16 received a call in my office from Dan. He
17 advised me that Mr. Olsen, the Chairman of the
18 President-elect's transition team for the Legal
19 Services Corporation was in his office picking
20 up a number of documents and other materials
21 which they had requested, all of which they were
22 obviously entitled to have. They were all
23 public documents.

24 Dan then put Mr. Olsen on the tele-
25 phone and he and I had, perhaps, a ten minute

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1 or so conversation. Mr. Olsen made it perfectly
2 clear that the transition team understood that
3 we were unlike a normal Executive Department
4 agency, that we were, indeed, an independent
5 corporation. They knew that. They respected
6 that.

7 Their assignment is to prepare a
8 report which he stressed is not a policy report,
9 but more in the nature of a status report for
10 the incoming Administration which is to be pre-
11 pared by Christmas with the understanding that
12 it could be revised, modified as may be neces-
13 sary up until January 20, on which date he
14 advised me they self-destruct.

15 The transition teams all go out of
16 existence on January 20th.

17 I made it clear to him that we were
18 certainly willing to cooperate in terms of the
19 request that they had already made, which, as I
20 indicated, was for public documents to which
21 they were entitled. We left it at this, that
22 if, in the process of them preparing their
23 reports they had any questions or needed any
24 elaboration or discussion with respect to their
25 responsibility, I was as close as the telephone.

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1 They could call me and I would be
2 glad to discuss with them, if it could be
3 handled over the telephone, we would do it that
4 way. If it required more, that I would see to
5 it that we had the opportunity to get together
6 face to face.

7 This is in keeping with that general
8 principle which evolved at the time that we were
9 together, some of us, at the Audit and
10 Appropriations Committee Meeting in Washington
11 on the 18th of November in which I communicated
12 in a letter to the members of the Board, which I
13 guess, may be hung up in the mail over the
14 Thanksgiving Day weekend, and some Board members
15 may not have actually received it before they
16 came here.

17 It came out as a matter of principle
18 that we ought to establish the contact at the
19 Board level rather than at the staff level.

20 Are there any questions with respect
21 to my first experience with the transition team?

22 MR. ORTIQUE: Did you make him pay
23 for his copies?

24 (Laughter.)

25 MR. KANTOR: I want to know why they

...arg's tax records?

(Laughter.)

CHAIRMAN McCALPIN: I guess because they are going to reappoint him.

MR. BRADLEY: You should have seen the man leave with all of Alan's 1007-H papers.

POOR GUY

CHAIRMAN McCALPIN: Mr. Olsen did indicate to me that he had read --

MS. RODHAM: Alan, you could keep busy for a while if you put your mind to it.

(Laughter.)

CHAIRMAN McCALPIN: I think Mr. Olsen used the word thousands when he told me about the number of pages of reading concerning us that they had already done at the transition team. I don't think it was hundreds. I think they said they had read thousands of pages about us. I don't know what thousands, in view of the fact that there were additional thousands that were given to him yesterday.

MS. RODHAM: What is Mr. Olsen's full name, and where is he?

CHAIRMAN McCALPIN: William Olsen, a young lawyer -- is he from Alexandria?

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1 MR. BRADLEY: No. Washington, D.C.
2 is his office, but he lives in Alexandria.

3 CHAIRMAN McCALPIN: I believe that he
4 is the Chairman of the Republican Committee for
5 Fairfax County, Virginia. I don't know whether
6 he is in the private practice or whether he has
7 another affiliation.

8 MR. BRADLEY: He is in the private
9 practice by himself. He is a single practi-
10 tioner in Washington.

11 MS. RODHAM: How did he come to the
12 attention of the transition team? Does anyone
13 know that?

14 MR. BRADLEY: To make a long story
15 short, because I asked him the same question,
16 there is a person by the name of Loren Smith.
17 Mr. Loren Smith is one of the top transition
18 chiefs. Under him serve thirty-seven task
19 forces. He and Mr. Smith have known each other
20 for a long period of time in the Republican
21 party.

22 And his friend, who is also a lawyer,
23 Mr. Smith, asked him to do it. He volunteered
24 three times that all of the members of the team
25 were being paid a dollar for their efforts. It

1 was a contribution that they were making to the
2 Reagan Transition Force.

3 He said that there would be seven
4 other people officially on his team, but he
5 would prefer not to state who they were at this
6 time. After the meeting, I will tell you.

7 MS. RODHAM: I don't want to know.

8 CHAIRMAN McCALPIN: A suggestion has
9 been made that it would be appropriate for this
10 Corporation to recognize, as they pass from
11 public life, two figures who have contributed
12 greatly to our enterprise in such successes as
13 it has enjoyed over the past few years. The
14 suggestion comes from staff and from the ele-
15 ments of the staff that have been most directly
16 associated with this.

17 If Mary feels up to it today, I would
18 ask her to explain the nature of this proposal.
19 Are you up to it, Mary?

20 MS. BAURDETTE: We thought that it
21 would be very appropriate that the Board would
22 in some way honor the commitment and the assis-
23 tance that Senator Gaylord Nelson of Wisconsin
24 and Senator Jacob Javits of New York have pro-
25 vided for so many years to the Legal Services

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1 community and to the Legal Services Corporation.
2 They were, as you know, the Chairman and Ranking
3 Minority of our authorizing committee and time
4 and time again lent their assistance and their
5 support and time and energy to this program.
6 And I think it would be fitting that perhaps the
7 Board would honor that in their retirement from
8 public office.

9 CHAIRMAN McCALPIN: There was some
10 discussion about this informally last night over
11 the oysters that have had their effect today.
12 There was a lot of talk about others -- The
13 idea, if I can state it, Mary, was that here we
14 have one Republican and one Democrat, that they
15 were both retiring from public office, and that
16 if we really went very much further, we would
17 be, as I explained it last night, in the posi-
18 tion of the fellow who introduces all of the
19 head table, all tiers of it, and then strikes
20 out into the audience to try to introduce people
21 there, inevitably to omit or overlook someone.

22 I think, obviously, there has to be
23 some limit, or we are going to overlook and
24 offend people more than we generate perhaps warm
25 afterglows.

1 Steve, did you have something you
2 wanted to say?

3 MR. ENGELBERG: What I thought is
4 that maybe Dan could give us some sort of recom-
5 mendation. I was thinking of something perhaps
6 more formal. It certainly is appropriate. And
7 certainly, since they are both retiring, I
8 thought maybe something a little more -- There
9 are other people in the Congress, I'm thinking
10 of Railsbach, people like that, both sides of
11 the owl, maybe even a few people outside of the
12 Congress, the select number of public officials
13 who sit, I guess, sixty-eight, sixty-nine, have
14 time after time stuck their necks out for this
15 program.

16 People in the audience know who they
17 are as well as I do. There is a danger if you
18 broaden the list beyond just the two retiring
19 people. Obviously, at a minimum, we have to do
20 that. I would urge that the President can per-
21 haps report to you surely on some perhaps more
22 elaborate type of recognition, maybe even some
23 sort of dinner, nothing elaborately expensive,
24 but something that we could appropriately com-
25 mend people who have helped to support this

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1 program.

2 Maybe it is too much to do right now,
3 I don't know. I'm not asking that we discuss
4 that. I just thought I would mention it.

5 MS. RODHAM: What form did your
6 recognition plan to take, Mary?

7 MS. BAURDETTE: I had hoped that the
8 Board would be willing to pass a resolution
9 honoring their help and assistance in some form,
10 perhaps a plaque. It is really up to you.

11 CHAIRMAN McCALPIN: The way I under-
12 stood it, the concept was that the Board would
13 pass a resolution of thanks and appreciation and
14 it would be in our records and we would send
15 them an appropriately embossed copy of the reso-
16 lution to them. That is what I had understood
17 the proposal to be.

18 MR. ENGELBERG: I would like to make
19 a motion in two parts. The first part that we
20 do today, pass an appropriate resolution com-
21 memorating Senators Javits and Nelson for their
22 long-time support of this program and it be put
23 in a suitable form that the President decides.
24 That would be number one.

25 Secondly, I would also like the

1 President to report to the Chairman of the Board
2 within the next month or so as to whether there
3 are other people, not necessarily retiring, who
4 the Corporation in some form might consider pay-
5 ing recognition to.

6 CHAIRMAN McCALPIN: Is there a
7 second?

8 MS. ESQUER: I second it.

9 CHAIRMAN McCALPIN: Is there any dis-
10 cussion of the motion?

11 My understand is that if the motion
12 passes, as a result, an appropriate resolution
13 will be drafted and communicated to those two
14 Senators and that Dan will discuss with me,
15 within the next month or so, after which I will
16 properly communicate to the other members of the
17 Board what comes out of that discussion.

18 All in favor, please signify by say-
19 ing "Aye."

20 (Ayes.)

21 CHAIRMAN McCALPIN: Any opposed?

22 (No response.)

23 CHAIRMAN McCALPIN: So ordered.

24 Is there any other business to come
25 before the Board at this meeting?

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(No response.)

CHAIRMAN McCALPIN: If not, I will entertain a motion to adjourn.

(Board makes motion.)

CHAIRMAN McCALPIN: All in favor will signify by saying "Aye."

(Ayes.)

CHAIRMAN McCALPIN: Any opposed?

(No response.)

CHAIRMAN McCALPIN: We are adjourned.

* * *

1 CERTIFICATE OF REPORTER

2 This is to certify that the attached
3 Proceedings, Meeting of the Board of Directors
4 of Legal Services Corporation, held at the
5 Fairmont Hotel, Bayou Room #1, University Place,
6 New Orleans, Louisiana, on December 5, 1980,
7 were held as herein appears, and that this is
8 the original transcript thereof.

9
10
11 *Rickey Marshall*

12 RICKEY MARSHALL,
13 Shorthand Reporter
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