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Appointment Process for Advocacy Boards Serving Persons with Developmental Disabilities and Mental Illness, Part II

Senate Health Subcommittee on Mental Health, Developmental Disabilities and Genetic Diseases

Senate Select Committee on Citizen Participation in Government

Assembly Health Subcommittee on Mental Health and Developmental Disabilities

Senate Judiciary Subcommittee on the Rights of the Disabled

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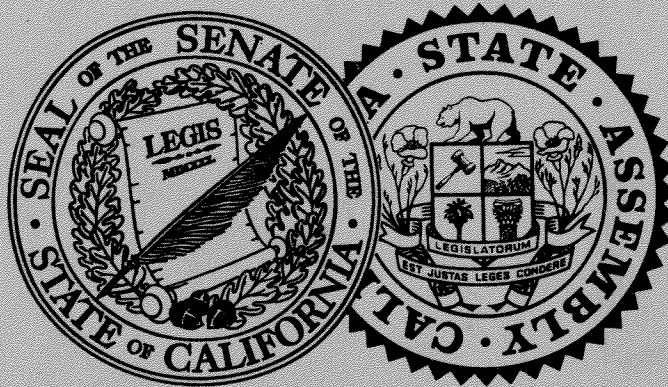
CALIFORNIA LEGISLATURE

Senate Health Subcommittee on Mental Health,
Developmental Disabilities and Genetic Diseases
Senator Dan McCorquodale, Chairman

Senate Select Committee on Citizen Participation
in Government
Senator Dan McCorquodale, Chairman

Assembly Health Subcommittee on Mental Health
and Developmental Disabilities
Assemblyman Richard Polanco, Chairman

Senate Judiciary Subcommittee on the Rights of
the Disabled
Senator Milton Marks, Chairman



Oversight Hearing on

**APPOINTMENT PROCESS FOR
ADVOCACY BOARDS SERVING
PERSONS WITH DEVELOPMENTAL
DISABILITIES AND MENTAL ILLNESS
PART II**

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STATE OF CALIFORNIA

SUBCOMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND
GENETIC DISEASES

AND

SENATE SELECT COMMITTEE ON CITIZEN PARTICIPATION IN GOVERNMENT

AND

ASSEMBLY SUBCOMMITTEE ON MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES

AND

SENATE SUBCOMMITTEE ON THE RIGHTS OF THE DISABLED

"OVERSIGHT HEARING ON THE APPOINTMENT PROCESS FOR ADVOCACY
BOARDS SERVING PERSONS WITH DEVELOPMENTAL DISABILITIES AND
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GARY MACOMBER, Director
State Department of Developmental Services

LORI ROOS, Board Member
Protection and Advocacy, Inc.

JOHN KELLOGG, Board Member
Protection and Advocacy, Inc.

CHRIS JONES, President & Board Member
Protection and Advocacy, Inc.

MARGARET HEAGNEY, Board Member
Protection and Advocacy, Inc.

MERLE TRACY, Parent
Developmentally Disabled Son

ROSE YATES, Parent
Developmentally Disabled Daughter

GEORGE DeBELL, Board Member
Protection and Advocacy, Inc.

LINDA KOWALKA, Board Member
Protection and Advocacy, Inc.

CONNIE LAPIN, Board Member
Protection and Advocacy, Inc.

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P R O C E E D I N G S

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CHAIRMAN McCORQUODALE: Good morning.

We're here today to continue our investigation of the Governor's appointments to advocacy boards serving persons with disabilities. We have been forced to hold this second hearing because of the unwillingness of certain key witnesses to participate in a hearing in May, an all day hearing in Los Angeles. As a result of that, we've served five subpoenas for today's hearing for today's hearing to Board appointees, and have not issued some additional ones on the assurance of Cliff Allenby, Secretary of Health and Welfare, that members of his staff will attend and answer our questions.

If the allegations made at the May hearing hold true, and they have thus far gone unrefuted, we're facing a most blatant case of abuse of power by this administration.

In January of 1987, the Governor proposed the elimination of funding for the 13 Area Boards which provide regional advocacy for persons with developmental disabilities. Following one of the largest outpourings of public objection, the Legislature restored this funding. However, the Governor indicated he would again remove this money through his veto power over the budget. At that point, the State Council on Developmental Disabilities and Protection and Advocacy, Incorporated, voted to sue the Governor if he followed through on this threat. In the end, the Governor responded to public pressure and left the Area Board funding intact.

1 According to testimony heard in May, it was shortly
2 after these events that a series of rushed appointments were made
3 to Protection and Advocacy, Incorporated -- appointments made
4 only days before a critical Board meeting to discuss bylaw
5 revisions.

6 The qualifications of these appointees have been
7 seriously questioned. These appointments put a majority of five
8 Members in control of Board actions and have to date brought
9 brought any real actions by the Board to a complete halt.
10 Meetings have been reduced to shouting matches in front of a
11 growing and frustrated public. Members have walked out on
12 meetings. Meetings have been completely canceled. No steps have
13 been taken to resolve these issues, and the Board has been left
14 utterly paralyzed.

15 With the expiration of several Members' terms of office
16 in the near future, the Governor will have the opportunity to
17 make additional appointments, thus creating a two-thirds majority
18 capable of making bylaw revisions. This possibility has created
19 grave concern in the community, and following the May hearing,
20 has become of great concern to an even greater number of people
21 and especially to these Committees.

22 I think the significance that four Committees and
23 Subcommittees would be holding a joint hearing is, maybe, a first
24 in itself, but certainly indicates the level of concern that the
25 Legislature has in this issue.

26 Since that hearing, our staffs have been doing and
27 following up on a great number of calls and concerns that have
28

1 been raised of people who've indicated that they would like to
2 share information that they have related to the activities of
3 either the Agency, the Department, State Council, or the Advocacy
4 Board. So we have, then, a large number of questions to ask
5 individuals. I'll try to be very orderly in asking those
6 questions because, with the resistance that we've had to people
7 who play a significant role in the advocacy for developmental
8 disabled and the problems that have risen in being able to get
9 the people to testify, I think that we're justified in following
10 a much more strict measure related to questions and expectations
11 that the Committees have of those witnesses as we deal with them.

12 So, if we reach the point that we feel that there needs
13 to be further legal action related to any of the responses or
14 problems that might come about in that regard, we want to be sure
15 that we're in a position to substantiate and to uphold the power
16 of these Committees.

17 Today, for the first time, we will hear another side of
18 the story. We have been anxiously awaiting a response to these
19 accusations and are more than a little frustrated by the lack of
20 cooperation exhibited thus far. We've been placed in a position
21 where it is difficult to believe certain Board Members have a
22 strong commitment to the work of PAI when they have allowed such
23 serious charges to go unanswered, thus significantly jeopardizing
24 the reputation of this organization.

25 We now have Bob Miller, who's an attorney with the Leg.
26 Counsel's Office. He'll read a statement that all witnesses
27 should hear before they're asked to testify. If there are
28

1 witnesses that come later and they have not heard this statement,
2 we will read it again at that point, but we want to make sure
3 that we expedite this as quickly as possible. So, for all the
4 witnesses that are here now, they will be able to hear the
5 statement by Mr. Miller.

6 MR. MILLER: Could you maybe verify which witnesses are
7 in the Committee room, MR. Chairman?

8 CHAIRMAN McCORQUODALE: Let me see the hands of people
9 who have been called to testify today, either under subpoena or
10 at our request. So we do have a significant number of them here
11 and we can ask them as they come if they've heard the statement.

12 MR. MILLER: What I'm going to read is a section of the
13 Government Code which basically sets forth your rights and
14 responsibilities as a witness before a legislative committee. Of
15 course, you have certain other rights and responsibilities also
16 which are not detailed here.

17 Section 9410 of the Government Code provides that:

18 "... a person sworn and examined before
19 the Senate, Assembly or a legislative
20 committee cannot be held to answer
21 criminally or be subject criminally to
22 any penalty or forfeiture for any fact
23 or act touching which he or she is
24 required to testify, other than for
25 perjury committed in testifying or
26 contempt.

1 "However, this committee will not
2 require your testimony. The committee
3 does not wish to be placed in a position
4 where it can be claimed that you received
5 immunity from any possible criminal
6 prosecution because of your testimony
7 before this committee.

8 "Because you are not being given
9 immunity from criminal prosecution,
10 you have a constitutional right to
11 refuse to testify before this committee.
12 If you desire to waive this right and
13 to testify voluntarily, you will be
14 given an opportunity subject to all
15 of the following conditions:

16 "If you do not wish to answer any
17 question, you will so state.

18 "In the absence of such a state-
19 ment, your answer to each question
20 will be entirely voluntary.

21 "If you choose to testify, you
22 will be sworn under oath and will be
23 therefore subject to criminal prose-
24 cution for perjury committed in
25 testifying.

26 "If you choose to so testify vol-
27 untarily, you are reminded that any
28

1 self-incriminating statements you make
2 can be used against you in criminal
3 proceedings."

4 That's the essence of the Government Code provision.

5 CHAIRMAN McCORQUODALE: All right, thank you, Mr.
6 Miller.

7 Let me now introduce all the people that are here.
8 First of all, you just heard Bob Miller from the Legislative
9 Counsel's Office.

10 Juli Kaufman, who's with Senator Marks' Subcommittee.
11 Senator Marks.

12 Lenore Tate, who's with Mr. Polanco's office.

13 Next to me is Mr. Polanco.

14 On my immediate right is Peggy Collins.

15 Next is Jane Uitti.

16 And next is Senator Watson, who chairs the Standing
17 Committee on Health and Human Services.

18 The general purpose of this hearing is to provide more
19 information to the Members of the Legislature who serve on the
20 various committees concerned with the care and treatment of
21 persons with developmental disabilities and mental illness. A
22 major portion of the testimony today will focus on the
23 appointment process for advocacy boards serving persons with
24 developmental disabilities and mental illness.

25 Many of the questions the various Committee Members plan
26 on asking each witness will be repetitive in nature. In this
27 regard, it is important to the integrity of the Committee process
28

1 that the answers to these questions be spontaneous. It is also
2 important that all witnesses be treated equally, and that
3 witnesses called later in the proceedings not have the advantage
4 of having the questions asked of those witnesses who testified
5 earlier.

6 Therefore, in fairness to both the Committee and the
7 witnesses, the Committee has made arrangements for certain of the
8 witnesses to be sequestered in a room adjacent to the Committee
9 room until they are called as witnesses. At this time the
10 Committee requests the following witnesses to accompany the
11 Sergeant at Arms to that adjacent room. If you'd come up to the
12 front here: Chris Jones --

13 (Whoops and Applause.)

14 CHAIRMAN MCCORQUODALE: We have limited seating, and if
15 I have one more outburst like that, we will have less limited
16 seating by the removal of those people who have participated in
17 the outburst.

18 Now, we will conduct this meeting in an orderly manner.
19 We have a concern that there has been this type of activity in
20 connection with the meetings of the Protection and Advocacy,
21 Incorporated, and we do not intend that this type of activity
22 would take place in this Committee chambers.

23 Annette Ospital. Is Annette here?

24 Lori Roos.

25 The young woman in the corner, Sergeant, the young woman
26 in the blue in the back, would you please ask her to leave the
27 chambers.

1 Margaret Heagney. John Kellogg.

2 Is Lance Olson, the attorney for PAI, here?

3 MR. OLSON: Yes.

4 CHAIRMAN McCORQUODALE: When Ms. Ospital comes in, would
5 you advise the Sergeant.

6 MR. OLSON: I will do so. I'm waiting for her any
7 moment now.

8 CHAIRMAN McCORQUODALE: All right, thank you.

9 Senator Marks, you had a comment you'd like to make.

10 SENATOR MARKS: Let me make a brief comment.

11 Let me first say that I'm the Chair of the Senate
12 Subcommittee on the Rights of the Disabled. Among the Members of
13 the Committee are Senator Watson.

14 I'm pleased to be here to welcome the second part of the
15 hearing on the appointment process for advocacy boards serving
16 persons with developmental disabilities and mental illness.

17 I must admit that I'm very disappointed that we've been
18 forced to hold this second hearing because, unfortunately, some
19 of the witnesses whom we had subpoenaed for the last hearing felt
20 that they could not attend, did not inform us, and refused the
21 subpoenas.

22 I think that is very disrespectful of the Legislature,
23 the administration, and the advocacy system.

24 A time has come for all of us to work together to
25 resolve this problem. People who are suffering from these
26 childish games are the people whom we are supposed to be serving
27 -- people with developmental disabilities.

1 The advocacy process that is so vital to the delicate
2 system is in jeopardy. At the last hearing, I pledged to do all
3 I can to continue my support, and I pledge my commitment and
4 dedication. I sincerely hope that everyone in this room,
5 including those who have been taken out of this room a moment
6 ago, can make and uphold this same pledge.

7 Thank you.

8 CHAIRMAN McCORQUODALE: Senator Watson.

9 SENATOR WATSON: Thank you, Mr. Chairman and Members.

10 As you know, I am here because I am quite concerned, as
11 the Chair of the Health and Human Services Committee, about what
12 happened at the last hearing. There we heard testimony that the
13 administration is attempting to compromise the effectiveness of
14 these Boards by watering them down with appointments that do not
15 have much commitment to or knowledge of the whole area of
16 developmental disabilities. In fact, we heard over and over
17 again at our May hearing that these appointees have gone out of
18 their way to control the Board agenda and to block the
19 effectiveness of advocacy activities.

20 We were told that the last straw for the Governor's
21 Office and the administration was the willingness of Board
22 Members on the State Council and on the Protection and Advocacy
23 Committee to sue the Governor over the proposed elimination of
24 the Area Boards in last year's budget.

25 Of course, we all know that the proposal was dropped
26 when thousands of developmental disabilities advocates let the
27 Governor know in no uncertain terms that they wanted to retain
28 their 13 Area Boards.

1 Well, the good news was that, with your tremendous help,
2 we saved the Area Boards monitoring system.

3 The bad news is that the threat of lawsuits against the
4 Governor seems to have made his quite angry, to put it mildly.
5 We have heard about appointments to the Protection and Advocacy
6 Board of individuals who have had no disability, and they're
7 appointed into the consumer designated slots. We have heard that
8 an appointee joined a consumer organization less than two weeks
9 before being appointed by the Governor to a slot that was for
10 organizations. We have also heard about walkouts in Board
11 meetings by Members who did not want to discuss certain agenda
12 items. And we have heard that this administration has told
13 certain Board Members to vote against potential lawsuits directed
14 towards the administration.

15 All of these are very serious charges. And some of the
16 new Board Members appear to have been appointed to promote what
17 seems to be the current administration's philosophy, which seems
18 to be the "no-advocacy-is-best" policy.

19 Nonetheless, we're here to let them know that we want
20 them to know that the State and the federal law requires that
21 they, as Board Members, must be advocates for the persons with
22 developmental disabilities, and no other purpose or reason for
23 being there.

24 Along with other Legislators here today, and along with
25 most of you in the audience, I'm committed to seeing that the
26 State Council and Protection and Advocacy remain independent and
27 effective advocates, monitoring and oversight, just as State and
28 federal law have intended.

1 I'd like to thank all of you who have provided our
2 offices with the background information that we need to hold this
3 hearing. This information has been very, very important.

4 We're going to continue to monitor the actions of the
5 Council and Protection and Advocacy, and I hope that all of you
6 will help to be the eyes and the ears of the Legislature, to tell
7 us what's going on at these Board meetings, and to tell us if the
8 Boards are fulfilling their statutory requirements to support the
9 rights of persons with developmental disabilities. We will have
10 no other activities except those that are described in the law.

11 So I thank you for coming, and I do hope that as a
12 result of this hearing, we can get back on track.

13 Thank you, Mr. Chairman.

14 CHAIRMAN McCORQUODALE: Thank you.

15 Mr. Polanco.

16 ASSEMBLYMAN POLANCO: As Chairman of the Subcommittee on
17 Mental Health and Disabilities for the California Legislature,
18 the Assembly, let me say that the purpose and the issue that we
19 are going to address today is that of whether or not these
20 appointees in fact meet the criteria as outlined by State law and
21 federal law.

22 We heard testimony back in May from those who did
23 participate and come forward. It should be noted that this is
24 not about Republican or Democrat. This is about keeping up-front
25 the interests of those individuals who are in fact disabled.

26 I'm here today to once again acknowledge my support to
27 the issue of bringing about the type of representation that is
28

1 going to meet the needs of the developmental disabled person. As
2 Chairman of the Subcommittee on the Assembly side, let me say
3 that we will not allow for public policy to be swayed in a
4 political arena on this particular subject matter. The lives of
5 people are affected, and we need to have advocacy coming from
6 individuals who are there representing the interests of the
7 developmental disability person.

8 Let me acknowledge also the participation and the
9 willingness from the Secretary of Health and Welfare,
10 Mr. Clifford Allenby, for securing several key administrative
11 witnesses who are going to testify today.

12 CHAIRMAN McCORQUODALE: Senator Rosenthal has joined us.
13 Thank you for being here.

14 Now, at various times during the day -- the Senate is in
15 session, and of course we don't have a full House over there
16 because some Members are in attendance at the convention. So, we
17 may have to leave to go and answer a roll call if there's a
18 shortage of Members, so we may be in and out during the day, and
19 you may see people get up and leave, and it won't be because of
20 lack of their interest, but because they may need to go present a
21 bill or to vote. Even though we're in an official meeting today,
22 we still don't get excused for not bringing up our bills when
23 they come up. And if they get passed three times, they go to
24 inactive file, so we have to put some level of interest in that
25 area.

26 The one additional thing that I would like to say in
27 case it's not been clear, and we had received some comments along
28

1 the way that we were objecting to proposed changes in just simply
2 the proposal, that there be changes in the Lanterman-Petris-Short
3 Act, or in federal laws as related to the disabled. As
4 Mr. Polanco pointed out in his comments, this Committee is not in
5 any interest, or none of the Committee are interested in trying
6 to preclude a person from submitting any proposal or idea that
7 they may have, including the Governor or including the people who
8 are on the various boards, in changing the law.

9 Our objection comes in trying to move around the law and
10 move around the stated reasons, or the requirements that are in
11 law, without making the changes in that law itself. So, if the
12 Governor submits within his budget proposal the idea of defunding
13 the Area Boards or any other advocacy role, it's a perfectly
14 legitimate proposal to make, and that's the way it should be
15 made. But once that is rejected, and once those changes don't
16 take place, then to have a process initiated which would appear
17 to try to circumvent the intent of the Legislature in passing
18 that law, and in being unwilling to move it around, then that is
19 where the problems occur.

20 We are looking for a larger room so that we could have
21 more people who would be able to sit. There's two problems that
22 we have with that. One is that if we leave this room, the Senate
23 loses us as part of the quorum, and part of the ability for us to
24 easily go in and to vote if we need to. The second is in just
25 getting and finding a room that is available that we can get and
26 can be set up quickly.

27 Now, is Annette Ospital here? Has she arrived?
28

1 MR. OLSON: She has, Mr. Chairman. I'll have her come
2 through this door.

3 CHAIRMAN MCCORQUODALE: Why don't we just go ahead and
4 take her to the other room with the others. When she comes, we
5 will reread the statement to her. We're going to try to get her
6 fairly quick this morning.

7 MS. OLSON: She won't be testifying first?

8 CHAIRMAN MCCORQUODALE: No, we wanted to go with
9 Mr. Macomber, who I think is planning to be first.

10 MR. OLSON: I'd just like to put on the record -- I'm
11 Lance Olson. I am Counsel to the Board of Directors for
12 Protection and Advocacy.

13 I would just like to put on the record that as to
14 Ms. Ospital's testimony, she is here present today with a newborn
15 baby, and in consideration of that, I had negotiated with your
16 staff an understanding that her testimony would occur sometime
17 between 10:30 and 12:30 this morning, and that she would be
18 excused to leave no later than 12:30.

19 So with that statement, you may proceed.

20 CHAIRMAN MCCORQUODALE: We had some additional questions
21 to ask Al Zonca from the previous hearing which we wanted to get
22 those. That'll be very brief.

23 Then Mr. Macomber is here, and he would testify next and
24 would be a little bit longer, but we intend to not only get her,
25 but we're hoping that we can get several of the others by the
26 12:00 time. So, we'll take her third, and it won't be at 10:30,
27 but hopefully by 11 we'll be with her.

1 MR. OLSON: That's fine.

2 CHAIRMAN McCORQUODALE: One additional thing now. I had
3 been advised earlier that some of the five people who we've
4 sequestered might want to have their attorneys present with them
5 when they are testifying here.

6 Are there any attorneys in the room who intend to
7 represent those individuals? If so, we would want them to also
8 be sequestered. It's not fair to the people who would come and
9 be first to testify, and then that same information be given to
10 the ones coming later. So, we do not have anyone in the room
11 that plans to be acting as an attorney for any of the people, all
12 right.

13 We'll go then to the our list of witnesses. I'm sorry,
14 one additional thing.

15 We have two very brief tapes. We're going to show two
16 very brief tapes. The Sergeant will start those. Maybe we could
17 turn it around so the public could see it. I think some of us
18 have seen them already; if not, we can move around over there and
19 be able to see them. I'm sure everybody in Northern California
20 has probably seen these, since they were probably watching
21 Channel 4, but in case they haven't, and if you haven't seen
22 them, I thought it would set the stage for what we're really here
23 about.

24 (Thereupon two video tapes were played.)

25 CHAIRMAN McCORQUODALE: Now we can move ahead. Let me
26 call Al Zonca.

27
28

1 MR. MILLER: Mr. Zonca, did you hear the previous
2 statement?

3 MR. ZONCA: I did.

4 MR. MILLER: Did you understand that statement?

5 MR. ZONCA: I do.

6 MR. MILLER: Do you wish to testify voluntarily?

7 MR. ZONCA: I do.

8 MR. MILLER: Would you raise your right hand.

9 (Thereupon the witness, ALBERT ZONCA,
10 was duly sworn to tell the truth, the
11 whole truth, and nothing but the truth.)

12 MR. ZONCA: I so swear.

13 CHAIRMAN McCORQUODALE: Tell us how you're currently
14 employed. Tell us your name first for the record, then how
15 you're currently employed and how long in that capacity.

16 MR. ZONCA: My name is Albert Zonca. I'm the Executive
17 Director of Protection and Advocacy, and I have been in that
18 position since 1980.

19 CHAIRMAN McCORQUODALE: Could you again, which you did
20 at the other meeting, but give us a brief history on the
21 formation and function of PAI?

22 MR. ZONCA: Okay. Protection and Advocacy,
23 Incorporated, operates under two distinct federal pieces of
24 legislation. The first one is the Developmentally Disabled
25 Assistance and Bill of Rights Act, under which PAI was
26 established in 1978 to provide protection and advocacy services
27 for people with developmental disabilities, and the Protection
28

1 and Advocacy for Mentally Ill Individuals Act, which was passed
2 in 1986, and which expanded the agency's responsibility to
3 include individuals with mental illness.

4 In 1975, Congress passed Public Law 94-103, the DD Act,
5 and as a condition for continued receipt of federal funds under
6 that act, each State and territory in the country had to put into
7 place a Protection and Advocacy system to advocate for the rights
8 and protect the interests of people with developmental
9 disabilities. This Congressional action came after years of
10 concern that disabled persons, particularly those with
11 substantial handicaps like mental retardation, while assumed to
12 have full human and legal rights and privileges, were at a
13 distinct disadvantage in asserting those rights. There was
14 increasing concern in Congress that funds spent to provide the
15 care and treatment of disabled persons were not effectively being
16 delivered to achieve the intended results.

17 This concern culminated when Geraldo Rivera, who was
18 then an investigative reporter for WABC in New York, visited
19 Willow Brook, a State institution for retarded persons in the
20 State of New York, and aired a documentary that brought about a
21 national public uproar because of the abysmal conditions in that
22 facility. Senator Jacob Javits, after visiting Willow Brook,
23 heard that the conditions were horrible and an embarrassment to
24 the country. He appealed to congress to hold hearings on the
25 matter. His remarks in the Congressional record conclude that it
26 was unfortunately necessary for government to intervene to
27 protect people from abuse, neglect, and denial of treatment in
28

1 the very programs that Congress had enacted to help them, and
2 that government had an obligation, both to the recipients of
3 those services and to the taxpayer, to ensure that services and
4 treatment were delivered as intended by law.

5 The DD Act requires that a Protection and Advocacy
6 system have the authority to pursue legal, administrative and
7 other remedies on behalf of persons with disabilities. Such a
8 system is required by law to be completely independent of any
9 agency which provides care, treatment, services, or habilitation
10 to persons with disabilities.

11 The issue of independence is discussed extensively in
12 the Congressional Record. Jack Andrews, then Minority Counsel
13 for the Senate Subcommittee on the Handicapped and a major
14 architect for the compromises that ensued between the House and
15 Senate versions of the bill, stated that adequate distance is
16 needed between the monitor and the monitored.

17 Congress further spoke on the independence issue in the
18 DD Act amendments of 1984, after attempts by governors to
19 dedesignate P&A agencies in two States. The amendments added
20 language which clarified that once an agency was designated as a
21 Protection and Advocacy, that designation could not be changed
22 except for cause. That is, because of the agency's failure to
23 carry out the mandates in the Act, not because of any actions,
24 retaliations, for aggressively pursuing advocacy on behalf of
25 disabled persons.

26 The DD Act in California was assigned to the State DD
27 Council in 1976, and they embarked on a several year planning
28

1 process that emerged with the nonprofit, independent entity not
2 tied to State government, to conduct the protection and advocacy
3 activities for the State of California.

4 The current configuration of the Board of that nonprofit
5 corporation is seven Members appointed by the Governor, and four
6 appointed by the Board itself. These Members must currently
7 represent primary and secondary consumers of services; that is,
8 individuals with disabilities or their family members, or Members
9 affiliated with developmental disabilities. Two Members may be
10 from the public at large and are to be knowledgeable about
11 disability issues.

12 The Protection and Advocacy for Mentally Ill Persons Act
13 was passed in 1986. Federal legislation creating a system for
14 protection and advocacy for the legal and constitutional rights
15 of persons identified as mentally ill had been considered by
16 Congress since the late 1970s. In 1986, Senator Lowell Weicker
17 held hearings and participated in on-site investigations into
18 conditions in facilities in 13 States, and those States included
19 California. At the same time, the U.S. Department of Health and
20 Human Services conducted their own internal study of institutions
21 for people identified as mentally ill.

22 The Congressional investigations found conditions of
23 serious abuse and neglect, which included physical abuse and
24 rape. HHS's own findings were even more critical than those of
25 Congress and called conditions "appalling." The report is
26 littered with expletives that describe a horrendous system,
27 atypical of general government reports on its own services.
28

1 The Act, Protection and Advocacy for Mentally Ill Act,
2 provides allotments to each State to expand its Protection and
3 Advocacy services to now serve this population.

4 The overall management of PAI is conducted through me,
5 the Executive Director of the organization. I am hired by the
6 Board of Directors. I hire the remainder of staff.

7 We have three regional offices: our central office here
8 in Sacramento, an office in the Bay Area, and an office in Los
9 Angeles. We have contracts in three areas: San Diego- Imperial,
10 Central Valley and the North Coast, with private law firms who
11 assist us, and we have six contracts with advocacy organizations
12 representing persons who are mentally ill who provide a variety
13 of advocacy services in various areas of the State. For example,
14 one of the contracts is a project housed at Metropolitan State
15 Hospital.

16 Types of services. Contrary to the earlier newscast,
17 which I have just seen for the first time, we don't get up every
18 morning and decide how to sue the Governor. We serve about 6,000
19 people a year, and only about 4 percent of those cases end up in
20 any kind of legal or adjudicative process. We provide
21 information to many of those people about their rights. We
22 publish materials and documents, tapes, for people to do their
23 own advocacy whenever possible. We provide training for people
24 with disabilities so that they can be better equipped to
25 represent themselves. We negotiate on behalf of people. We go
26 to administrative hearings on behalf of people.

27

28

1 Last year, almost 48 percent of the cases we handled
2 were resolved by some kind of negotiation; 22 percent did not get
3 resolved by negotiation and ended up in an administrative
4 hearing, and only about 4½ percent were settled by court. Less
5 than 3 percent actually went through the whole process where the
6 court issued a judgment.

7 However, we have been involved, I think, in very
8 significant litigation which has impacted on the national level
9 and at the State level. Cases like ARC vs. California -- I'm
10 sorry, ARC vs. DDS, Honig vs. Doe which went to the U.S. Supreme
11 Court, Valerie Ann in the California Supreme Court, a current
12 case called Reise vs. St. Mary's in the California Supreme Court.
13 So while we do litigate, and we have been successful in that
14 litigation, for the record I think it's important that you and
15 the public understand that we do not litigate as a first resort.
16 In fact, a very small percentage of our work actually ends up in
17 that adversarial arena.

18 With that I will end, unless you have some specific
19 questions.

20 ASSEMBLYMAN POLANCO: I have a couple of questions.

21 First, if you would explain to me what is the status of
22 the sitting or the seating of a member who represents persons
23 with mental illness?

24 I posed the question, I believe, in Los Angeles, and I'd
25 like to hear from you as to what the status is.

26 MR. ZONCA: There is no member or no members on the
27 Board currently representing people with mental illness. The
28

1 Board has been deliberating this issue now since November of 1987
2 -- September of 1987, actually.

3 ASSEMBLYMAN POLANCO: So there's no representation
4 whatsoever?

5 MR. ZONCA: On the Board of Directors, no.

6 ASSEMBLYMAN POLANCO: There should be.

7 MR. ZONCA: Well, what do you mean by the question,
8 there should be? You mean ethically, or legally, or --

9 ASSEMBLYMAN POLANCO: Legally.

10 MR. ZONCA: Legally the Act calls for an advisory
11 committee of people composed of representatives from that
12 community. There is an advisory committee of members.

13 Well over, I think at this point, two-thirds of the
14 States have brought on those members to the Board, recognizing
15 that Congress intended representation, that since this population
16 is being served it is probably inappropriate for a Board with
17 only knowledge of DD issues to administer the funds and make
18 policy decisions based on people's needs who have mental illness.

19 In addition, Congress has just amended the
20 reauthorization of that Act to ensure that States will have that
21 representation. And both the Senate and the House versions of
22 the new bill -- the Senate version has passed the Floor, and the
23 House version has not yet passed the Floor but it's passed the
24 major committees -- both make it very clear that Congress intends
25 and wants representation for this constituency on the Board of
26 Directors of these agencies.

27 CHAIRMAN McCORQUODALE: Senator Marks.
28

1 SENATOR MARKS: You say you've been deliberating it
2 since 1987?

3 MR. ZONCA: That is correct.

4 SENATOR MARKS: What takes place at these deliberations?

5 MR. ZONCA: Well, the -- the bringing on to the Board of
6 people who represent this community involved a change of the
7 bylaws of the organization, which requires a two-thirds vote of
8 the Board of Directors.

9 At first, the committee met to deliberate this and make
10 recommendations to the Board. Then revised amendments were
11 circulated to the public at large. Then the Board agendaed the
12 item in its September meeting for discussion and a vote. At that
13 time the Board could not pass many of the amendments intending to
14 provide representation to people with mental illness on the
15 Board.

16 However, there were two areas of dispute which remained.
17 One was what size would the new Board be to accommodate these new
18 members. And the second one -- well, there were three --- who
19 would they actually represent: would they be family members,
20 would they be members of the public, would they be consumer
21 members. And finally, and the big one, is who would appoint
22 them.

23 The Board has deliberated this issue at every Board
24 meeting since. It has been debated again at the Organizational
25 Development Committee level, which is the committee responsible
26 for making recommendations on this issue. And the issue has been
27 resolved that there will be 13 members.
28

1 The issue, I believe, is near resolution on who they
2 will represent, and the issue of major contention as to who will
3 appoint them.

4 SENATOR MARKS: What has been the position of Chris
5 Jones on this deliberation?

6 MR. ZONCA: I believe originally Mr. Jones wanted an
7 11-member Board. He did not want to increase the size. And he
8 is very direct and clear that all appointments should be made by
9 the governor.

10 SENATOR MARKS: Regardless of whether the person
11 represents mental health or not?

12 MR. ZONCA: I think you would have to ask him to clarify
13 what he means. I can't really answer for him on that.

14 SENATOR WATSON: Mr. Chairman.

15 CHAIRMAN MCCORQUODALE: Senator Watson.

16 SENATOR WATSON: Could the witness tell us what the
17 status is of bringing in outside mediators to work with the
18 Board?

19 MR. ZONCA: I -- having concern that meetings were
20 deteriorating, and that the Board was no longer functioning, and
21 that this issue had taken such a great amount of time on the
22 Board agendas for months, and concern that we weren't getting to
23 other business, I interviewed three mediators. And I chose a man
24 with a law firm specializing in mediation from Irvine who knew
25 nothing about disabilities and who knows nothing -- is really not
26 connected politically or invested in any way in politics, to
27 present to the Board as an alternative way to resolve this
28 dispute to serve as a mediator.

1 We -- retained him, and we agreed that he would
2 interview several key Board members and make a determination
3 whether or not there was sufficient motivation to enter into a
4 negotiation and a mediated process. This is exclusively what he
5 does in his practice.

6 SENATOR WATSON: He is there functioning at the current
7 time?

8 MR. ZONCA: No, he is not. He gave me his report which
9 was after interviewing, I believe, four of the key members of the
10 Board, that there was not sufficient motivation to enter into a
11 mediation process by the Board. That in order for him to
12 succeed, he would have to have a sense that the Board would, in
13 fact, in good faith, mediate.

14 SENATOR WATSON: I see.

15 MR. ZONCA: And he could not conclude that that was in
16 fact possible.

17 SENATOR WATSON: Can you describe what goes on at a
18 typical Board meeting? What becomes the bone of contention? Is
19 it the expansion of the Board? Is it who sits on the Board? Is
20 it who has the appointment power? Can you just kind of capsulize
21 or zero in on what you see as the problem?

22 MR. ZONCA: I would say the essence of the dispute in
23 relationship to the community of people representing disabled
24 persons is legitimacy. Do these people who are appointed to the
25 Board, and will the people in the future who are appointed to the
26 Board, really represent them, really understand the issues, and
27 really have a commitment to this?

1 The tragedy, if there is one in all of this, is that the
2 organization is here to protect an incredibly vulnerable
3 population. And it's an emotional -- for those of you who know
4 this field, you know it's a very emotional field. And to me, I
5 think, is the essence of the issue.

6 Not so much the other issues, but will these people
7 really understand, will they represent us in a knowledgeable --
8 or the disability community in a knowledgeable and informed way.
9 I would say that's the essence.

10 Now, certainly the issue of who appoints and how is that
11 ensured follows from that essential issue.

12 SENATOR WATSON: At the last Board meeting, can you tell
13 us what the outcomes were after Chris Jones and some of the other
14 members left the meeting?

15 MR. ZONCA: There was a question about whether we had a
16 quorum. The gavel was handed to the next officer in line. The
17 meeting was continued, and there were three major actions by the
18 Board. A group of them involved funding contracts for continued
19 services in a variety of areas. And the other one was to appoint
20 two members from this advisory committee I mentioned earlier to
21 the Board of Directors. Then they represented the network of
22 ex-patients, the California Network of Ex-Mental Patients, and
23 the California Alliance for the Mentally Ill, which is a family
24 member group. And two members were appointed at that time.

25 Then there was a question about whether or not those
26 actions were legal.

27
28

1 SENATOR WATSON: Did that come up at that meeting, or
2 did that come up afterwards?

3 MR. ZONCA: It came up afterwards. And I submitted a
4 letter to our corporate counsel, who you met earlier. He
5 reviewed both our bylaws, of course State corporation law, and
6 Roberts Rules of Order and concluded that there was not a quorum,
7 and that the actions were in fact illegal.

8 Then the Executive Committee met and ratified the
9 actions in order to make them legal of the Board meeting around
10 the letting of the contracts. So we did then have a legal action
11 and could proceed.

12 The issue of the two members who were appointed by this
13 non-quorum of the Board was never discussed or has not been
14 further discussed since that time.

15 SENATOR WATSON: You've not had another meeting since
16 then?

17 MR. ZONCA: Another Board of Directors meeting, no.

18 SENATOR WATSON: Thank you.

19 CHAIRMAN McCORQUODALE: What is the Program Development
20 Committee? Just briefly tell us what that is.

21 MR. ZONCA: The Organizational Development Committee
22 really has major responsibilities for planning and development,
23 organization growth issues, organization change issues, which is
24 why the bylaws issue was assigned to that committee.

25 CHAIRMAN McCORQUODALE: What were the circumstances
26 under which the last meeting was held of that group?

27 MR. ZONCA: Do you want to be more specific?
28

1 CHAIRMAN MCCORQUODALE: What I'm looking for is, who was
2 there at the last meeting of the Organizational Development
3 Committee?

4 MR. ZONCA: Give me a moment. Chris Jones was present.
5 Lori Roos was present. Connie Lapin was present as members of
6 the committee. Linda Kowalka also attended as a Board member,
7 not a member of the committee -- I'm sorry, Linda Kowalka was a
8 member of the committee. Connie Lapin attended as an observer.

9 CHAIRMAN MCCORQUODALE: How did the members get their
10 notification of that meeting?

11 MR. ZONCA: It was, I believe, on Monday the 27th of
12 June that we got a call from one of the members that they wanted
13 travel arrangements to the OD Committee meeting. My secretary
14 took the call and came in and asked me what meeting there was on
15 Friday, July 1st in the evening. And I mentioned that I didn't
16 know of a meeting, so I would call the Board member, which I did.
17 And I was informed that there would be an OD Committee meeting
18 Friday evening, July 1st.

19 And I expressed some concern that it was a little late
20 notice, and that I couldn't get an agenda out to people on time
21 or prepare a packet for the meeting. And we had a discussion
22 that led me to calling the Board President, who I then called,
23 and there was some deliberation until Tuesday over whether or not
24 to go ahead with the meeting. On Tuesday I got a call from the
25 committee chairperson saying that there would be a meeting, that
26 there wouldn't be a need to send out the agenda, that I didn't
27 have to prepare anything. That they would -- that the President
28

1 would notify the Board members of the meeting. So the President,
2 to my knowledge, notified the members; I did not participate in
3 that process per instruction.

4 CHAIRMAN McCORQUODALE: Is this a meeting that's covered
5 by the Open Meeting Law?

6 MR. ZONCA: In think you're going to have to ask that to
7 Counsel. It's a committee meeting, and we have clearly a notice
8 requirement and an open meetings requirement on our Board agenda,
9 but action items do not occur at committee meetings, and we do
10 not send out a public notice. And so my reading, at least, of
11 our bylaws is that they are not covered because all items will go
12 then to the Board of Directors during open session, and public
13 comment can be addressed there.

14 CHAIRMAN McCORQUODALE: The Executive Committee would be
15 covered by it?

16 MR. ZONCA: The Executive Committee, if they were to
17 act.

18 CHAIRMAN McCORQUODALE: Would be covered by the Open
19 Meeting Law?

20 MR. ZONCA: Again, I think you should address that to
21 Counsel.

22 CHAIRMAN McCORQUODALE: Can you tell us who you
23 contacted? Who you talked to on that committee?

24 MR. ZONCA: I talked to Lori Roos, who is the chair of
25 the committee, and I talked to Chris Jones, who is the President
26 of the Board. I believe I also talked to Linda Kowalka, who
27 called in about another matter, and discussed that there would be
28 this meeting.

1 SENATOR WATSON: Mr. Zonca, on this same issue, if you
2 were to describe the process to the Chair and the President, does
3 that jeopardize your position? If you were to describe what's in
4 the bylaws as to acceptable standard and legal proceeding, and
5 insisted on them, as you seem to have done, does this jeopardize
6 your position as Executive Director?

7 MR. ZONCA: Well, I think I would like to answer it by
8 saying I had concern. I expressed it. I openly expressed it
9 here. It's always a concern that people be notified who are on
10 the committee with adequate time to prepare and attend. So, I
11 had that concern.

12 SENATOR WATSON: As I understand the bylaws, it pretty
13 much parallels who we hold our hearings, that the public has to
14 be notified. You have to leave an issue on calendar so the
15 public is aware of that issue, so the public can come and have
16 comment.

17 As I understand what just occurred with the committee,
18 is that they decided to have a meeting, and the President then
19 announced that there would be a meeting and called the members;
20 is that correct?

21 MR. ZONCA: That's correct.

22 SENATOR WATSON: Without an opportunity, really, to have
23 the public notified?

24 MR. ZONCA: The public was not notified.

25 SENATOR WATSON: Thank you.

26 CHAIRMAN McCORQUODALE: Senator Marks.
27
28

1 SENATOR MARKS: Could I ask a question to follow this
2 up?

3 You're saying that some meetings would not be open to
4 the public?

5 MR. ZONCA: No, I may have misrepresented. We -- when I
6 say -- we have a requirement to send out a list to a number of
7 people and there are a number of people on our list for all of
8 our Board meetings. They're all notified at least 10 days before
9 the Board meeting.

10 We have never to my knowledge denied anybody access to a
11 committee meeting, but we do not promulgate in the same way with
12 those same requirements, and our bylaws don't so state that we
13 must. We do not promulgate that same notice for every committee
14 meeting or with the same requirements that we do for the Board
15 meetings.

16 SENATOR WATSON: In other words, the public can come and
17 testify if they know of the meetings?

18 MR. ZONCA: We have never turned anyone away.

19 SENATOR WATSON: Yes, but if you call a meeting and the
20 public's unaware, the committee members can be there but the
21 public is unaware because they haven't been notified. Would that
22 be a correct statement?

23 MR. ZONCA: I think that follows logically.

24 SENATOR WATSON: That is a correct statement?

25 MR. ZONCA: Yes.

26 SENATOR WATSON: Thank you.
27
28

1 SENATOR MARKS: Mr. Chairman, I'd like you to ask the
2 attorney -- you say you'd like an attorney to answer what should
3 be public?

4 MR. ZONCA: Well, we have a corporate counsel. I am
5 reticent, particularly under these current circumstances --

6 SENATOR MARKS: Is he here?

7 MR. ZONCA: Yes, he is, to answer a legal question.

8 SENATOR MARKS: I'd like him sometime to discuss whether
9 or not any meeting is not public. I cannot believe that you'd
10 have a meeting but not public. All meetings are public.

11 CHAIRMAN McCORQUODALE: All right, we will seek that
12 later.

13 Let me just check one thing. You said that you talked
14 to Chris Jones. Is he a member of that committee?

15 MR. ZONCA: The President is an ad hoc member of all
16 committees.

17 CHAIRMAN McCORQUODALE: So he's not a voting member or
18 counted in the quorum, or anything like that?

19 MR. ZONCA: Actually, there may be a question about
20 that. I cannot answer that question either about whether or not
21 there was a quorum or whether or not Mr. Jones can be counted in
22 the quorum.

23 CHAIRMAN McCORQUODALE: All right.

24 Any other questions. Mr. Polanco.

25 ASSEMBLYMAN POLANCO: You have been Executive Director
26 since 1980?

27 MR. ZONCA: Yes, I have.
28

1 ASSEMBLYMAN POLANCO: That's eight years now.

2 Has anyone from the Governor's Office in reference to
3 appointments being made ever contacted you in regards to those
4 appointments prior to the appointment being made or announced?

5 MR. ZONCA: Anybody from the Governor's Office, if I
6 understand your question, contact me during the process? The
7 appointment process?

8 ASSEMBLYMAN POLANCO: That's correct.

9 MR. ZONCA: I have been contacted at times from people
10 either from the Governor's Office or who represented themselves
11 as representing the Governor's Office to clarify what positions
12 were vacant, what the terms of those positions were, and perhaps,
13 you know, what the actual requirements were for the disabled
14 person or something to that effect, yes.

15 ASSEMBLYMAN POLANCO: Let me ask a follow up question.

16 Were you ever contacted in reference to the appointment
17 of Chris Jones?

18 MR. ZONCA: Do you mean specifically asking me about
19 that appointment?

20 ASSEMBLYMAN POLANCO: Whether or not he met the State
21 and/or federal criteria for that appointment?

22 MR. ZONCA: Not to my recollection.

23 ASSEMBLYMAN POLANCO: So you were not contacted.

24 MR. ZONCA: Not to my recollection. I feel fairly
25 comfortable that I was not.

26 ASSEMBLYMAN POLANCO: What about the other two
27 appointments of Margaret --

1 MR. ZONCA: I think the only appointment that I can
2 recall that there was any contact on during that process was that
3 at one point, Greg Sandin, from the Department of Developmental
4 Services, had called and also came over to the office to seek
5 some information about the consumer appointee and the status of
6 David Thurston, who was filling that existing position. And he
7 had asked for some information about the vacancy, and I'm not --
8 I don't recall exactly or precisely what we sent him, and we
9 hadn't sent it, and then he came over to retrieve it. And so, we
10 had a brief discussion about the disability, and I think about
11 some problems with disability appointments, very short
12 discussion.

13 ASSEMBLYMAN POLANCO: Last question. In your
14 professional experience and in your opinion, do you believe that
15 the appointments that are in question today, do you believe that
16 those individuals meet that criteria that is set very clearly and
17 specifically in the law?

18 MR. ZONCA: Well, I am learning some new techniques of
19 how to behave with grace under pressure, but you're challenging
20 me on this one.

21 (Laughter.)

22 MR. ZONCA: I respectfully decline. I think in my
23 position as Executive Director, I serve the Board. I do not have
24 the authority over appointments, and there's no question in my
25 mind that my responsibility is to serve the Board. It would be
26 very inappropriate for me to make any personal comments about
27 them in this situation. I feel I ethically and in terms of my
28

1 ethics in relation to a public administrator, I feel I must serve
2 those who I report to.

3 ASSEMBLYMAN POLANCO: Let me see if I can continue the
4 questioning, then, because I think that if you're contacted prior
5 to an appointment taking place for input in some instances, maybe
6 not in these particular instances, and you readily make available
7 information, your comments, I think that the fact -- and I
8 appreciate you being an individual who has to implement the
9 public policy or the policy of that particular Board of Directors
10 -- I think that you need to come to grips with the seriousness of
11 what we are faced with.

12 And I appreciate very much that you do serve on that
13 Board, but the public interests here on this particular issue is
14 so overwhelming that we, as individual who are sitting up here,
15 need to come to grips with whether or not the issue of these
16 individuals, are they meeting that State requirement, are they
17 meeting those federal guidelines. And we need the professional
18 input from individuals like yourself.

19 MR. ZONCA: I appreciate that, and I will answer this as
20 best I can.

21 I can say definitively that the tension, the stress, and
22 the energy focused away from our fundamental issues here in
23 trying to run an organization are distracting at best, and some
24 days debilitating.

25 Obviously, I can't function forever unless this thing
26 gets resolved, and the organization will suffer from that. My
27 job has been to try to buffer the staff from what's going on, and
28

1 I think I've done a reasonable job of that. I think we're still
2 providing services. I think they're still of decent quality. We
3 do get a lot of calls from people wondering if they can refer to
4 us or should refer to us, and I will candidly say, anybody in
5 this situation would deliberate quite a while about whether or
6 not they should stay in it or whether they're just rearranging
7 the deck chairs on the Titanic.

8 But, I will tell you that I am here because I believe in
9 this law. I believe in public service. And I intend to continue
10 to do my job under these circumstances as long as possible.

11 That's the best answer I can give you. I think you'll
12 have to look to others, to the government, federal government, to
13 Counsel, to your process, to the consumer groups, to answer that
14 other question. In my position I must decline.

15 MS. TATE: Excuse me, Mr. Zonca. I just want to go back
16 to an initial concern that I had with regard to the federal
17 statutes or guidelines pertaining to a mental health person on
18 the Board.

19 MR. ZONCA: Yes.

20 MS. TATE: First of all, just a technical question, is
21 there some intent language with regard to the way States should
22 proceed?

23 MR. ZONCA: Those are both two new pieces of
24 legislation. One of them has been out less than two weeks, and
25 there is some intent language. And I cannot, from memory, recall
26 it with precision for you, but I can provide it to you certainly.
27
28

1 MS. TATE: And then just one other question. Again,
2 it's just my concern.

3 I understand the deliberations the Board would take in
4 terms of trying to decide the constitutional makeup of that
5 mental health person on the Board or on the advisory board.

6 But do you feel that maybe you and/or the Board may have
7 some type of what I'll call ethical considerations with regards
8 to swiftness in the way one proceeds after almost two years?

9 MR. ZONCA: It has been my recommendation since last
10 summer to the committee and then to the Board that we proceed to
11 put people who represent the MI community on the Board quickly.
12 That is still my position. I do believe that's the proper thing
13 to do.

14 MS. TATE: Thank you.

15 CHAIRMAN McCORQUODALE: All right, any other questions?

16 Mr. Zonca, I think that completes the questions that we
17 had for you. Thank you. We appreciate your being here.

18 MR. ZONCA: You're welcome.

19 CHAIRMAN McCORQUODALE: Can you stay around, however?
20 We may need to call you back at some other point.

21 MR. ZONCA: Yes, I understand.

22 CHAIRMAN McCORQUODALE: Our next witness, we're going to
23 go directly to Annette Ospital because I wanted to be able to let
24 her leave. She has other obligations.

25 You can stand there or you can sit at the table.
26 Although before you sit, the attorney needs to read a statement.

27 MR. MILLER: I'm going to ask her to read it.
28

1 Your attorney was here when this statement was read. If
2 you will read the material indicated in the brackets.

3 CHAIRMAN McCORQUODALE: We had that read to every one.

4 SENATOR WATSON: Why don't we ask Mr. Zonca to join us
5 up here? He's standing in the back. He can sit here.

6 CHAIRMAN McCORQUODALE: He probably would rather not,
7 but he can.

8 SENATOR WATSON: In case we have a question.

9 MR. MILLER: Do you understand that?

10 MS. OSPITAL: Yes. I'm going to testify voluntarily.

11 (Thereupon the witness, ANNETTE OSPITAL,
12 was duly sworn to tell the truth, the
13 whole truth, and nothing but the truth.)

14 MS. OSPITAL: I do.

15 CHAIRMAN McCORQUODALE: First tell us your name for the
16 record.

17 MS. OSPITAL: Annette Ospital.

18 CHAIRMAN McCORQUODALE: Thank you.

19 Ms. Ospital, I appreciate your being here today and the
20 chance to ask you some questions. I don't think we'll take too
21 long, but I think we needed to have all of the perspectives of
22 different people.

23 Can you describe what in your mind is included in the
24 federal Developmental Disabilities Assistance and Bill of Rights
25 Act and amendments of 1987? That's the more recent one, and the
26 one that has been a matter of a lot of controversy recently. Are
27 you familiar with that?

1 MS. OSPITAL: I mean, I can't tell you the amendments
2 you're talking about, no. Are you talking about the addition of
3 the mentally ill?

4 CHAIRMAN McCORQUODALE: Well, why don't you start with
5 that. Tell us about whether you think there's a requirement that
6 there be the inclusion of mentally ill representation.

7 MS. OSPITAL: Well, I think if they've had no previous
8 representation as such in the past, then yes, and if the federal
9 government chose to put it under the previous Act, then so be it.
10 And so now, PAI is now covering both developmentally disabled and
11 mentally ill.

12 CHAIRMAN McCORQUODALE: I'll give you just a little bit
13 of a summation of the description.

14 First of all, the Developmental Disabilities Assistance
15 and Bill of Rights Act has just traditionally served the
16 developmentally disabled.

17 MS. OSPITAL: Right.

18 CHAIRMAN McCORQUODALE: And a target population who, by
19 virtue of their severe handicapping, have been underserved in
20 various programs. That's what the federal government found.

21 That Act came about in 1963. That was the original Act.
22 What we're looking at at this point are the amendments that took
23 place as it relates to a number of different areas. It's kind of
24 hard for me to tell you what they all are.

25 I guess what I'm mainly interested in is your knowledge
26 in the area of developmental disability, and if you had a feeling
27 that if you saw or experienced an act that might be
28

1 discriminatory towards a developmental disabilities person, a
2 person with developmental disabilities, would you recognize that
3 as a violation of the law?

4 MS. OSPITAL: I can't quote the law per se. I would
5 certainly have to go back in and look at the Act.

6 I am chairman or chairperson of the Public Affairs,
7 which deals with legislation, so I am more familiar in some
8 senses, and keep more track of what's going on in that area.

9 But as far as federal law, we review that kind of thing
10 in our packet whenever it comes up, and if it's appropriate, we
11 do discuss it in meetings. But I can't quote you the law or the
12 Act itself.

13 CHAIRMAN MCCORQUODALE: In general, would you say,
14 though, that you support the Act and the amendments? Would that
15 be a safe statement to say about you, or do you have any
16 particular areas that you have reservations about?

17 MS. OSPITAL: Not at this time. I'd say I would support
18 the Act.

19 CHAIRMAN MCCORQUODALE: Without saying whether the Act
20 did or didn't, if it provided that all gay people had to receive
21 services under the Developmental Disabilities Act, would that be
22 a problem for you? Would you accept that and provide that?

23 MS. OSPITAL: Are the gay people developmentally
24 disabled?

25 CHAIRMAN MCCORQUODALE: Well, are they? I don't know.
26 You're the expert on that. You're charged with administering it.

27

28

1 MS. OSPITAL: Well, if it discusses developmentally
2 disabled, and these people happen to be gay and are
3 developmentally disabled, then naturally they would be included
4 in this Act. I would not have a problem with that.

5 CHAIRMAN McCORQUODALE: What about the State's Lanterman
6 Developmental Disabilities Services Act? Are you familiar with
7 that?

8 MS. OSPITAL: Well, I'm familiar with it, but it's a
9 huge, huge Act. And I don't know if there's something in
10 particular you'd like to discuss about it?

11 CHAIRMAN McCORQUODALE: What do you think the most
12 significant thing about it is?

13 MS. OSPITAL: I guess succinctly that it provides, I
14 should say, the necessary laws. It provides the necessary
15 documentation for people with developmental disabilities so that
16 there is guidelines, there are guidelines and laws that need to
17 be followed.

18 CHAIRMAN McCORQUODALE: Would you say that the issue of
19 services, or the issue of rights in the Lanterman Act was more
20 important?

21 MS. OSPITAL: The issue of rights, because I think we
22 have organizations that deal with the issue of services.

23 CHAIRMAN McCORQUODALE: Looking at the word "advocacy",
24 what would be your definition of advocacy?

25 MS. OSPITAL: In general to me, advocacy is a looking
26 out for a particular group. And by that it could be in various
27 ways -- services, legislation, housing.

1 CHAIRMAN MCCORQUODALE: Then looking at the word
2 "advocacy" as it's used in a couple of ways with developmental
3 disability, look at it first from that advocacy role performed by
4 the Area Boards on Developmental Disabilities. What would be
5 your definition of what their role would be? What's the
6 significance of the Area Boards in their advocacy?

7 MS. OSPITAL: The Area Boards are more at a local level,
8 is my understanding. And frankly, I haven't dealt a lot with
9 Area Boards. That -- my sister, who's developmentally disabled,
10 is in a workshop type of environment, and that's what I am more
11 familiar with.

12 I just recently attended an Area Board meeting. I've
13 moved to a different locale, and been receiving notices of
14 meetings and had an opportunity to go to my first one this week,
15 which was on Tuesday. So hopefully, I will be able to go to
16 those more often. But they seem to deal with issues more on
17 local level.

18 And frankly, from what they said, they're not branching
19 out as much as they'd like to, either. They evidently seem to
20 deal more with the adult population and education population as
21 opposed to some other areas.

22 CHAIRMAN MCCORQUODALE: How would you define the
23 advocacy role performed by PAI?

24 MS. OSPITAL: My understanding, and from what I've
25 worked with PAI, that there's -- their advocacy, our advocacy, is
26 more of a legal issue.

27
28

1 SENATOR WATSON: Excuse me. Can I query that for a
2 minute?

3 CHAIRMAN MCCORQUODALE: Yes.

4 SENATOR WATSON: What do you mean, your advocacy is more
5 of a legal issue?

6 MS. OSPITAL: In other words, we tend to come in at a
7 time that's more appropriate in dealing with legal issues, when
8 there's legal problems.

9 SENATOR WATSON: If I may, Mr. Chairman, what is your
10 opinion, what is your impression of what advocacy means?

11 MS. OSPITAL: Advocacy would be more of a protection.

12 SENATOR WATSON: Protection of the legal rights?

13 MS. OSPITAL: Well, it could be protection of that. It
14 could be, as I mentioned earlier, protection for a particular
15 group, say, and that could cover, as I said previously,
16 education, legislation, laws, rights, services.

17 SENATOR WATSON: And you see it more -- I'm trying to
18 understand your response in terms of seeing it more as a legal
19 issue. Is there advocacy that is outside of the legal realm?
20 The commitment, the compassion to the particular population that
21 this Board addresses?

22 MS. OSPITAL: Are you asking me if there's other boards
23 that deal with --

24 SENATOR WATSON: No, I mean how do you see PAI in terms
25 of not only legal advocacy, but the advocacy for the patient, for
26 the person with developmental disabilities? How do you see the
27 role of PAI in relationship to that patient?
28

1 MS. OSPITAL: PAI is, I would say, sort of a -- can be a
2 sounding board. It can be a place for people to go to to get
3 information on how they can handle, let's say, a housing issue or
4 service issue. And PAI may not always be able to assist them,
5 but they can give them direction on what might be the appropriate
6 agency or organization.

7 And PAI also, although we don't get actively involved in
8 legislation because of our Act, but we do monitor legislation,
9 and can get involved into it under certain monies that we do
10 have.

11 SENATOR WATSON: As the sister of one of these target
12 people, do you feel that your advocacy can go beyond that, just
13 locating and defining the law? Should it go beyond that?

14 MS. OSPITAL: Does my advocacy, personal advocacy?

15 SENATOR WATSON: Yes.

16 MS. OSPITAL: Yes, my personal advocacy does go beyond
17 that. I'm also on the State Council. And although my sister
18 lives at home, so again, I haven't been real familiar with
19 outside services, but certainly, you know, these are the kinds of
20 things we're dealing with: rates issues, in-home placements,
21 that kind of thing.

22 So, yes, my advocacy deals with legislation and whatever
23 else that we're dealing with, service issues. Now we seem to be
24 stuck on bylaws.

25 SENATOR WATSON: Thank you.

26 CHAIRMAN McCORQUODALE: Senator Rosenthal.

27 SENATOR ROSENTHAL: How long have you been on the Board?
28

1 MS. OSPITAL: On this Board I have been on the Board
2 since January of '86, I believe.

3 Is that correct, Al?

4 SENATOR ROSENTHAL: Mr. Chairman, it seems to me that
5 one of the requirements of membership on the Board would be to
6 know what the law was, both the federal law and the State law.
7 And in my opinion, this witness doesn't appear to know what that
8 is. She's not even sure she's read it.

9 And that gives me some concerns as we carry on this
10 testimony.

11 CHAIRMAN MCCORQUODALE: In looking at this advocacy
12 role, how far do you think we ought to go to advocate for the
13 rights of any group, let's say developmental disabled, though?
14 How far do you think that we ought to go, using public money, to
15 advocate for their rights?

16 MS. OSPITAL: Well, I suppose I could give you a pat
17 answer like we should go as far as we can, but that's not always
18 times -- all the time feasible.

19 But I think issues come up as we go, and as many groups
20 find out as you go through life, there are things that need to be
21 addressed and that you don't always think of. So my feeling is,
22 as the issues come up, to address those and to take those when
23 there seems to be a public outcry for them.

24 CHAIRMAN MCCORQUODALE: Do you think it should be
25 determined by the impact, if you were going to make a decision to
26 provide a legal representation to a client, do you think that
27 there should be any judgment based on the number of people that
28

1 would benefit and the cost? In other words, if you could
2 represent a person, and if that person wins, a million people
3 benefit at no cost to government, versus ten people benefitting
4 at a million dollars a year cost?

5 Can you make a judgment between those two?

6 MS. OSPITAL: Well, that's hard to answer because, you
7 know, it's sort of personal to me. And I would like to see all
8 the rights and all the money spent that we can. But I also
9 realize that when you're using public funds, you have to be
10 fiscally responsible for that.

11 My feeling would be, if there was an issue that I felt
12 right about, and that I wanted to pursue, that I would pursue
13 that to its fullest extent, whether it was going to help one or
14 whether it was going to help many.

15 CHAIRMAN McCORQUODALE: Do you see the role of the
16 Board, PAI Board, being to determine and having a responsibility
17 for determining the impact on the State budget for your advocacy?

18 MS. OSPITAL: Are you asking should we take the State
19 budget in consideration when we are -- with the distribution of
20 funds?

21 CHAIRMAN McCORQUODALE: Yes, because as we've seen with
22 most of the lawsuits that PAI wins, when you win one it costs the
23 State budget. If it costs the State budget, and that becomes a
24 court requirement to provide those services, then you can't use
25 the money somewhere else. So maybe education doesn't get as
26 much, or senior health programs don't get as much.

27 Do you consider those things when you make decisions?
28

1 MS. OSPITAL: Do I personally, or does the Board?

2 CHAIRMAN MCCORQUODALE: I think either one. You can
3 talk for yourself.

4 MS. OSPITAL: I'd rather talk for myself.

5 I would say yes. I somewhat look at that. But again,
6 if I believe more in the issue than the State budget or the
7 federal budget, then I would pursue it.

8 CHAIRMAN MCCORQUODALE: Would it bother you if one
9 department, like DDS, or one person like the Governor were sued
10 ten times in a row, and PAI won every time, would you be
11 concerned about how that's going to look and maybe want to limit
12 lawsuits against those individuals for a while?

13 MS. OSPITAL: I think I would be concerned if anybody or
14 an organization was being pursued or sued constantly like that,
15 and I would want to find out, you know, why, and if the legal
16 issues are pertinent and they're what they should be, then I
17 suppose then the lawsuits should proceed. But if they're not,
18 and they're done for political reasons, or whatever other
19 reasons, then I would have to examine that.

20 CHAIRMAN MCCORQUODALE: Have you examined the number of
21 lawsuits that PAI has brought on behalf of clients?

22 MS. OSPITAL: I have not.

23 CHAIRMAN MCCORQUODALE: So you're not able to tell us
24 whether it's five or fifteen?

25 MS. OSPITAL: No.

26 CHAIRMAN MCCORQUODALE: So at this point you're not
27 concerned about the number of lawsuits that have been brought
28 against the Department or the Governor?

1 MS. OSPITAL: Previously? I guess I'm not because I
2 haven't pursued that. I'm more interested in doing my work since
3 I've been on the Board now, and if there's lawsuits that come up
4 now, then I will deal with those issues.

5 CHAIRMAN MCCORQUODALE: Have you discussed this with
6 other members of the Board? Have you ever talked about the issue
7 of the number of lawsuits against the Governor or the Department?

8 MS. OSPITAL: No.

9 CHAIRMAN MCCORQUODALE: Are you currently working?

10 MS. OSPITAL: No.

11 CHAIRMAN MCCORQUODALE: What did you do before you took
12 time off, or didn't work?

13 MS. OSPITAL: My previous job was executive assistant
14 with the Native American Heritage Commission.

15 CHAIRMAN MCCORQUODALE: Did you leave that for the birth
16 of your child?

17 MS. OSPITAL: Yes, I moved out of the area.

18 CHAIRMAN MCCORQUODALE: And then what did you do before
19 that, either salaried or volunteer work?

20 MS. OSPITAL: Immediately before that I was with the
21 Assembly Caucus, and that was for a brief period.

22 CHAIRMAN MCCORQUODALE: Democratic?

23 MS. OSPITAL: The Republican, and that was for a brief
24 period.

25 CHAIRMAN MCCORQUODALE: Have you worked for other
26 elected officials?

27 MS. OSPITAL: No.
28

1 CHAIRMAN MCCORQUODALE: How did you find out about PAI?
2 How did you first hear about it?

3 MS. OSPITAL: Let's see, well, I had been interested and
4 had mentioned wanting to get involved with some kind of
5 developmentally disabled population for a long time. And so,
6 let's see, it was just a matter of waiting. In fact, when I
7 first got here, I had looked into what the county has, a
8 department or a council kind of thing for the developmentally
9 disabled, and I was also attending things by Sacramento ARC. And
10 I'm usually involved with Special Olympics every year, so no
11 matter where I move, I try to get involved in some aspect of
12 developmentally disabled. And my goal was to be on PAI or State
13 Council as soon as I can, which ended up taking a few years.

14 SENATOR WATSON: Mr. Chairman, may I take off?

15 CHAIRMAN MCCORQUODALE: Yes, Senator Watson.

16 SENATOR WATSON: My concern is the make up of the Board,
17 just to cut through a whole lot. And I think that you
18 legitimately qualify for membership of the Board, and I've been
19 trying to test your commitment just listening to your answers.

20 However, in looking at Board members, I do not see them
21 fitting the intent of the statute. Could you explain to me who
22 you feel about who should go on the Board?

23 Now, I heard you say that where ever you move, you try
24 to get involved. You have a sister who lives at home. You've
25 been involved with her. And you have legitimate interest.

26 Would you think that a person should be appointed to the
27 Board who, say, has a broken leg, or someone who maybe knows
28

1 someone who is developmentally disabled, but has no real
2 performance in that area, no real activism in that area?

3 What I'm going after, I'm trying to get a feel from the
4 witnesses as to whether they belong there or not. I'd just like
5 your opinion of who should be on that Board? What kinds of
6 people should on that Board?

7 MS. OSPITAL: In some senses, that's tough for me to say
8 because --

9 SENATOR WATSON: Just your own feelings, what kind of
10 person do you think should be there?

11 MS. OSPITAL: I don't know if I necessarily think that
12 someone has to have a developmentally disabled person in their
13 family, although I know that our bylaws state that.

14 I think if there is a real sincere interest, whether
15 that person belonged to an organization or they are a public
16 member, you know, for myself, I have a sister that is
17 developmentally disabled, and of course that's close for me to
18 get involved in this. It's been a deep, personal feeling.

19 But I think that there's probably other people out there
20 that don't necessarily have to, like I say, have a relative to be
21 interested in the organization. I mean, that's tough for me to
22 say.

23 I think as long as they are truly and genuinely
24 interested and support the rights and achievements and advocates
25 of --

26 SENATOR WATSON: Then what is creating the conflict on
27 that Board?
28

1 MS. OSPITAL: Oh, I think, you know, there are multiple
2 answers to that. And there appears to be, from my understanding,
3 there appears to be concern from the constituents that some of
4 these people are genuinely not --

5 SENATOR WATSON: No, no, no.

6 MS. OSPITAL: -- not interested --

7 SENATOR WATSON: No, I'm asking you as a Board member
8 who has privy to what happens on the Board.

9 MS. OSPITAL: Okay, go ahead.

10 SENATOR WATSON: What is the conflict in the internal
11 Board composition? I'm not talking about the people they serve.
12 I'm talking about the Board itself. That's what we're trying to
13 identify here.

14 MS. OSPITAL: I would, you know, I'd have to decline to
15 answer that.

16 SENATOR WATSON: All right, I understand.

17 If you were to appoint a Board, what kind of people
18 would you put on it?

19 MS. OSPITAL: I would put -- I'm not sure I'd go about
20 this, but I would put definitely people that can demonstrate to
21 me that they are advocates for the developmentally and mentally
22 disabled, and do show a concern, however I might decide that is.

23 Like I say, for me it wouldn't necessarily mean that
24 they have to have a family member, but I would like to see a
25 commitment and a consistent commitment.

26 SENATOR WATSON: Who should appoint to that Board?
27 Should it be the Governor alone? Should Legislators get
28 involved? We have public members, too.

1 MS. OSPITAL: Should there be public members on the
2 Board, or should public members be able to --

3 SENATOR WATSON: No, should public members be on the
4 Board, and who should appoint to that Board? I mean, just in
5 your own opinion.

6 MS. OSPITAL: Yes, I do believe public members should be
7 on the Board. I don't think that they should be given authority
8 on the Board, but I also think the Governor should have a say,
9 absolutely, and I think that it would be fine with me if
10 Legislators wanted to choose members, and I think the Board
11 members themselves should choose members.

12 SENATOR WATSON: You think Board members themselves --

13 MS. OSPITAL: Should have the opportunity to choose
14 members, because I think that, hopefully, the Board members that
15 you've got on there are familiar with the people out there. Now
16 for me -- for instance, it's hard, because for me coming into a
17 new area, I don't know a lot of people. But as I go to these
18 meetings, and I attend other functions, you know, I'm slowly
19 meeting more and more people. And as someone said to me, it's
20 kind of an incestuous group, being that developmentally disabled
21 people, that they tend to keep going to the same things and the
22 same Boards, and you will see a lot of the heavy constituents and
23 advocates, you will see them over and over and over again. And
24 that's good, you know, but we also need to pull in new members.
25 We just can't have the same people doing the same things.

26 SENATOR WATSON: We you think we ought to have straight
27 political appointments on the Board?
28

1 MS. OSPITAL: No.

2 SENATOR WATSON: Thank you.

3 CHAIRMAN McCORQUODALE: I was under the impression that
4 you had worked for Mr. Duplissea at one time?

5 MS. OSPITAL: Not at all.

6 CHAIRMAN McCORQUODALE: Just the Caucus. Who was chair
7 of the Republican Caucus then?

8 MS. OSPITAL: Oh, let's see. I'm trying to think. I
9 got in when they did the switch over. I think it was Naylor.
10 You're making me go back a few years.

11 CHAIRMAN McCORQUODALE: What did you do there? What
12 kind of work did you do there?

13 MS. OSPITAL: I was in their communication department,
14 and I was only there a few months.

15 CHAIRMAN McCORQUODALE: Were you interviewed prior to be
16 appointed? Did you have an interview with someone?

17 MS. OSPITAL: Let's see. I met with -- I'm trying to
18 think who it was at that time -- it was -- no, I'm sorry. Are
19 you talking about from the Governor's Office for the
20 appointments?

21 CHAIRMAN McCORQUODALE: Yes.

22 MS. OSPITAL: Or from the Board members?

23 CHAIRMAN McCORQUODALE: Either one.

24 MS. OSPITAL: I interviewed with Gaddi Vasquez. He's
25 with the Governor's appointments unit.

26 CHAIRMAN McCORQUODALE: Did you meet with anyone from
27 the Department, from DDS?

28

1 MS. OSPITAL: Beforehand, no.

2 CHAIRMAN McCORQUODALE: How did you find out you were
3 appointed?

4 MS. OSPITAL: Let's see. I think -- I believe I was
5 called from the Governor's Office.

6 CHAIRMAN McCORQUODALE: Do you know if anyone supported
7 your appointment? Did you get endorsements?

8 MS. OSPITAL: Not that I'm aware of. You mean like fan
9 mail, or something? Not that I'm aware of.

10 CHAIRMAN McCORQUODALE: How about from DDS? You didn't
11 send them a copy of your resume?

12 MS. OSPITAL: I don't think so, unless I was asked to.
13 I don't recall that.

14 CHAIRMAN McCORQUODALE: Did you know John Kellogg, Chris
15 Jones, Lori Roos, or Margaret Heagney outside of the Board before
16 you were appointed?

17 MS. OSPITAL: Yes, I knew Chris Jones, and I knew Chris
18 Jones because Chris had worked at the Republican Caucus when I
19 was there. But I believe you'd have to ask him, but I think he
20 stayed on as I got the axe.

21 CHAIRMAN McCORQUODALE: How about John Kellogg?

22 MS. OSPITAL: I know none of the other three that you
23 mentioned previously.

24 CHAIRMAN McCORQUODALE: You didn't know Margaret
25 Heagney?

26 MS. OSPITAL: No.
27
28

1 CHAIRMAN McCORQUODALE: Did Chris Jones talk to you
2 about the appointment before you were appointed?

3 MS. OSPITAL: I'm trying to think if Chris and I kept in
4 contact. He may -- he may have. No, because I think I was --
5 now, see, he and I were appointed at the same time, I think, or
6 approximately the same time, so we may have.

7 CHAIRMAN McCORQUODALE: You didn't talk with each other
8 about putting in your applications at that point?

9 MS. OSPITAL: I don't believe so, because I had been
10 interested back probably in '84 or so, '82.

11 CHAIRMAN McCORQUODALE: Have you had an orientation
12 since you were appointed to PAI?

13 MS. OSPITAL: We had -- you mean with the PAI staff, or
14 with -- the Governor's Office does an orientation when they
15 appoint you.

16 CHAIRMAN McCORQUODALE: What do they tell you? Do they
17 tell you about your role and responsibilities?

18 MS. OSPITAL: Oh, let's see. They -- there were other
19 -- there wasn't just me personally. There were other people that
20 were appointed, I assume, approximately the same time, and there
21 were people from Area Boards there. And I obviously -- PAI, I
22 don't know what other boards. I don't know if there were State
23 Council people there or not.

24 CHAIRMAN McCORQUODALE: Do you know who it was that
25 briefed you? Who was the person in charge?

26 MS. OSPITAL: I'm trying to think who was there. I know
27 Marv Baxter came in for awhile, and I'm trying to remember who
28

1 came in from -- someone may have come in from DD. I don't know
2 if it was Gary Macomber or not; I can't recall.

3 CHAIRMAN McCORQUODALE: Did you participate in a
4 briefing of new members particularly when Margaret Heagney and
5 Lori Roos came on, on agenda items scheduled for the PAI meeting
6 after they were appointed?

7 MS. OSPITAL: Run that by me again?

8 CHAIRMAN McCORQUODALE: Did you brief Margaret Heagney
9 and Lori Roos on what the agenda items were after they were
10 appointed and before the next meeting?

11 MS. OSPITAL: I didn't know them, so unless I had met
12 them previously and had talked to them, but I would have to say
13 no, because I didn't know them. I met them at that meeting.

14 CHAIRMAN McCORQUODALE: Are you aware of any attempt to
15 speed up or to move quickly to make Board appointments because
16 there was some concern about the attempts to revise the bylaws at
17 the meeting they come on?

18 MS. OSPITAL: I think that there's just been an overall
19 sense of wanting to get the Board under full operation. I think
20 by all -- well, again, I'm speaking for all the Board members,
21 but I think that there's that sense on the Board.

22 CHAIRMAN McCORQUODALE: Did you go to an orientation
23 meeting outside of the PAI office involving one or more of the
24 following people: John Kellogg, Margaret Heagney, Lori Roos,
25 Chris Jones?

26 MS. OSPITAL: Was there an orientation? I met with --
27 let's see, Greg Sandin at one point after my appointment, Greg
28 Sandin and Gary Macomber at one point after I was appointed.

1 CHAIRMAN McCORQUODALE: Were the other people there?

2 MS. OSPITAL: Chris Jones was there. But he and I had
3 gotten appointed at the same time, now as I recall.

4 CHAIRMAN McCORQUODALE: And that was held where?

5 MS. OSPITAL: At DD offices.

6 CHAIRMAN McCORQUODALE: Was this one of the meetings?
7 We'd heard that you don't notice all the meetings, but any Board
8 member can come to meetings.

9 MS. OSPITAL: Was this a meeting?

10 CHAIRMAN McCORQUODALE: Well, it's an orientation, but
11 you view that as different than a meeting?

12 MS. OSPITAL: Oh, absolutely, yes. This was just
13 introduction to Gary Macomber and a little discussion about PAI.

14 CHAIRMAN McCORQUODALE: Do you know who initiated that
15 meeting?

16 MS. OSPITAL: No. I mean, I was contacted by Greg
17 Sandin, but that wouldn't be unusual because of my interest in
18 finding out more of what's going on also. So, it was, I'd have
19 to say, my interest in knowing more about the workings, too.

20 CHAIRMAN McCORQUODALE: How would you describe the PAI?
21 Is it a federal agency or a State agency? What is it?

22 MS. OSPITAL: Federally funded.

23 CHAIRMAN McCORQUODALE: And the Governor gets these
24 appointments, and then is it a State agency or a federal agency,
25 though, as it ends up?

26 MS. OSPITAL: Well, it's a federal agency, but the
27 Governor is allowed -- I don't know the proper terminology -- but
28

1 the Governor sets up the agency under the State auspices, I guess
2 you would say.

3 CHAIRMAN McCORQUODALE: Did you vote on the question of
4 suing the Governor over the Area Board issue?

5 MS. OSPITAL: I abstained.

6 CHAIRMAN McCORQUODALE: Why did you do that?

7 MS. OSPITAL: Because I felt -- if I recall, I felt that
8 I did not have enough personal knowledge. There was some
9 discussion about crossing over of what Area Boards did versus
10 deleting those and versus how some other areas crossed over, and
11 there was discussion how the Area Boards were no longer
12 necessary. And my -- I didn't feel that I had the determination
13 to make an appropriate decision.

14 CHAIRMAN McCORQUODALE: Do you think the strong
15 statewide opposition to the Governor's proposal to eliminate the
16 Area Boards in the Budget Act of '87-88, and the State Council on
17 Development Disability's authorization of litigation to be filed
18 by PAI influenced in any way the efforts to get partisan
19 appointments, such as Ms. Heagney and Ms. Roos?

20 MS. OSPITAL: I can't say.

21 CHAIRMAN McCORQUODALE: No discussion occurred at that
22 point that there had to be a more --

23 MS. OSPITAL: You mean in PAI?

24 CHAIRMAN McCORQUODALE: Yes.

25 MS. OSPITAL: At the Board, I don't remember.

26 CHAIRMAN McCORQUODALE: Chris Jones didn't talk to you
27 about that at any point?

1 MS. OSPITAL: I don't remember.

2 CHAIRMAN McCORQUODALE: Do you think you'd be
3 comfortable in voting to initiate litigation that would be
4 against the Governor?

5 MS. OSPITAL: It would depend on what that was. I mean,
6 if there was really, maybe, something that I thought was
7 legitimate and that wasn't happening that should be happening,
8 maybe the other way around, I would have to give it careful
9 consideration.

10 CHAIRMAN McCORQUODALE: Describe the philosophy that you
11 would follow in determining whether it would be legitimate to sue
12 the Governor. You don't have to talk about specifics, although
13 you can. Just the idea of the philosophy.

14 You'd said earlier, you'd commented that you felt it was
15 legitimate to look at the budget and the impact on the budget.
16 If you thought that suing the Governor would seriously affect his
17 programs, or if you thought that the impact would seriously
18 hamper the ability of the Department to carry out its
19 responsibilities, just in general, how would you view litigation
20 against the Governor?

21 MS. OSPITAL: In general, I am not in favor of
22 litigation. So my philosophy would be to find other avenues to
23 pursue before I would pursue litigation.

24 CHAIRMAN McCORQUODALE: Do you view PAI as its main
25 responsibility being to sue, or to peacefully resolve issues?

26 MS. OSPITAL: Initially with my philosophy, absolutely
27 find all other avenues.

28

1 CHAIRMAN McCORQUODALE: What about the Board's
2 philosophy? Is there a discussion about whether --

3 MS. OSPITAL: I can only speak for myself. You know,
4 I'd prefer that you ask the other Board members.

5 CHAIRMAN McCORQUODALE: You don't have a policy
6 statement that the Board adopts that's available?

7 MS. OSPITAL: No, not that I'm aware of.

8 MR. ZONCA: Actually, we have a plan which the Board
9 adopted, and it's a rather thorough document that outlines what
10 areas we're going to pursue, what the objectives and the goals of
11 the agency are, what service areas we expect to be emphasizing,
12 and what kinds of services we will deliver.

13 All of the Board has endorsed that plan, and it clearly
14 specifies litigation as one of the mechanisms, as does the
15 federal law, that we will use in resolving disputes.

16 So we can make that available to your committee. That
17 really is the policy in one document.

18 CHAIRMAN McCORQUODALE: Going to the point, I think,
19 that Senator Watson raised about a proposal that was made at a
20 PAI meeting to have the Legislature appoint some Board members.
21 Do you recall that discussion?

22 MS. OSPITAL: You mean at one of our Board meetings do I
23 recall this discussion?

24 CHAIRMAN McCORQUODALE: Yes.

25 MS. OSPITAL: Yes.

26 CHAIRMAN McCORQUODALE: I listened briefly to a tape.
27 The value of being the boss is that you can then designate that,
28

1 so I have not listened to all the tapes, but my staff listened to
2 all the tapes from the various meetings that were held.

3 MS. OSPITAL: That's a job.

4 CHAIRMAN McCORQUODALE: I was glad at that point that I
5 was the boss. Sometimes it's not too great being boss, but at
6 that point I was glad I was and could designate it.

7 However, in that discussion, that idea was rejected, and
8 I'm paraphrasing, but we could give it to you exact if we needed
9 to, but paraphrasing makes more sense than listening to that
10 whole thing. It was rejected because the discussion centered
11 around the Legislature not being accountable to the public. They
12 claimed that it was only the Governor's appointments that could
13 provide such accountability.

14 Could you elaborate on that a little bit?

15 MS. OSPITAL: I didn't say it, so I'm not sure what that
16 person meant.

17 CHAIRMAN McCORQUODALE: How did you vote on the issue?

18 MS. OSPITAL: Oh, let's see. There were several votes
19 that day, and so you're saying --

20 CHAIRMAN McCORQUODALE: How would you feel about that
21 issue now?

22 MS. OSPITAL: If the Legislature -- if it were so voted
23 on that the Legislature would have the ability to appoint a
24 member, I think that --

25 CHAIRMAN McCORQUODALE: As an example, one proposal
26 that's been made is that we ought to have that Board membership
27 amended so that the Legislature would appoint a third of the
28 people that are on the Board.

1 MS. OSPITAL: It depends on probably what the overall
2 makeup is going to be, and how many Board members. There's been
3 a lot of discussion on the numbers of the Board, and the
4 consequences of that, and then comes into play who's going to be
5 appointed by whom. In other words, how many Governor, how many
6 Legislators, public members and Board members. And that's sort
7 of been the turntable of events at this point.

8 And depending on how all that went and how many Board
9 members it ended up, I mean, if a Legislator had an appointment
10 to the Board, I think it would be fine.

11 CHAIRMAN McCORQUODALE: Part of the public image of the
12 problem with the Board is the attempt -- at some point it's been
13 circulated that the Governor will have made two-thirds of the
14 appointments to this Board, and then the bylaws could be changed.

15 Some of the advocates other than PAI, some of the
16 advocates for change on this Board, is that it ought to be
17 restructured so that no one, no one appointment, whether it's the
18 Legislature or the Governor, the Board members, no one has two-
19 thirds control.

20 How would you feel about that? Would that cut down some
21 of the problems with the Board if everybody knew that no one
22 could ever capture two-thirds of the vote?

23 MS. OSPITAL: I'm not sure that that's the crux of the
24 problem. I guess, off the top of my head right now, as you and I
25 are talking about this, I'm just not sure that that is the
26 problem, and would that result in easing the conflict on the
27 Board. I'm not sure, because frankly, I'm a little confused on
28 what the total conflict is, because there's been a lot of talk --

1 CHAIRMAN McCORQUODALE: Is there any doubt that there is
2 conflict?

3 MS. OSPITAL: Oh, no, no.

4 CHAIRMAN McCORQUODALE: But you don't see it that part
5 of the conflict is this issue of getting the two-thirds vote so
6 that there could be a bylaws change that would be favorable to
7 some members of the Board? That there's an advocacy within the
8 Board for that?

9 MS. OSPITAL: I think -- sure, I think that that could
10 be part of the conflict, yes.

11 CHAIRMAN McCORQUODALE: At the May 21st PAI meeting,
12 Chris Jones encouraged all Board members to participate in this
13 hearing, the hearing in L.A., and requested all Board members to
14 submit an up to date resume to the PAI office and to meet. Did
15 you do that?

16 MS. OSPITAL: I had -- actually, they had been
17 previously requested through a Nominating Committee request. And
18 the way I did it was to list my experience in the developmental
19 disabilities area in my letter to the chairperson of that
20 committee. And it was my understanding at that meeting that I
21 didn't need to resubmit.

22 CHAIRMAN McCORQUODALE: But not to this Committee?

23 MS. OSPITAL: To your Committee? I didn't submit one,
24 no. No, I didn't submit one directly.

25 CHAIRMAN McCORQUODALE: Normally, in the normal process
26 of things, I get maybe an average of one to three resumes a day
27 from people who just send them to me. I never heard of them;
28 I've never met them; I have no idea what they want.

1 MS. OSPITAL: I'm not looking for a job.

2 CHAIRMAN McCORQUODALE: So, when you ask for one, and
3 you really strive to get it, you really want a resume, and
4 someone will not provide you with one, it's like a red flag.
5 It's like saying there's some problem.

6 MS. OSPITAL: Yes, I have to say consciously, I mean, I
7 don't even remember that. And maybe it was a period I was out of
8 the meetings, but -- Al, do you have a resume on file for me?
9 No?

10 MR. ZONCA: We have some resumes of some Board members.
11 I can't keep track, given all the facts in this situation,
12 without checking.

13 We have, I think, five of the Board members' resumes,
14 and we do not have the remainder. We will certainly be happy to
15 furnish the Committee with those that we have.

16 I will at the break check with my staff and see if we
17 have that here, who we actually have resumes of and who we don't.

18 CHAIRMAN McCORQUODALE: All right, I think I'm about to
19 finish. Let me ask, did you participate in, or were you aware of
20 any conversation between Board members indicating that they would
21 not participate in or cooperate with these Committees in this
22 investigation?

23 MS. OSPITAL: Say that again?

24 CHAIRMAN McCORQUODALE: Did you participate in, or are
25 you aware of any conversations between Board members indicating
26 they would not participate in or cooperate with these Committees
27 in this investigation?
28

1 MS. OSPITAL: I can't say that I knew whether they were
2 going to participate or not. There was conversation, obviously,
3 about the Committee hearing because either, one, we had been
4 requested to attend or subpoenaed. And naturally, yes, that was
5 a topic of conversation.

6 CHAIRMAN McCORQUODALE: The Legislature issues very few
7 subpoenas. We have the right to issue them, and we occasionally
8 will issue subpoenas. I haven't determined exactly how many the
9 Rules Committee has approved, but it's been very few.

10 Why did you feel it was necessary to have a subpoena to
11 come?

12 MS. OSPITAL: I have no idea. I mean, I would like to
13 ask that of you.

14 CHAIRMAN McCORQUODALE: Do you think this Committee has
15 authority to question the appointments or actions of your Board
16 as well as others?

17 MS. OSPITAL: Do you have the right and authority; I
18 suppose you have the right.

19 Do you have the authority; I'm not sure whether you have
20 the authority.

21 CHAIRMAN McCORQUODALE: You honored the subpoena,
22 though.

23 MS. OSPITAL: I did, but I had many conversations with
24 your office.

25 CHAIRMAN McCORQUODALE: Well, I want to say that you
26 were, while not completely cooperative, more cooperative than
27 some.
28

1 MS. OSPITAL: But you see, I feel I don't have anything
2 to hide. And as I said to your staff, I was willing to discuss
3 -- I obviously have some other complications, but you know, and I
4 made a point to say that I was willing to take, you know, to
5 anybody on the Committee, or do a phone conversation, or
6 whatever.

7 SENATOR MARKS: May I ask one question.

8 CHAIRMAN McCORQUODALE: Senator Marks.

9 SENATOR MARKS: The attorney who represents you. How is
10 he paid? The gentleman back there, how is he paid?

11 MS. OSPITAL: If you're talking about Mr. Olson, he
12 represents -- he's corporate counsel for Protection and Advocacy.

13 SENATOR MARKS: I beg your pardon?

14 MS. OSPITAL: He's corporate counsel for Protection and
15 Advocacy.

16 SENATOR MARKS: Who pays him?

17 MR. ZONCA: We do. The corporation pays him. He's on
18 retainer.

19 SENATOR MARKS: Is he a private counsel?

20 MR. ZONCA: That's correct. He represents us in
21 corporate -- gives corporate advice to the Board. We don't use
22 our own attorneys to advise the Board on matters related to the
23 corporation.

24 SENATOR MARKS: How was he picked? I mean, who
25 determined that he'd be picked?

26 MR. ZONCA: Actually, he preceded me.

27 SENATOR MARKS: You're an attorney?
28

1 MR. ZONCA: No, I'm not. I have a Master's in public
2 administration.

3 He was picked before me, and I became the Executive
4 Director in 1980, so I think actually you'd have to ask him how
5 he was chosen initially.

6 SENATOR MARKS: Paid for by federal funds?

7 MR. ZONCA: Our funding is federal and 20 percent of it
8 is from the California State Bar. So, in his case, funds would
9 come probably from both of those sources.

10 SENATOR MARKS: Therefore, we have some control over his
11 determination of how he's being paid, inasmuch as part of it
12 comes from the State.

13 MR. ZONCA: Not from the State. Inasmuch as public
14 scrutiny is available, and that we are audited, and everything
15 must be consistent with the federal regulations for expenditure
16 of the funds, with regulations promulgated by the State Bar, yes,
17 there is public scrutiny over the expenditure of any item.

18 SENATOR MARKS: He is here to represent all the members
19 of the Board?

20 MR. ZONCA: Yes, all the members and the staff in any
21 issues related to liability that may come up.

22 SENATOR MARKS: I think that it's rather strange that
23 he's standing back there.

24 CHAIRMAN McCORQUODALE: Well, I've discouraged him from
25 coming up here.

26 (Laughter.)
27
28

1 CHAIRMAN McCORQUODALE: All right, let's see if there
2 are other questions.

3 Let me say that we've been joined by Mr. Friedman.

4 You didn't get a chance earlier. Why don't we let you
5 make a statement, and then you can ask your questions.

6 ASSEMBLYMAN FRIEDMAN: Thank you very much, Senator
7 McCorquodale.

8 I just wanted to make a brief statement.

9 I've been familiar with the work of Protection and
10 Advocacy for a long time. In fact, at the beginning of my career
11 as a lawyer, I specialized in work on behalf of the handicapped
12 and the disabled, and in particular, the developmentally
13 disabled. I was familiar with the creation of the system, and I
14 know very well a number of the long-time, outstanding attorneys
15 who work for PAI in Los Angeles, and many of the Board members
16 who've dedicated their lives to the work of that organization.

17 I want to commend Ms. Ospital for her honesty, but I
18 must say that I'm really quite disturbed by what it reveals:
19 that this administration seems to care much less about one of the
20 most important State functions. That is, protecting the rights
21 and promoting the independence of the developmentally disabled
22 citizens than it does, probably, for the Milk Board.

23 And I think the amount of item that is spent in
24 identifying qualified people, not just people who have an
25 interest -- my goodness, I would hope there are millions of
26 Californians who have an interest in this Board -- by identifying
27 individuals who are experienced, and able, and bring to the Board
28

1 unique talents and skills, and are fully briefed where there's an
2 effort to seek out ten times the number of applicants than there
3 are available slots so that there's competition for these
4 important positions. It's appalling to see how low on the
5 priority scale this Governor has placed this very, very important
6 Board.

7 So, it seems to me that the Legislature must act. We
8 must be involved. We have to participate in the appointment
9 process. And we have to make sure that all members of the Board
10 are independent, are experienced, and can work hard to make sure
11 that the developmentally disabled of this State have available to
12 them an aggressive entity that isn't afraid to litigate.

13 Now, certainly as a lawyer, I'm well aware of the fact
14 that litigation is not always a solution; that it's often better
15 to resolve disputes before litigation. But if we pull that punch
16 and are afraid to litigate, then we have lost the most potent
17 weapon that people who have for too long been neglected and
18 ignored in this State could possible have.

19 So, I think that we have to change direction. I commend
20 Senator McCorquodale and the other Members of this Committee for
21 calling together this hearing. It's terribly important, and I
22 stand ready to join with you to take and urge aggressive action
23 to make sure that the Council and the Board reflect the true
24 desires of the developmentally disabled in California.

25 Thank you very much, Senator. I have a brief written
26 statement that I'll submit for the record.

27 CHAIRMAN MCCORQUODALE: Mr. Polanco.
28

1 ASSEMBLYMAN POLANCO: Senator, you had asked the
2 question in reference to the subpoenas, as to why you waited to
3 be subpoenaed.

4 I'd like, for purposes of clarification, if you could
5 state why did you wait to be subpoenaed? Restate your statement.

6 MS. OSPITAL: I didn't wait to be subpoenaed.

7 CHAIRMAN McCORQUODALE: Let me just clarify, then you
8 can add anything else you'd like.

9 Ms. Ospital was in the group that we subpoenaed the
10 first time. However, she was close to giving birth, and she
11 contacted our office. We did excuse her on the first hearing.
12 She was the one that was excused from that hearing.

13 ASSEMBLYMAN POLANCO: There's been references in the
14 tapes that there's an atmosphere, if you will, of the political
15 affiliation of which you belong to. Taking part here into my
16 opening statement, I made reference that this is not about being
17 a Democrat or a Republican. This is about having individuals
18 sit, number one, who meet the criteria of the State and federal
19 guidelines.

20 Apparently, based on the information we have here, you
21 do meet that criteria.

22 I think, as my colleague Mr. Friedman has made mention,
23 we need to go beyond that. We need to go beyond the interest.

24 I'm very much interested in wanting to hear from you
25 what your philosophy is, and beginning with describing in your
26 own words what a disability is?
27
28

1 MS. OSPITAL: You're talking about a developmental
2 disability?

3 ASSEMBLYMAN POLANCO: A developmental disability, yes.

4 MS. OSPITAL: Well, that could include several areas.
5 It includes epilepsy, autism, and it includes mental retardation.
6 Does that help you out?

7 ASSEMBLYMAN POLANCO: Well, it defines it, but give me
8 more about what your feelings are, what your thoughts are.

9 MS. OSPITAL: If somebody is disabled, to me a disabled
10 person is one who does not function -- may possible not function
11 in the same capacity as one may see society -- a person in
12 society functioning.

13 ASSEMBLYMAN POLANCO: So, do you feel that you would be
14 in a position, without any mental reservation, to advocate on
15 behalf of those individuals, even if it meant going against the
16 grain, specifically speaking? Even if it means bringing suit and
17 litigation against the Governor or this administration?

18 MS. OSPITAL: Well, again, that depends. My philosophy
19 is to pursue the other avenues first. I don't necessarily agree
20 that litigation is the way to go.

21 ASSEMBLYMAN POLANCO: So let's assume that you've
22 exhausted that particular remedy, the administrative remedy.
23 It's exhausted. And there's an issue before you. And you've had
24 the inquiries from the Board and the public policy posture, and
25 the moral obligation to those whom you are appointed to
26 represent.

27 Where would you be on an issue like that?
28

1 MS. OSPITAL: I would have to feel comfortable that
2 every other avenue was pursued and that an issue that was going
3 to probably affect society in a positive way, and particularly
4 this group of people, for a long time to come. And possibly
5 litigation would be the only way to go. I don't know.

6 I would give it heavy thought.

7 ASSEMBLYMAN POLANCO: In your opinion, let me ask
8 another question, would someone who has recently joined, say, a
9 local chapter of a State organization, but this individual has no
10 experience whatsoever --

11 SENATOR MARKS: Let her talk to her baby a minute.

12 ASSEMBLYMAN POLANCO: Go ahead.

13 MS. OSPITAL: Thank you.

14 ASSEMBLYMAN POLANCO: My question was, do you believe
15 that, because someone goes and joins an organization for purposes
16 of trying to meet a criteria, do you believe that that individual
17 really is in a position, with the experience and the know-how, to
18 advocate on behalf of those individuals whom you are designated
19 to advocate for?

20 MS. OSPITAL: I guess I'd have to hear the reasons they
21 joined the organization.

22 ASSEMBLYMAN POLANCO: Well, let's assume that they
23 joined the organization to meet our criteria. State law says you
24 have to be a member of a given group.

25 MS. OSPITAL: I don't know, because to me, just joining
26 the organization doesn't. I would have to see if they were
27 definitely advocates. I mean, I couldn't chastise them just for
28 joining an organization.

1 ASSEMBLYMAN POLANCO: No, I'm not questioning whether
2 you should chastise or not.

3 I'm trying to get to what your thoughts, in your own
4 words, what you feel in terms of who you would perceive an
5 individual who runs to an organization to meet a particular
6 criteria, not having any experience, and probably not being as
7 sensitive as someone who had been part of that.

8 Give me your thoughts and your feelings. Do you think
9 that that meets a State requirement, or meets the criteria?

10 MS. OSPITAL: I suppose if the law said that they had to
11 be part of an organization, obviously, that would meet the State
12 or federal requirement.

13 ASSEMBLYMAN POLANCO: Now give me the other half.

14 MS. OSPITAL: How would I feel about that? If they
15 joined it just for that purpose, I suppose I would question them
16 as to the rest of their intent.

17 ASSEMBLYMAN POLANCO: There was reference to a last
18 Board meeting that took place. It appears that in the middle of
19 that particular meeting, you got up and left.

20 Can you share with us the reasons for that?

21 MS. OSPITAL: I left for the whole meeting. I had -- I
22 couldn't stay any longer, and I had already previously -- I think
23 I mentioned it to Al, and I mentioned it to the Chairman that I
24 would not be able to attend that whole meeting.

25 ASSEMBLYMAN POLANCO: One last question.

26 As chair of the Public Affairs Legislative Committee,
27 can you share with us any legislative proposals that that
28

1 committee has recommended in reference to advocacy to that
2 population that you are supposedly serving or should be serving?

3 MS. OSPITAL: Oh gosh, let's see. You're going to catch
4 me on the bill numbers now.

5 Senator Watson was carrying a bill for us at one point,
6 although I believe it has died. It was dealing with CCS
7 legislation and a fair hearing proposal. There's no fair hearing
8 process now under CCS. And so, we were trying to get that piece
9 of legislation through.

10 ASSEMBLYMAN POLANCO: Any others?

11 MS. OSPITAL: That we are particularly -- there are a
12 lot that we're tracking, but there are none that I can say that
13 we are lobbying. And we are very restricted as far as our
14 lobbying ability anyway.

15 ASSEMBLYMAN POLANCO: Share with me those that you've
16 come out in opposition to.

17 MS. OSPITAL: God, I'm sorry. I don't have those in
18 front of me.

19 ASSEMBLYMAN POLANCO: Thank you.

20 CHAIRMAN McCORQUODALE: I've just got one, really, last
21 question, and then we're going to let you go and take of your
22 baby.

23 MS. OSPITAL: Thank you.

24 CHAIRMAN McCORQUODALE: You indicated that you had
25 abstained because you didn't know enough about the Area Boards.
26 You had abstained on voting about the lawsuit.

27

28

1 In looking at your letter that you wrote to Connie Lapin
2 when you were applying or submitting your intent to run for
3 chairperson of PAI, Incorporated, you indicate that you were a
4 Board member of the State Council on Developmental Disabilities,
5 and a committee member of Monitoring and Systems Review of the
6 State Council on Developmental Disabilities.

7 One of the things in the relationship between the Area
8 Boards and the State Council is that under contract with the
9 State Council, Area Boards review and resolve local systems'
10 problems.

11 Was the committee that you served on, the Monitoring and
12 Systems Review Committee, did it have a relationship with the
13 Area Boards? Is that the committee that would oversee the Area
14 Boards?

15 MS. OSPITAL: Now, I've been on there for a fairly short
16 period of time, I think, since February. And all the committee
17 groups I have -- committees that I have attended, committee
18 meetings that I have attended deal with legislation.

19 CHAIRMAN MCCORQUODALE: Deal with the legislation?

20 MS. OSPITAL: That's what we've been reviewing, anyway.

21 CHAIRMAN MCCORQUODALE: On the State Council?

22 MS. OSPITAL: Right.

23 CHAIRMAN MCCORQUODALE: What does the Monitoring and
24 Systems Review Committee do? Is that the one that just reviews
25 legislation?

26 MS. OSPITAL: Well, that's all that I have dealt with
27 since I've been on there, that we review legislation, take
28 positions on them, discuss them.

1 CHAIRMAN McCORQUODALE: Do you go to the meetings
2 normally?

3 MS. OSPITAL: Yes, although I did miss the last meeting.

4 CHAIRMAN McCORQUODALE: So you still don't feel that you
5 have enough information about the Area Boards?

6 MS. OSPITAL: At the time there was a question on if the
7 Area Boards were eliminated, what kind of effect would that have
8 on the population. And the controversy, you know, was many. The
9 problems were many on it, and I just didn't feel personally I had
10 enough information to justify both sides of the cause.

11 CHAIRMAN McCORQUODALE: Because it's part of the
12 Lanterman Act, and because that it was not a new issue of
13 eliminating the Area Boards, and because they were a thorn in the
14 side to the Department and to the administration, you didn't feel
15 like that was an area that you really had to research to be up to
16 date on it? Did it not strike you as that big of an issue? Why
17 wouldn't you have spent time working on that issue?

18 MS. OSPITAL: I don't know. I mean -- I don't know.
19 There could have been other -- I don't know.

20 CHAIRMAN McCORQUODALE: At this point you haven't --

21 MS. OSPITAL: And I suspect that I thought some of it
22 would be presented at the meeting and I would be able to make a
23 fair judgment.

24 And yes, I did not pursue it to the way I usually like
25 to pursue my material. I mean, I don't know.

26 CHAIRMAN McCORQUODALE: At this point, you have attended
27 an Area Board meeting though?
28

1 MS. OSPITAL: I have.

2 CHAIRMAN McCORQUODALE: Good.

3 All right, very good. Unless there are other questions?

4 MS. TATE: Just a follow-up question for Mr. Polanco.

5 You described or rather you listed various categories of
6 developmental disabilities. I think you said epilepsy, autism,
7 and mental retardation.

8 Although you didn't give a definition, you did also say
9 that if a person doesn't function in a certain normal capacity,
10 or you said something about does not function in the same
11 capacity as others in our society, just to follow up then, would
12 you consider a physical disability, such as a loss of a leg or an
13 arm or a limb, would you categorize that?

14 MS. OSPITAL: Would it be under developmentally
15 disabled? I would consider that -- I would probably consider
16 that under physical disability.

17 If it was from birth, it could be considered
18 developmentally disabled.

19 MS. TATE: If a person lost a leg or an arm at birth,
20 then that would be a developmental disability in your opinion?

21 MS. OSPITAL: Well, it would be a physical disability.
22 Developmental disability -- you know, I'm not a physician, and I
23 don't know the correct --

24 MS. TATE: I'm just trying to find out if you can give
25 me a little more of a description of what a developmental
26 disability is?

27 MS. OSPITAL: For me, mine are more along the lines --
28

1 MS. TATE: Mental retardation and epilepsy?

2 MS. OSPITAL: Correct, and autism.

3 MS. TATE: Thank you.

4 CHAIRMAN McCORQUODALE: We're going to change rooms now.
5 We're going to take a break. We'll take a break for not too
6 long, though.

7 There's a cafeteria on the Sixth Floor and one in the
8 Basement.

9 We're going to actually break this for about 15 minutes.
10 We'll get started at, let's say, 1:00 o'clock.

11 (Thereupon a brief recess was taken,
12 and the Committee moved from Room 3191
13 into Room 4203 of the State Capitol to
14 resume the hearing.)

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AFTERNOON PROCEEDINGS

1
2 CHAIRMAN McCORQUODALE: All right, we're going to
3 resume. Gary Macomber is our next witness.

4 MR. MILLER: Mr. Macomber, are you willing to testify
5 voluntarily?

6 MR. MACOMBER: Yes, sir.

7 (Thereupon the witness, GARY MACOMBER,
8 was duly sworn to tell the truth, the
9 whole truth, and nothing but the truth.)

10 MR. MACOMBER: Yes.

11 CHAIRMAN McCORQUODALE: First, just give us your name
12 and the position you told, and how long you've been in that
13 position for the record.

14 MR. MACOMBER: My name is Gary Macomber. I'm Director
15 of Developmental Services, and I've been in that capacity since
16 February of 1983.

17 CHAIRMAN McCORQUODALE: Prior to 1983, tell us about
18 your background and professional experience in the developmental
19 services field in California?

20 MR. MACOMBER: My experience with the State began in
21 1966, when I joined the State as an administrative trainee. And
22 I subsequently accepted more responsible positions, including
23 Deputy Director of the Department of Social Welfare, where i was
24 in charge of the Welfare Program Operations Division, which
25 supplies payments to people with disabilities. The Aid to the
26 Disabled Program is one of the programs we administered.

27

28

1 I subsequently became Deputy State Health Director under
2 the Brown administration, and had the Social Services Division
3 and funded a major part of the Developmental Disabilities Program
4 at that time.

5 After that, I became Executive Officer to the State
6 Parole Board and subsequently Governor Brown appointed me as
7 Under Secretary of the Youth and Adult Correctional Agency. I
8 was in that capacity until I was appointed in this position.

9 My experience in the Corrections area with
10 developmentally disabled people was in terms of inmates who were
11 developmentally disabled, and I had significant contact with them
12 both at San Quentin and at San Luis Obispo.

13 CHAIRMAN McCORQUODALE: How long have been on the State
14 Council of Developmental Disabilities?

15 MR. MACOMBER: Since my appointment, Senator.

16 CHAIRMAN McCORQUODALE: Since '83 then?

17 MR. MACOMBER: Yes, sir.

18 CHAIRMAN McCORQUODALE: Were you officially appointed by
19 the Governor at that time, or have you been just serving because
20 your Department is mentioned in the law?

21 MR. MACOMBER: I was officially appointed by the
22 Governor.

23 CHAIRMAN McCORQUODALE: To the Council. Did you get a
24 certificate or --

25 MR. MACOMBER: Yes, sir.

26 I might clarify. I think that was the first time that
27 was done. I don't think under the Brown administration that was
28

1 done. They just assumed that people were members by virtue of
2 their ex officio status.

3 CHAIRMAN McCORQUODALE: What's your opinion of the
4 effectiveness of the State Council during the years you've served
5 on it, and tell us what criteria you use to judge that
6 effectiveness.

7 MR. MACOMBER: I think the effectiveness is one that I
8 -- we kind of get together for a planning session or an off site
9 each year, and we challenge the Council for us to come up with
10 something that we've done that's made a difference in a human
11 being's life.

12 During the first couple of years, I was very
13 disappointed that that didn't happen. And I think the Council is
14 now constituted -- the State Council of which I'm a member -- is
15 on a real good track in terms of making some significant
16 contributions to the field in terms of planning, in terms of
17 policy, in terms of grants that are administered, and promoting
18 services for people with developmental disabilities.

19 CHAIRMAN McCORQUODALE: Generally speaking, how often
20 did you vote in the minority on action items prior to January 1,
21 '88?

22 MR. MACOMBER: Probably most of the time, Senator.

23 CHAIRMAN McCORQUODALE: Since then has it changed?

24 MR. MACOMBER: I -- I'd have to go back to the minutes
25 and look. I think it's both ways. I tend to abstain if I'm not
26 sure on an issue. I would defer to the record.

27

28

1 CHAIRMAN McCORQUODALE: What's your Department's role in
2 providing information and recommendations on appointments to the
3 State Council to the Governor's appointments staff?

4 MR. MACOMBER: We encourage people to apply to the
5 Governor's Office for positions. Within the DD field in
6 California, there are, I think, several hundred appointed
7 positions in terms of the Hospital Advisory Boards, the Area
8 Boards, State Council, Protection and Advocacy. There's probably
9 some that I'm forgetting, but those are the main ones.

10 And we encourage, when I appear at an Area Board or an
11 ARC meeting, I openly ask people to apply for membership. Once
12 people do apply, the Governor's Office oftentimes sends lists of
13 names over to us for our review and recommendation in terms of
14 whether these, in our mind, would be good appointments.

15 CHAIRMAN McCORQUODALE: And you comment on if you know
16 them, and good or bad?

17 MR. MACOMBER: I comment if I know them. Generally,
18 probably 95 percent of the names that have come over I had no
19 knowledge of, and we said that in our reply.

20 CHAIRMAN McCORQUODALE: Is that reviewed then by the
21 agency, or does that just go directly to the Governor's staff?

22 MR. MACOMBER: Early on in the administration, they were
23 reviewed by the agency, and the process was a little different
24 because I believe they were using the same process that was a
25 carry-over from the old administration, at least in terms of how
26 they were coming out of my Department. I believe there were
27 recommendations on three names that came forward.

1 But that ended soon after the new administration. And
2 at the present time, I don't believe they go through the agency.
3 It's a direct contact with the Governor's appointments section.

4 CHAIRMAN MCCORQUODALE: Can you recall any specific
5 people that you've recommended to the Governor's Office, or
6 against to the Governor's Office?

7 MR. MACOMBER: I can recall people that we've made
8 recommendations on. I've been advised by the Governor's staff
9 that as a result of a meeting with you, that I'm not -- I've been
10 directed not to discuss individual appointments. I'm very
11 pleased to discuss the process, but it's their position that I
12 not talk about specific appointments or specific appointees or
13 their qualifications.

14 CHAIRMAN MCCORQUODALE: What is that based on?

15 MR. MACOMBER: I thought it was a meeting with Mr.
16 Blankenship and yourself.

17 CHAIRMAN MCCORQUODALE: Senator Marks.

18 SENATOR MARKS: I'm just curious to know.

19 In other words, you will not -- you evidently have some
20 sort of agreement that you will not indicate to us whether you
21 made recommendations as to particular people?

22 MR. MACOMBER: The instructions I received from Mr.
23 Blankenship and the Governor's Office is that, based on a
24 discussion with Senator McCorquodale, I was not in the
25 discussion, that we weren't going to be discussing -- we weren't
26 going to be discussing individual appointments and my assessment
27 of individual appointees, but to discuss the process that's gone
28 through in making the appointments.

1 SENATOR MARKS: Did you make the agreement?

2 CHAIRMAN McCORQUODALE: I don't recall that discussion.

3 At that meeting, there were several meetings with
4 different people, and at times one or the other would invoke
5 privilege, which we didn't challenge at that point because we
6 either had the information, or we didn't need it.

7 But I don't recall any agreement that we would -- let me
8 ask it this way.

9 Would you feel that you could not, if you knew Caroline
10 Michals and you had personally recommended her, do you feel that
11 you could not say yes or no to that?

12 MR. MACOMBER: That I knew her and I recommended her?

13 CHAIRMAN McCORQUODALE: I would have asked you, if you
14 had said yes or no, I would have asked you then did you ever
15 personally recommend Caroline Michals to the Governor's Office?

16 MR. MACOMBER: I think that's what -- I'm kind of
17 between a rock and a hard spot here, Senator.

18 CHAIRMAN McCORQUODALE: Well, we have issued the
19 subpoena. In our discussion with Mr. Allenby, he indicated the
20 people would be here free to answer questions.

21 It puts us at a little bit of a loss if now -- let me
22 just check just a moment.

23 Why don't you tell us about the process first, and then
24 let us see where that leads.

25 MR. MACOMBER: I think the process is one that I
26 identified in terms of we, along with others, promote people to
27 apply. I've recruited people on airplanes, people who happened
28

1 to be sitting next to me who turned out had a Downs Syndrome
2 sister, I believe, and the woman subsequently applied and went on
3 Area Board 10.

4 I've been in meetings, I believe, with the PERB
5 breakfast over at the Convention Center. I happened to be
6 sitting at a table next to a woman who was active in the field.
7 I encouraged her to apply. She applied. I don't know whether
8 she was ever appointed or not. I don't recall her name.

9 That type of thing. And as I said, at ARC meetings and
10 at Area Board meetings, I've encouraged people to apply so that
11 we have a broad cross section of appointees from which the
12 Governor can select.

13 CHAIRMAN McCORQUODALE: Do you view the PAI appointments
14 different than the State Council appointments? Do you see a
15 difference in the two?

16 MR. MACOMBER: Well, there's definitely a difference in
17 the two organizations, because one's a State agency and has State
18 employees. The other, PAI, is a directly federally funded
19 organization; doesn't come through the State budget process.
20 It's a free-standing organization as established by then-
21 Governor Brown.

22 But I think the appointments are -- to characterize the
23 appointments, they're generally in the same -- I would think they
24 would have the same kind of process, the same type of
25 consideration.

26 CHAIRMAN McCORQUODALE: Have you been sued by the State
27 Council?
28

1 MR. MACOMBER: I don't believe we have.

2 CHAIRMAN McCORQUODALE: Have you been sued by PAI?

3 MR. MACOMBER: I believe PAI was a party to the original
4 ARC vs. DDS lawsuit. We may have been sued subsequently to that,
5 but I'm not aware of it. They may have been an amicus on another
6 suit. I'm not aware of them being the primary litigants on any
7 lawsuit.

8 CHAIRMAN McCORQUODALE: It wouldn't be unnatural for
9 them to sue you, though?

10 MR. MACOMBER: That's their job.

11 CHAIRMAN McCORQUODALE: What about the State Council?

12 MR. MACOMBER: I think it would be unnatural. I think
13 the State Council, as a State agency, before they can sue, I
14 believe, has to -- I'm not sure of the intricacies; Mr. Williams
15 might be -- in terms of the have to obtain the approval of the
16 administration in order to sue the administration. There's a
17 process you have to go through to do that, and then to retain
18 counsel.

19 CHAIRMAN McCORQUODALE: Now, if you made recommendations
20 related to the State Council, the State Council's role is more in
21 developmental services, overseeing what's happening with the Area
22 Boards, the developing of a State plan. That would seem like
23 there's less conflict if the members of the Council were sought
24 out by yourself as people who were interested and that you passed
25 on to the Governor.

26 Is there anything that precludes you from expressing an
27 opinion on all of those people? Does the Governor send all the
28 applications over to you?

1 MR. MACOMBER: Could they or does he?

2 CHAIRMAN McCORQUODALE: Could they?

3 MR. MACOMBER: They could, sure. They could now.

4 I wouldn't have any problem if none of them came over.

5 CHAIRMAN McCORQUODALE: PAI, though, that would be
6 different. Would you view that as different?

7 MR. MACOMBER: Yeah, I think so.

8 CHAIRMAN McCORQUODALE: It would seem like maybe some of
9 the problems related to your view of the effectiveness, going
10 back to what you view as the effectiveness of it, do you think
11 that's related to finding members that you happen to meet at a
12 prayer breakfast?

13 MR. MACOMBER: No, I don't think any of those people are
14 on the State Council. They're on, as I said, on Area Boards and
15 other boards which have more limited exposure. I don't think --
16 you know, generally, of the current Council members who are not
17 ex officio members, I don't recall that I've had any long term
18 contact with them, or awareness, or relationship either business
19 or personal.

20 CHAIRMAN McCORQUODALE: Let's stick just to the State
21 Council now. There's not a policy of either commenting on the
22 proposed members or a policy against it? It happens sometimes
23 and it doesn't happen other times?

24 MR. MACOMBER: That's right.

25 CHAIRMAN McCORQUODALE: I just can't recall any
26 discussion. I think in all cases we had staff in attendance at
27 those meetings with the Governor's Office. And so, I have no
28

1 knowledge of any agreement with the administration on specific
2 questions that I could or could not ask.

3 We recognize that if we were in areas in which anyone
4 felt, based upon some rationale for it, a privilege, either
5 executive privilege or legal prohibition, that there might be a
6 decline to answer. But the Legislature certainly has a broad
7 ability to investigate issues that are of concern to the
8 Legislature.

9 MR. MACOMBER: I understand, Senator.

10 For the record, I don't have any personal problem with
11 responding to your question, I've just been directed otherwise by
12 my superiors.

13 SENATOR MARKS: Let me ask a question.

14 I cannot conceive. I can understand maybe why the
15 Governor wouldn't want you to reply. but I cannot conceive of
16 why Senator McCorquodale would not want you to reply.

17 What reason were you given?

18 MR. MACOMBER: I wasn't given a reason, Senator.

19 SENATOR MARKS: Just told not to reply.

20 MR. MACOMBER: I was told it was the Governor's Office,
21 probably, not policy, not to discuss the particular
22 qualifications of individual members.

23 Perhaps, Senator, a middle ground, or something I could
24 be comfortable discussing would be your initial question, whether
25 there were people that I recommended. And to the best of my
26 recollection, I, you know, I'll step into that and go a little
27 bit beyond what I was authorized to do.

1 CHAIRMAN McCORQUODALE: Let me say --

2 MR. MACOMBER: Or we can get Mr. Blankenship on the
3 phone.

4 CHAIRMAN McCORQUODALE: I think it's necessary for us to
5 have an answer to these questions. I think that's critical for
6 one of the points and reasons that I wanted you to be here.

7 To expedite things, I will overrule your refusing to
8 answer on the basis of any agreement; that there's no agreement.

9 So, say that I won't accept that as a rationale for your
10 not speaking. How you want to react to that, you are free to do
11 so, but I want to proceed on with the questioning in this line.
12 It may be an area in which you feel you can answer once you are
13 clear on the answering, or you may want to review this issue.

14 The people I'm interested in are, have you ever
15 personally recommended Caroline Michals for appointment to the
16 State Council?

17 MR. MACOMBER: I don't recall whether I ever personally
18 recommended. There are names that go over, and it's usually more
19 than one name for a particular position. There's usually a
20 series of names that go over.

21 I very well may have recommended Carolyn Michaels.

22 CHAIRMAN McCORQUODALE: How about Michael Morgan?

23 MR. MACOMBER: I would say the same answer. He was
24 within groups that came to us for comment, and we made a
25 recommendation back.

26 But I don't believe they were the only names that were
27 recommended for that particular position. There were a number of
28 names.

1 CHAIRMAN McCORQUODALE: But you would not have initiated
2 either one of those?

3 MR. MACOMBER: I initiated them? I didn't know either
4 one of them before they were appointed.

5 CHAIRMAN McCORQUODALE: How about Chris Jones?

6 MR. MACOMBER: I didn't know Chris Jones until I met
7 him. I believe the first time I met him was when he asked to be
8 sworn in, and I swore him in as a member of Protection and
9 Advocacy.

10 CHAIRMAN McCORQUODALE: So when he went on the State
11 Council, you knew him at that point?

12 MR. MACOMBER: Pardon me?

13 CHAIRMAN McCORQUODALE: When he was appointed to the
14 State Council, then, you would have known him at that point?

15 MR. MACOMBER: Right. I had met him when I swore him
16 in.

17 CHAIRMAN McCORQUODALE: Did you make a recommendation
18 that he go on the State Council?

19 MR. MACOMBER: I believe, and I'm not sure, Protection
20 and Advocacy has a representative. By law, has to have a
21 representative on the State Council. And I believe his name was
22 forwarded by Protection and Advocacy as the Protection and
23 Advocacy representative.

24 Is that wrong?

25 Hal Sobel, I believe, had been the previous person, and
26 Hal died. And I'm not sure what the process was, but the
27 President then became the appointee, much like the chairman of
28 the organization of Area Boards is a member of the State Council.

1 CHAIRMAN McCORQUODALE: Is it normally the Chair of PAI
2 that's the representative?

3 MR. MACOMBER: Not always. I believe George DeBell was
4 a representative for a while when the law changed that required
5 PAI representation on the State Council. And George was the
6 representative, but I don't believe he was the Chair; although he
7 subsequently became the Chair. And as I recall, Hal Sobel was
8 the representative.

9 In law, on a parallel kind of thing, is in the
10 organization of Area Boards. The law does specify that it's the
11 chairperson of the organization of Area Boards who serves.

12 CHAIRMAN McCORQUODALE: How about Annette Ospital?

13 MR. MACOMBER: I met -- I believe I met Annette Ospital.
14 I believe I swore her and Hal Sobel in at the same time, and
15 that's the first time I met her.

16 CHAIRMAN McCORQUODALE: We're looking in the previous
17 record for the specific reference to the appointment of Chris
18 Jones. We'll come back to that.

19 Let me go ahead on the issue of Michael Morgan. Are you
20 familiar with the fact that his brother works for the Health and
21 Welfare Agency?

22 MR. MACOMBER: Yes, I am.

23 CHAIRMAN McCORQUODALE: When did you find that out?

24 MR. MACOMBER: When did I find out that Jim Morgan works
25 for the Health and Welfare Agency?

26 CHAIRMAN McCORQUODALE: That there was a relationship.
27
28

1 MR. MACOMBER: I believe when Mike Morgan's name came
2 over for review.

3 CHAIRMAN McCORQUODALE: Did you discuss this with Jim
4 Morgan?

5 MR. MACOMBER: I've discussed it subsequently. I don't
6 remember whether I discussed it prior to that. And I discussed
7 with Jim Morgan, I believe, some contacts that Jane Uitti had
8 with him, or a letter, or something. I discussed that with him.

9 I don't recall whether it was a discussion before the
10 appointment or after the appointment, however.

11 CHAIRMAN McCORQUODALE: Was it in connection with that
12 letter?

13 MR. MACOMBER: There was an earlier discussion, and
14 subsequent discussion that was generated, I think, by Jane's
15 inquiry.

16 CHAIRMAN McCORQUODALE: Now, the Lanterman Act requires
17 the Governor to seek out recommendations from organizations
18 serving persons with developmental disabilities.

19 When you and your staff provide information on potential
20 appointees to the State Council and make your recommendations, do
21 you indicate which organizations recommended the particular
22 person?

23 MR. MACOMBER: Usually that information comes to us from
24 the Governor's Office, that this person was recommended by a
25 particular group, or a Legislator, or whomever, or it was a
26 recommendation specifically from the Speaker or the Pro Tem.

27

28

1 Certainly the appointees that the Governor has made have
2 been recommendations from the Legislature.

3 SENATOR WATSON: On that point, have you ever made a
4 recommendation to the Governor for an appointment?

5 MR. MACOMBER: We have submitted names back to them that
6 come to us from the Governor's Office.

7 SENATOR WATSON: No, I mean, have you initiated?

8 MR. MACOMBER: No.

9 Senator, I should clarify that a little.

10 We have encouraged people to apply to the Governor's
11 Office.

12 SENATOR WATSON: Encouraged? What do you mean by
13 encouraged? You've asked a person, or have you gone directly to
14 the Governor's Office?

15 MR. MACOMBER: No, no. As I mentioned before you came
16 in, when I was out at an Area Board meeting or an ARC meeting, I
17 will encourage people to apply for these boards and commissions
18 because, for many of them we don't get enough applicants to fill
19 the positions that are vacant.

20 SENATOR WATSON: I understand that, but have you ever
21 gone directly to the Governor's Office and said, "This is a
22 person that you ought to look at?"

23 MR. MACOMBER: I don't believe so.

24 CHAIRMAN McCORQUODALE: Did you ever get information
25 that the Board of Directors of PAI selected and recommended Chris
26 Jones as their representative to be appointed to the State
27 Council by the Governor?

1 MR. MACOMBER: Did I get that? I don't recall getting
2 that.

3 CHAIRMAN McCORQUODALE: Did you ever recommend George
4 DeBell for appointment to the State Council?

5 MR. MACOMBER: Yes, I did.

6 CHAIRMAN McCORQUODALE: Based on what organization's
7 recommendation; do you recall?

8 MR. MACOMBER: I believe at that time George was very
9 active in the California Association of State Hospital Parent
10 Councils for the Retarded, and had been very active with the
11 Lanterman Developmental Center. I believe he had been a member
12 of the advisory board there.

13 I frankly don't remember how I first met him, but he was
14 an individual that I encouraged to make application to the
15 Governor's Office for appointment.

16 CHAIRMAN McCORQUODALE: I'm going to make a statement,
17 and let me see if you see anything incorrect about this
18 statement.

19 With regard to George DeBell's reappointment to the
20 State Council, you told him that DDS had submitted two names for
21 the seat he held, and that you couldn't guarantee his
22 reappointment because he had voted to sue the Governor over the
23 Area Board issue, and further had written a letter questioning
24 the Governor's appointments of Lori Roos and Margaret Heagney to
25 PAI in November of '87.

26 MR. MACOMBER: If I can comment on the last part first,
27 I don't remember there being a letter that George wrote to the
28

1 Governor, or who ever he wrote it to, and I don't remember ever
2 expressing that to him.

3 George's term had expired, and he had queried me. And I
4 told him that there was some concern in the Governor's Office in
5 terms of the people who had voted, in terms of his appointees,
6 that had voted to sue him before there was an actionable cause.
7 And I told him that I didn't know who that would play out, and
8 that there were several names that were being submitted for that
9 particular vacancy. And I believe I told him, and it was that --
10 the position was that I didn't take a position on either one of
11 the people. I told him that I expected some people would be
12 reappointed; some wouldn't.

13 These were also, I believe, the first round of
14 reappointments from the Governor, so we weren't sure whether
15 anybody would be reappointed or if it would be all new people, or
16 what would go on.

17 CHAIRMAN McCORQUODALE: Since you had voted in the
18 minority so many times before, did it seem important to you that
19 the membership change?

20 MR. MACOMBER: It wasn't so important that it change. I
21 think I'd like to see people who are objective, who'll give full
22 thought to an issue, and who then vote the way their conscience
23 dictates.

24 I think that I was concerned that in the past, many
25 Council members, or some Council members, voted more in terms of
26 the number of people in the crowd on a specific issue, rather
27 than giving an objective assessment to the particular issue at
28 hand.

1 CHAIRMAN McCORQUODALE: Do the job functions and
2 responsibilities of Greg Sandin in your Department include his
3 involvement any way with pursuing and screening applicants and/or
4 making recommendations to the Governor's staff on appointments to
5 the State Council?

6 MR. MACOMBER: Greg is my Assistant Director for Public
7 and Legislative Affairs, and part of his responsibilities are the
8 primary custodian, that when recommendations or names come over
9 from the Governor's Office for recommendation of whether these
10 are people whom we think would be good appointees or not good
11 appointees, that's his responsibility. He doesn't do it by
12 himself.

13 CHAIRMAN McCORQUODALE: Does he have a criteria that he
14 uses to gauge that by?

15 MR. MACOMBER: I think generally in terms of if we have
16 an appointment to a Hospital Advisory Board or a developmental
17 center advisory board, it will be to contact that director of
18 that developmental center and to see if that person considers
19 this person would be a quality appointment to be made.

20 And in terms of the Area Boards, they may contact the
21 regional center and see what they think, and then provide that
22 information back to the Governor's Office.

23 But by and large, like I said, for 90-95 percent of the
24 names that come over are names that I have no knowledge of.

25 CHAIRMAN McCORQUODALE: What about PAI?

26 MR. MACOMBER: I think PAI is in the same category, same
27 process.
28

1 CHAIRMAN McCORQUODALE: What about Robin Brett in your
2 Public Relations Department?

3 MR. MACOMBER: Robin Brett reports to Greg and helps him
4 with that function.

5 CHAIRMAN McCORQUODALE: Reports to --

6 MR. MACOMBER: To Greg Sandin.

7 CHAIRMAN McCORQUODALE: Does that person have any
8 responsibility for making any recommendations?

9 MR. MACOMBER: Those are the two primary staff people
10 who, when the names come over, develop contacts with people that
11 I mentioned out in the field and get assessments of the folks,
12 and then we provide that information back to the Governor's
13 Office.

14 CHAIRMAN McCORQUODALE: What's your opinion of the
15 effectiveness and the importance and the delivery system in the
16 providing of services of the Area Boards?

17 MR. MACOMBER: I think some Area Boards have done an
18 outstanding job in what they've done. Others I've been
19 disappointed in in what they've done, and I've expressed that
20 disappointment to them. I think many Area Boards, Area Board 3
21 here in Sacramento, has done a tremendous job in the area of
22 quality assurance and promoting a quality living environment.
23 Area Board 12, San Bernardino-Riverside area, has done tremendous
24 work in school integration and in transportation and in
25 advocating for rights of people in their community.

26 Those are several, you know, that stand out in my mind.
27 Area Board 8 in the Valley has done a terrific job in working
28

1 with us to solve some problems in regional centers and to help in
2 that process, and to hold hearings and to provide information to
3 us on the effectiveness of the regional center process.

4 CHAIRMAN McCORQUODALE: Is there a criteria that's
5 spelled out that you could use to evaluate what the Area Boards
6 are doing?

7 MR. MACOMBER: They don't report to me, so I don't -- I
8 mean, I don't do a formal evaluation.

9 SENATOR WATSON: Senator, may I ask a question in the
10 mean time.

11 CHAIRMAN McCORQUODALE: Yes, Senator Watson.

12 SENATOR WATSON: Mr. Macomber, have you ever recommended
13 to the Board, or the State Council, or PAI, that they not pursue
14 litigation?

15 MR. MACOMBER: That they not pursue litigation? I think
16 in one of the meetings, I think when the vote was taken -- I
17 don't think I attended the meeting when the vote was taken on
18 that, but I believe discussion came up, and it may or may not
19 have been in a meeting, and my counsel to who ever I was talking
20 to, whether it -- it might have been like a breakfast thing, or
21 something, I'm not sure -- was that, why don't you wait until the
22 action is taken, because I think the action they took was that if
23 the Governor does this, we're going to sue. And my position was
24 why don't you wait and see if it does happen, then take that
25 vote.

26 SENATOR WATSON: So then, you do believe that they have
27 the right to sue the Governor?
28

1 MR. MACOMBER: I don't know whether the Council legally
2 has the right.

3 SENATOR WATSON: Either board or both.

4 MR. MACOMBER: Oh, PAI? I believe probably does, sure.

5 SENATOR WATSON: But you're not sure if that's written
6 into the statute or written into the guidelines?

7 MR. MACOMBER: No, I'm not.

8 SENATOR WATSON: I see. What is your feeling on that?
9 Do they have a right if --

10 MR. MACOMBER: Well, I think PAI has a right and a
11 responsibility to sue anyone that they think is doing something
12 contrary to the rights --

13 SENATOR WATSON: Under what circumstances do you think
14 they execute this right?

15 MR. MACOMBER: Under what circumstances should they or
16 do they?

17 SENATOR WATSON: Should they or do they?

18 MR. MACOMBER: Well, I think when people's rights are
19 being violated, they've done -- I think people look at that we
20 opposed the PAI suit. The PAI suit is oftentimes very helpful to
21 us, particularly in terms of school integration, in terms of
22 demanding services from generic agencies, from the school
23 districts, that type of thing.

24 I've consistently said over the last five and a half
25 years since I've been in this office that I think PAI has done a
26 pretty responsible job in what they do. And I have great regard
27 for Al Zonca, their Executive Director. He walks a fine line
28 sometimes, and I think they do a very good job.

1 SENATOR WATSON: Well then, if you think they do a very
2 good job, why is it that they have so much internal conflict?
3 Why is it that they are not moving as quickly to protect the
4 rights?

5 MR. MACOMBER: I don't know that there's been any
6 lessening. You couldn't prove it by me in terms of litigation
7 and fair hearings and that type of thing. I think we see the
8 same kind of pressure that's always been there, and it's been
9 responsible pressure that should be there.

10 Protection and Advocacy doesn't report to me. I've
11 never intended a meeting, and I intentionally keep myself away
12 from their activities because they're an independent
13 organization, and that's the way they should be.

14 SENATOR WATSON: My concern is that we have these two
15 boards, and it has been reported to us that they have avoided
16 taking the steps that are necessary to provide their clients with
17 the services.

18 I have heard of meetings that are chaotic, walk outs.
19 The last time we had this hearing, people didn't show up.

20 And that, to me, indicates that they're not taking this
21 seriously. We are as serious as we can possibly be. Something
22 is going on on these boards. That's why we're spending all
23 afternoon trying to talk to Board members, to find out what the
24 problem is.

25 Now, I have a great deal of respect for the work that
26 you do. I would hope that you could come in here and be very
27 candid with us, and try to put your finger on what you think the
28 problem is.

1 If you can't, let me tell you what I think it is. I
2 think that the Governor has made some political appointments that
3 really tend to do nothing. I've seen it happen on too many -- I
4 sit on a lot of those boards, and I see people block, become
5 obstructionist because they do not want to carry out the
6 requirements of the statutes that put them where they are. And I
7 think that's what's happening on these boards.

8 Now, if you have a different opinion, I'd like to hear
9 it now.

10 MR. MACOMBER: Yes, Senator. My only assessment can be,
11 as I've said before, is the number of challenges we get. And I
12 hadn't looked at their workload or anything like that. Someone
13 developed, I think, some numbers for Secretary Allenby before he
14 did the television interview. And I guess they called PAI and
15 got some statistics, and I believe those indicated that they're
16 filing more actions than they ever have in history, and their
17 workload is continuing to climb, and they're continuing to
18 advocate for people with disabilities.

19 I haven't heard anything from my staff or others that
20 there's any lessening of pressure.

21 SENATOR WATSON: Well, there probably won't because our
22 population is growing. We're now 28 million. In a day's time,
23 we went from 27 to 28 million.

24 MR. MACOMBER: Right, but in terms of the number of
25 filings they've made, it's been a disproportionate caseload
26 increase.

1 SENATOR WATSON: Right, the demographics in the State of
2 California are changing, so I suspect that those numbers will go
3 up, and the caseload will only grow. I don't expect any
4 recession in it.

5 There's been arguments over the number of people, 11 or
6 whatever. There have been arguments over the kinds of people.
7 As I understand, one member joined an organization just a few
8 weeks before being appointed.

9 So what I am not able to identify from the witnesses we
10 have had here this morning and this afternoon is a burning
11 desire, or a compassion that says you have to be on this board.
12 Sure, technocrats, people who might have somebody in their
13 family, but not really the burning desire.

14 I'm very curious as to why this combination at a time
15 when the demand is great. There are going to be increased
16 challenges. The demographics are changing, only meaning that
17 we're going to have more clients, supposedly. We probably need a
18 larger number.

19 Now, I don't know if you want to comment on this.

20 MR. MACOMBER: Well, I'm at a loss. As I said, you
21 really know more about the activities of PAI based on your
22 hearings than I do, because Jane and I have talked, and I've
23 never attended one of their meetings.

24 SENATOR WATSON: Fair enough.

25 MR. MACOMBER: And as I said, my knowledge of the
26 people, other than the two who were members of the State Council
27 along with me, my knowledge of them, my discussions with them
28

1 have been limited to, as the best of my recollection, when I
2 swore them into office at their request.

3 SENATOR WATSON: Thank you.

4 SENATOR MARKS: I'm not quite sure whether or not we've
5 reached the point where you are -- I'm listening to what the
6 Chairman said.

7 You have agreed to talk about appointments, or you have
8 not? What did he tell you, and what did you agree to do?

9 MR. MACOMBER: I guess I'm walking that wiggly line
10 there.

11 I don't have any personal problem with discussing --

12 SENATOR MARKS: If I were to ask you about a particular
13 person, you'd be able to answer? I'll try Chris Jones. Did you
14 recommend him?

15 MR. MACOMBER: Did I recommend him for which, Senator?

16 SENATOR MARKS: PAI.

17 MR. MACOMBER: For PAI, I believe his name came over to
18 the Department, along with other names, and we recommended him.

19 SENATOR MARKS: What was the basis of your
20 recommendation?

21 MR. MACOMBER: That he -- that he had an expressed
22 interest in it, that he was an intelligent guy. Beyond that, I
23 don't recall, because I believe it was about two or three years
24 ago.

25 SENATOR MARKS: Did he have any demonstrated experience
26 in the field of developmental disability?

27

28

1 MR. MACOMBER: I believe the appointment that he -- the
2 position that he was going into was one of a public member that
3 didn't require that, and so that wasn't an issue. But I don't
4 recall that he did.

5 SENATOR MARKS: That would not be a consideration that
6 you would bear in mine?

7 MR. MACOMBER: Not for a public member. That isn't
8 required in their bylaws to have that kind of background. Some
9 of the members are required to have that background.

10 SENATOR MARKS: What's a public member supposed to have?
11 What experience?

12 MR. MACOMBER: I think it's just, as with the State Bar
13 or anything else --

14 SENATOR MARKS: No knowledge of the particular field?

15 MR. MACOMBER: Well, I don't think no knowledge is a
16 criteria, but I don't think it requires any specific knowledge.

17 SENATOR MARKS: I mean, if you appoint a member of the
18 public as a member of the Bar, who's not a lawyer, you appoint
19 somebody who has some knowledge and interest and concern with the
20 Bar Association, and is concerned with their problems, and has
21 been following it.

22 I would assume when you appoint somebody to
23 developmental disabilities, even as a public member, you'd want
24 to have somebody who would have some knowledge of the particular
25 field.

26 MR. MACOMBER: I believe he had an interest. The depth
27 of his knowledge I don't recall, Senator.
28

1 SENATOR MARKS: Can you tell me what his interest was?

2 MR. MACOMBER: I believe he had expressed interest in
3 getting into this field. He had been exposed to it in his work
4 in the Legislature, and that was the limit of what I recollect.
5 Again, it was about two or three years ago.

6 SENATOR MARKS: Do you have any records to indicate that
7 you'd be able to show us if we asked you to see them?

8 MR. MACOMBER: In terms --

9 SENATOR MARKS: The basis upon which you made this
10 recommendation?

11 MR. MACOMBER: I believe it would be based on the
12 information that we had been provided by the Governor's Office,
13 which is the application that comes over from the Governor's
14 Office that each appointee's required to complete.

15 SENATOR MARKS: The thing I'm concerned with is, I think
16 you have an opportunity to make recommendations, but I would
17 think you'd have some requirement on your part to make certain
18 that the person who's recommended had some knowledge or some
19 ability in the particular field. And I cannot conceive of why
20 you would recommend somebody as a public member who didn't have
21 any knowledge.

22 MR. MACOMBER: Well, I think one thing that I've been
23 interested in doing of late -- maybe it's a little bit off the
24 topic here -- but is to get more people involved in our system.
25 I think one of the earlier witnesses characterized it as kind of
26 an incestuous advisory group. And we've had the same people go
27 through the same seat so many times in so many of these fields,
28

1 and I'm sure Senator McCorquodale, with his background on the
2 Area Board, remembers that we've tried to get more people
3 involved in the process so that --

4 SENATOR MARKS: Even if they don't have a particular
5 knowledge?

6 MR. MACOMBER: I think it's important even to get people
7 without that knowledge. We've been having a real push lately to
8 get people from the Rotary, from Lion's Clubs, and others
9 involved in the process because we want to have an exposure. We
10 want our clients out in the communities and for people to accept
11 them.

12 SENATOR WATSON: Excuse me, Senator Marks.

13 As I see the brief description of the background of
14 Mr. Jones, he's chief of staff and special assistant to
15 Assemblyman Gil Ferguson, a position he held since 1983. And
16 from 1984-87, he was a legislative assistant for the Assembly
17 Republican Caucus, and he received a Bachelor's Degree in
18 political science.

19 It sounds like he's an in-house man, and not much
20 community experience, but certainly the kind of political
21 experience.

22 It's really troubling to me that that would be the kind
23 of person that you think would come in and really represent the
24 public at large. It seems like his experience relative to any
25 kind of public service has been in the political arena.

26 SENATOR MARKS: I would think that probably some of the
27 reason for this hearing, the reason why we're concerned with it,
28

1 is the fact that the appointments that have been made -- not by
2 you -- but appointments have been suggested of people that are
3 not qualified. And that therefore, that's the reason why we're
4 having the problem.

5 I don't really care whether the people appointed are
6 Republican. I'm perfectly agreeable to appointing Republicans,
7 but I do want to get people who are qualified.

8 MR. MACOMBER: So do we, Senator.

9 SENATOR MARKS: But it doesn't sound, with all due
10 respect to you, it doesn't sound that you made a very thorough
11 study of Mr. Jones.

12 MR. MACOMBER: Well, Senator, we get, as I said, we
13 probably had 200-300 names that have come over to the Department
14 for our recommendation back. What weight the Governor's Office
15 gives our recommendations once they go back over, I'm not sure.

16 SENATOR MARKS: I understand. That's not your
17 responsibility once the Governor makes the appointments, but it
18 is your responsibility to make recommendations.

19 MR. MACOMBER: As I said, we make some recommendations:
20 this person would be appropriate; this person perhaps would not
21 be appropriate. And by and large, there's a group of people who
22 are kind of, they'd be okay.

23 SENATOR MARKS: What would make a person not
24 appropriate?

25 MR. MACOMBER: Oh, I think there have been very few of
26 those, but I think what we would -- I recall one that was here,
27 and I discussed it afterwards why -- I discussed with him why we
28

1 had made a kind of a we'd rather not. It was a person who had
2 been through every chair about two or three times in the advocacy
3 business. And what we'd prefer to get was someone who was new,
4 who had -- and there was another candidate who had a --

5 SENATOR MARKS: You mean you would rather have somebody
6 who was unqualified --

7 MR. MACOMBER: No, sir. The person --

8 SENATOR MARKS: -- than someone who's qualified who's
9 done a lot of job?

10 MR. MACOMBER: No, no. If we have two people who are
11 equally qualified, and one has been in the position for a long
12 period of time, or has been the chairman of, let's say, an Area
13 Board for three years and then gone off for a year and come back
14 as the chairman, and then there's an opportunity to appoint
15 someone who is equally qualified, and is an active advocate in
16 the system, I would prefer to see more people involved in
17 government.

18 SENATOR MARKS: Well, if it's possible, Mr. Chairman,
19 maybe you can go back in your records, if you're able to do so,
20 and see the basis of your recommendation for Mr. Jones; what was
21 the basis. Maybe you don't have it here, but we would love to
22 see it.

23 MR. MACOMBER: I would doubt that the records or the
24 other materials that we supply back to the Governor's Office, so
25 we'll check those, Senator.

26 SENATOR MARKS: Thank you.
27
28

1 CHAIRMAN McCORQUODALE: Let me ask you, in the testimony
2 that we took at the last hearing, there was testimony about a
3 letter to me from Jim Bellotti.

4 Are you familiar with the State Council Director
5 Bellotti's letter to me regarding the process for appointment to
6 the Council?

7 MR. MACOMBER: I recall a letter that he sent to you. I
8 believe it was on the qualifications of the members. Is that the
9 one you're referring to?

10 CHAIRMAN McCORQUODALE: Right.

11 Can you comment on the sentence in that letter which
12 indicates that the way in which staff and members of the State
13 Council learn of appointments is through DDS?

14 MR. MACOMBER: We generally get a call from the
15 Governor's Office. We generally -- sometimes we get a call from
16 the Governor's Office after they have called the individual
17 appointee. I don't recall any instance where we've been notified
18 before the appointee has been notified. And we sometimes get a
19 call, and we sometimes don't get a call.

20 CHAIRMAN McCORQUODALE: Did you ask Mr. Bellotti to
21 retract that statement?

22 MR. MACOMBER: No, I didn't.

23 CHAIRMAN McCORQUODALE: How do you personally feel about
24 the Area Boards? You commented on it a little bit before.

25 MR. MACOMBER: As I said, they have been very helpful to
26 us in many parts of the State. Other areas, I think they could
27 be much more helpful and they've been counterproductive in some
28 areas of the State.

1 CHAIRMAN McCORQUODALE: Do you feel that the function of
2 the Area Board is duplicated elsewhere in California?

3 MR. MACOMBER: I think there's some duplication, yes.

4 CHAIRMAN McCORQUODALE: By who?

5 MR. MACOMBER: I think there's some duplication in terms
6 of what the regional centers do, what Protection and Advocacy do
7 -- Protection and Advocacy does. But it's not an overwhelming
8 duplication. It's not one that greatly disturbs me.

9 CHAIRMAN McCORQUODALE: Were you involved in the
10 termination of the contract to the regional center in Santa
11 Clara, San Bernardino, Santa Cruz Counties?

12 MR. MACOMBER: Which time?

13 CHAIRMAN McCORQUODALE: The last time.

14 MR. MACOMBER: I'm trying to reflect back on whether we
15 actually terminated the contract or reconstituted the board.
16 Whatever action we took, I was involved in.

17 CHAIRMAN McCORQUODALE: That effort was led by the Area
18 Board.

19 MR. MACOMBER: The Area Board was very active in it.

20 CHAIRMAN McCORQUODALE: How could that have been
21 duplicative?

22 MR. MACOMBER: I don't think it was duplicative.

23 CHAIRMAN McCORQUODALE: How could their activities have
24 been duplicative when that came to such a confrontation in which
25 it was viewed that the right thing to do was to reconstitute the
26 board of the regional centers?

27

28

1 MR. MACOMBER: No, we worked very cooperatively with
2 them on that. IN fact, I was just discussing with another Area
3 Board member yesterday about asking for their advice on renewal
4 of another contract of a particular regional center.

5 As I mentioned earlier, Area Board 8, particularly, has
6 been very, very helpful with us on problems we had down in Kern
7 Regional Center on working with the board and reconstituting that
8 effort.

9 CHAIRMAN McCORQUODALE: The politics aside, did you
10 personally support the proposal to defund the Area Board?

11 MR. MACOMBER: I supported it once the Governor made the
12 decision.

13 CHAIRMAN McCORQUODALE: That wasn't your proposal?

14 MR. MACOMBER: No, sir.

15 CHAIRMAN McCORQUODALE: Do you think that the threat of
16 a lawsuit by the State Council through PAI prevented the Governor
17 from blue penciling the Area Board in the '87-88 budget? Do you
18 think that had some impact?

19 MR. MACOMBER: I don't think he was aware of it.

20 CHAIRMAN McCORQUODALE: Do you think that the people who
21 advised him as to what to do --

22 MR. MACOMBER: I think you said it best earlier in your
23 comments. It was the overwhelming flood of correspondence that
24 the Governor's Office received, and the people who met with him,
25 that provided him with additional information that they didn't
26 have when that decision was made.

27

28

1 CHAIRMAN McCORQUODALE: Did you talk to the staff or
2 Board members of the Council or PAI regarding that suit?

3 MR. MACOMBER: Did I talk to them. Well, the suit was
4 never filed.

5 CHAIRMAN McCORQUODALE: Right, about the proposed suit.

6 MR. MACOMBER: Well, the only thing I recall talking
7 about was what I mentioned earlier, was that I was confused as
8 far as why they were saying -- holding it up as a threat, that if
9 you do this, we're going to sue you. And my recommendation was
10 why don't you wait and take that action at such a time as
11 something is done, and then make a decision whether you're going
12 to sue.

13 CHAIRMAN McCORQUODALE: It's hard to know whether it was
14 a threat or a promise, though.

15 MR. MACOMBER: Yeah, right.

16 CHAIRMAN McCORQUODALE: Did you direct anyone on your
17 staff to actively pursue an effort to keep the lawsuit from being
18 filed?

19 MR. MACOMBER: Did I? No.

20 CHAIRMAN McCORQUODALE: Would it have been somebody's
21 job to have done that without you telling them to do it?

22 MR. MACOMBER: Not -- not that I'm aware of. To contact
23 the State Council, or --

24 CHAIRMAN McCORQUODALE: State Council staff and board
25 members and PAI.

26 MR. MACOMBER: No, I think by the time I was aware of
27 it, and I think it was a meeting that I missed, and I think my
28

1 Chief Deputy was attending the meeting in my place, and it was a
2 fait accompli by that time.

3 CHAIRMAN McCORQUODALE: So if someone did it, they
4 probably just did it on their own?

5 MR. MACOMBER: I wasn't aware that it had been done.

6 CHAIRMAN McCORQUODALE: We have some testimony from the
7 hearing in Los Angeles that during those discussion, certain
8 representatives from the Department of Developmental Services
9 suggested and recommended that we not pursue that option, talking
10 about the lawsuit.

11 MR. MACOMBER: Well, I had recommended that they not
12 pursue the option, but I'm not aware any of my staff did it. But
13 I mean, I was very open in that, and I've been open with it since
14 then.

15 CHAIRMAN McCORQUODALE: If you're sued a number of times
16 and the plaintiff wins, I guess it could mean that the court's
17 wrong?

18 MR. MACOMBER: The courts can be wrong. We can all be
19 wrong.

20 CHAIRMAN McCORQUODALE: What else could it be besides
21 the fact that the court might be wrong?

22 MR. MACOMBER: Oh, I think that we can be wrong. There
23 can be lack of clarity on an issue. We can have a difference of
24 opinion that the courts are an appropriate body to resolve.

25 SENATOR WATSON: Let me ask this question.

26 Mr. Macomber, do you think it would be appropriate for
27 the Governor to make changes in the composition of the Board so
28 that there'd be less suits filed against him?

1 MR. MACOMBER: You mean for that specific purpose?

2 SENATOR WATSON: Yes.

3 MR. MACOMBER: No, I don't think that'd be appropriate.

4 SENATOR WATSON: Thank you.

5 CHAIRMAN McCORQUODALE: Did you ever talk to Barbara
6 Hooker about the five people what we have under subpoena for the
7 PAI Board?

8 MR. MACOMBER: Did I ever talk to her about them?

9 CHAIRMAN McCORQUODALE: Yes.

10 Did you ever discuss their appointments to the Board?

11 MR. MACOMBER: Not that I recall. I think there was
12 some discussion when the -- when you had met with Mr. Allenby as
13 far as who was going to be subpoenaed and who was going to appear
14 voluntarily, and you had indicated there would be subpoenas.
15 Either you indicated that or Terry indicated, or someone, to
16 Cliff or to me or to someone.

17 CHAIRMAN McCORQUODALE: What about before they were
18 appointed?

19 MR. MACOMBER: Before they were appointed? Did I talk
20 to her about those five people?

21 CHAIRMAN McCORQUODALE: Yes.

22 MR. MACOMBER: Not that I recall. I could have. It
23 would not have been unusual to have talked to her about it. I
24 don't recall any specific conversation about them, though.

25 CHAIRMAN McCORQUODALE: We're trying to picture whether,
26 once Chris Jones was appointed, whether there was an intent to go
27 after these specific people and get them on the PAI Board.

1 MR. MACOMBER: I have no direct knowledge that that
2 occurred. The names came through, I think, maybe two at a time,
3 or two at one time, and a few others after that.

4 There was no scheme that I was aware of to, you know,
5 any conspiracy or anything, to do away with a lawsuit, or to have
6 a hidden agenda. It was filling vacant positions, and we, along
7 with other people, get frustrated that it's a time-consuming task
8 to fill those positions.

9 I should make one clarification that I may have erred in
10 some earlier testimony I gave. There's one exception that we
11 have named specific and made specific recommendations of
12 individuals, and that's the Early Intervention Interagency
13 Coordinating Council, under Public Law 99457. And we had a very
14 broad, open process for that, and we did submit specific names to
15 the Governor's Office for that particular committee. We don't
16 have the appointments yet, however.

17 CHAIRMAN McCORQUODALE: There's been a lot of strong
18 statements made by consumers and advocates that there was a
19 conspiracy by several members of the administration after the
20 State Council authorized PAI to sue the Governor over the Area
21 Board situation, to control the PAI Board, and to do it through
22 the appointments process.

23 In observing the action and activities of the five
24 Governor's appointees who were designated prior to the November
25 Board meeting, would you agree that these five appointees want
26 control of the policy making role of the Board?

27 MR. MACOMBER: That they want control?
28

1 CHAIRMAN MCCORQUODALE: Yes.

2 MR. MACOMBER: I'm not familiar enough. Several of them
3 I don't believe I've ever met, and some of them I've met once and
4 didn't recognize them in the audience today.

5 I don't know. Like I said, I haven't talked to them
6 since then. The only two I've talked to would be to Chris Jones
7 and to Annette Ospital. Annette's been in DD Council meetings
8 because they're both fellow members of the Council.

9 CHAIRMAN MCCORQUODALE: Have they ever given you any
10 indication that they were going to take care of the problem of
11 all the lawsuits?

12 MR. MACOMBER: No, they haven't.

13 CHAIRMAN MCCORQUODALE: Against either the Department or
14 the administration?

15 MR. MACOMBER: Not at all.

16 CHAIRMAN MCCORQUODALE: As the Director of the State
17 Department which must interpret the federal and State definitions
18 of developmental disability, as someone who should have expertise
19 regarding the application of these definitions, do you have an
20 opinion as to whether or not Lori Roos is either a person with a
21 developmental disability or a secondary consumer who has
22 responsibility for someone who is developmentally disabled?

23 MR. MACOMBER: I don't know her condition or her
24 relationship, and I wouldn't feel qualified to comment on it.

25 CHAIRMAN MCCORQUODALE: Who in the administration should
26 have the responsibility to ensure that the people appointed to
27 this Board meet the federal requirements for appointment?
28

1 MR. MACOMBER: I believe it would be someone in the
2 appointments section of the Governor's Office.

3 CHAIRMAN McCORQUODALE: So you think it's the Governor's
4 Office. They've never given you any indication you should --

5 MR. MACOMBER: I believe the individual, on the
6 application, designates what their role is or what their
7 relationship would be in the appointments, whether it's a
8 requirement that they have a child or be a relative of a person
9 with a child in a State Hospital, or whatever. That relationship
10 is normally shown on the form. And then it may be recapped in
11 anything that we send back to them.

12 CHAIRMAN McCORQUODALE: In your discussions with Jim
13 Morgan, did you discuss whether his brother met the
14 qualifications or not?

15 MR. MACOMBER: I discussed with Jim Morgan his brother
16 and his brother's specific disability, as I stated before.

17 CHAIRMAN McCORQUODALE: That's a State board; that's not
18 a federal.

19 MR. MACOMBER: Right.

20 CHAIRMAN McCORQUODALE: Would that also be the
21 Governor's responsibility, or do you have some responsibility in
22 that regard?

23 MR. MACOMBER: I don't have responsibility for the State
24 Council.

25 CHAIRMAN McCORQUODALE: Why do you think that you were
26 included on the State Council?

27
28

1 MR. MACOMBER: I'm not -- under federal law it's not
2 required that I be on the Council. Under the Lanterman Act, it
3 is required that I be on the Council. And I think it's because
4 we're the primary service delivery system for services.

5 CHAIRMAN McCORQUODALE: But you don't feel there's any
6 requirement, or any obligation, that your expertise in the field
7 of developmental disabilities would ensure that people met the
8 technical requirements that might be listed in the law?

9 MR. MACOMBER: It it was an organization that reported
10 to me. For example, the Interagency, the Commission on 99457,
11 the Advisory Board, has to be a part of our Department. That's
12 very much my responsibility to make sure that that complies with
13 the federal mandates. It requires a physician or a pediatrician
14 and all that, and I assure that that happens, and I submit those
15 names up to the Governor's Office with those designations.

16 But for organizations for which I don't have line
17 responsibility, or even functional responsibility to supervise,
18 it's just not my job.

19 CHAIRMAN McCORQUODALE: If you felt that you didn't have
20 a responsibility to advise anyone related to whether a member of
21 the Council met the requirements in your field of expertise that
22 they were supposed to fill, where would you decide that your
23 responsibility started?

24 MR. MACOMBER: Oh, I think if I had information that one
25 of the names that had come over to us for review by the
26 Governor's Office, if in our review we determined that person
27 legally didn't meet the requirements for the appointment, we
28 would certainly advise the Governor's Office of that.

1 And that sometimes has been the case when a position
2 will require, for example, that the person have a relative in a
3 State hospital, and perhaps that name's been sent over as a
4 person who has a relative at home or in the community; that type
5 of thing. So they'd have to be placed in another category.

6 CHAIRMAN McCORQUODALE: It seemed like, though, going
7 back to the reason that the Council would have had somebody from
8 your Department, you're on the State Council, would have been to
9 have used all of your expertise. I keep thinking that probably
10 Jerry Brown would have loved to have had somebody tell him what
11 type of person Childen was when he appointed him to the State
12 Public Employment and Retirement Board.

13 It seems to me that if somebody is appointed, and you're
14 in effect sort of the Governor's representative, and you see that
15 they don't meet the qualifications or the issue's raised, it
16 would seem like you ought to advise the Governor.

17 MR. MACOMBER: And we would, Senator.

18 CHAIRMAN McCORQUODALE: Have you done that regarding
19 Morgan?

20 MR. MACOMBER: Have I done that? No, I haven't.

21 CHAIRMAN McCORQUODALE: Now that it's been brought to
22 your attention?

23 MR. MACOMBER: Well, as far as I know, from what I've
24 seen, it appears -- and I am probably the least able person in
25 the room to discuss the federal definition and its application.
26 If you want to talk State definition, I can talk about that,
27 because that's what governs our program; the federal definition
28 does not.

1 But I read -- I believe I read the letter back to Jane
2 Uitti that Mike Morgan had sent, which laid out the functional
3 disabilities and how in his assessment, I guess, that he met the
4 requirements.

5 But beyond that, I don't know.

6 MS. UITTI: Can we get a copy of that? I didn't get a
7 copy of that.

8 MR. MACOMBER: I thought it was a CC of a letter to you
9 that was in June, sometime.

10 MS. UITTI: Michael Morgan wrote a letter discussing his
11 disability, but in the letter he said, "I don't know whether I
12 meet the federal definition or not."

13 MR. MACOMBER: Oh, that's the letter I was referring to,
14 though. My reading of his letter was, it appeared that he did
15 meet the definition as much as other folks.

16 I recall when I came on the Council originally there was
17 a carry-over who was an attorney in Berkeley who was on as a
18 consumer meeting the federal definition, and had the same type of
19 limitations that Mike Morgan has.

20 CHAIRMAN McCORQUODALE: Just one or two more questions
21 in line with this.

22 I just want to get some feel of how far your role would
23 go. If you felt that people in the category that he's filling
24 were not getting adequate representation because they didn't have
25 anyone on there that understood their issues or concerns
26 adequately, would that be the basis on which you might advise the
27 Governor that his appointment did not do that job?
28

1 MR. MACOMBER: Are you talking about a sitting
2 appointment? Some who's on the Board already that may not be
3 representing that particular constituency on a board that I'm on?

4 CHAIRMAN McCORQUODALE: Right.

5 MR. MACOMBER: If it was a board that reported to me, I
6 would definitely do that, and I would request an audience with
7 the Governor's Office to discuss that with the folks over there.

8 If it's a board that I'm sitting on as one of the 17
9 members or so, I may provide that information to the Governor's
10 Office for whatever action they consider appropriate.

11 CHAIRMAN McCORQUODALE: Suppose that you knew that his
12 staying on that board was going to cost the State \$100 million
13 next year? Would you feel compelled to tell the Governor then?

14 MR. MACOMBER: You mean if there was a swing vote, or
15 something, and this person would vote that way?

16 CHAIRMAN McCORQUODALE: Maybe the federal government
17 would deny the money, or the Legislature would cut out the money.

18 MR. MACOMBER: Well, the Council and PAI and the others
19 don't have that kind of decision making authority, so it really
20 wouldn't happen.

21 CHAIRMAN McCORQUODALE: We're just talking, though, in
22 general about boards.

23 I know that among the administration, there may not be a
24 strong feeling that these boards are important. But the
25 Legislature established them. And until the Legislature
26 unestablishes them, they are the highest priority that we have
27 going.

1 MR. MACOMBER: I understand that.

2 CHAIRMAN McCORQUODALE: They're ours.

3 MR. MACOMBER: That's right.

4 CHAIRMAN McCORQUODALE: Now, if you don't feel that just
5 because the category of people are getting adequate
6 representation, I'm trying to figure out whether there's
7 something else that might motivate you to tell the Governor.

8 MR. MACOMBER: Well, I think if there was a particular
9 member who I was aware of who was violating State law, or that
10 was misusing their expense account, or taking actions that were
11 bizarre or acting irrationally, or something like that, I think
12 that's something I would point out to the Governor's Office.

13 CHAIRMAN McCORQUODALE: All right.

14 Going back to PAI, try to get it down to yes or no. Do
15 you make recommendations, independent recommendations, to the
16 Governor's Office for people to serve on that Board?

17 MR. MACOMBER: Could you define independent
18 recommendations for me?

19 CHAIRMAN McCORQUODALE: Nonsolicited by the Governor's
20 Office. In other words --

21 MR. MACOMBER: To the best of my knowledge, the
22 recommendations we make are all as a result of someone who has
23 applied to the Governor's Office, and then the Governor's Office,
24 I would say, usually sends those over to us for comment. That
25 doesn't always happen, however. They've made appointments that
26 they haven't sent over, and sometimes they follow our
27 recommendation and sometimes they don't.

28

1 Now, in terms of who those people applied, I along with
2 many other people in my office -- I was at a meeting in San
3 Francisco last week -- we encourage people all the time to apply.
4 And some of those same names may e the ones that come back to us.

5 MS. COLLINS: Given that description of when you comment
6 on PAI appointments, do you, because you're unfamiliar with Lori
7 Roos' disabilities, does that mean that that appointment was made
8 without soliciting your input or your review?

9 MR. MACOMBER: I don't recall specifically on that one.
10 Generally, the names come over to us for recommendation. Whether
11 Lori Roos' name specifically came over, I really don't recall.

12 CHAIRMAN McCORQUODALE: I think we're going to take a
13 break for a few minutes. We'll take about a ten-minute break.

14 (Thereupon a brief recess was taken.)

15 CHAIRMAN McCORQUODALE: We're going to try to complete
16 the questioning of Mr. Macomber. We have a few other questions.

17 I think I understand your position that you don't feel
18 any obligation to advise the Governor if the appointments don't
19 fit the right category.

20 MR. MACOMBER: No, I would feel very concerned if they
21 didn't fit the category, didn't meet the legal requirements of
22 the position.

23 CHAIRMAN McCORQUODALE: What about someone who joined a
24 local ARC shortly before being appointed as an organizational
25 representative? Is that the letter and requirement of the law?

26 MR. MACOMBER: I think it meets the letter of the law.

27 CHAIRMAN McCORQUODALE: The spirit?
28

1 MR. MACOMBER: Well, I think I would prefer, and perhaps
2 what they need to do in the bylaws is to change it to require
3 that they have been a member for a certain period of time. Maybe
4 that's what -- if that's what the interest would be.

5 CHAIRMAN McCORQUODALE: What about a person who had an
6 injury that did not meet the requirement of the developmentally
7 disabled definition?

8 MR. MACOMBER: And that that person had been appointed
9 as a developmentally disabled person?

10 CHAIRMAN McCORQUODALE: Yes.

11 MR. MACOMBER: I would very definitely let the
12 Governor's Office know that if I became aware of that.

13 CHAIRMAN McCORQUODALE: Are you familiar with the
14 controversy that has surrounded Lori Roos?

15 MR. MACOMBER: I'm familiar with it to the extent of
16 what's come out of your hearings.

17 CHAIRMAN McCORQUODALE: But not before that?

18 MR. MACOMBER: I believe George DeBell, or someone, met
19 with me. I don't think they met with me; maybe a phone call or
20 breakfast or something, and expressed their concern.

21 CHAIRMAN McCORQUODALE: That wasn't one of the reasons
22 you thought Mr. DeBell might not be reappointed?

23 MR. MACOMBER: No, I believe that was after his
24 reappointment had been resolved.

25 CHAIRMAN McCORQUODALE: But you didn't talk to him about
26 that issue at the same time you talked about him having voted for
27 the lawsuit?
28

1 MR. MACOMBER: No, sir. Not that I recall.

2 MS. COLLINS: At the May hearing, there was testimony
3 raising concern about Lori's appointment and Margaret Heagney's
4 appointment. And you had a representative at that hearing.

5 Were those concerns related back to you by your staff
6 representative, and did you investigate?

7 MR. MACOMBER: I think on Lori Roos we did. The
8 concerns had been relayed back to us prior to that, prior to that
9 hearing, and I think the question was that she was not a
10 developmentally disabled person. And the information I received
11 back, she had not been appointed as a developmentally disabled
12 person, but as a relative of a person with a developmental
13 disability.

14 MS. COLLINS: Do you think, in your personal opinion,
15 that having a relative out of state who you do not provide, or
16 have never provided, primary care to meets the spirit of that
17 appointment?

18 MR. MACOMBER: It meets the legality, the legal
19 appointment. I think perhaps what's been identified is perhaps
20 in the bylaws, as I mentioned before. You need to tighten up and
21 talk about whether it's an immediate relative, or that this
22 person has five years' experience, or ten years' experience, in
23 developmental disabilities.

24 MS. COLLINS: If you were directed by the Legislature to
25 appoint an advisory committee which included a family
26 representative, would you choose somebody with that connection,
27 or would you choose somebody who was a primary care giver?
28

1 MR. MACOMBER: With a family representative?

2 MS. COLLINS: Yes, if the Legislature directed you, as
3 they do sometimes, to establish a task force on a certain issue,
4 and part of the criteria the Legislature asked for is that you
5 appointment a primary consumer or a family member.

6 MR. MACOMBER: Right.

7 MS. COLLINS: Would you appoint somebody who had a
8 relative out of state and was not a primary care giver, or would
9 you prefer to appointment somebody --

10 MR. MACOMBER: If it was my appointment to make?

11 MS. COLLINS: If it was your appointment.

12 MR. MACOMBER: If it was my appointment, I think I would
13 prefer to have someone who had -- if I had two or three
14 candidates and one had a relative out of state, and one had a
15 relative whom they lived with who was developmentally disabled, I
16 would opt for the one in state who's developmentally disabled
17 that they lived with.

18 MS. COLLINS: And if you were also asked to appointment
19 an organizational representative, would you appoint somebody who
20 joined an organization, a local chapter, shortly before the
21 appointment was to be made and didn't participate in that
22 organization to a significant degree?

23 MR. MACOMBER: I think it would depend on -- there are a
24 lot of people who belong to organizations for years, and years,
25 and years who have not been active in that organization, but have
26 the credential of belonging to it. And I think you need to look
27 beyond that in terms of the degree of their commitment, and
28 interest, and enthusiasm if they're going to move into that job.

1 But I think if you're talking about someone -- that the
2 requirement was someone in that particular field, and all other
3 things being equal, normally you want someone with a long-term
4 involvement.

5 MS. COLLINS: And if you were going to appoint someone
6 to represent ARC California, for instance, would you ask that
7 organization for their input into who that person might be who
8 could best represent them?

9 MR. MACOMBER: If it was my appointment to make?

10 MS. COLLINS: Yes.

11 MR. MACOMBER: I would probably ask them for their
12 recommendation.

13 MS. COLLINS: Thank you.

14 SENATOR MARKS: May I ask one question.

15 CHAIRMAN McCORQUODALE: Senator Marks.

16 SENATOR MARKS: What is the developmental disability
17 that the person has that Lori Roos is related to?

18 MR. MACOMBER: I don't know, Senator.

19 SENATOR MARKS: In fact, she had an accident.

20 MR. MACOMBER: I don't -- an accident can be the cause
21 of a developmental disability. I don't know what the nature of
22 her relative's disability is. I've never discussed that with
23 her.

24 SENATOR MARKS: That wouldn't be a concern to you?

25 MR. MACOMBER: Again, if it was within my Department and
26 an appointment I was making, it would be a concern to me. It's a
27 separate, free-standing board over which I have no authority.
28

1 SENATOR MARKS: We'll ask Lori Roos what the accident
2 is. I think you'll be quite surprised.

3 CHAIRMAN McCORQUODALE: Have you ever asked a Board
4 member to look into what PAI was doing regarding its lawsuits?

5 MR. MACOMBER: Regarding its lawsuits?

6 CHAIRMAN McCORQUODALE: Yes. We had testimony --

7 MR. MACOMBER: The only discussion I remember along that
8 line was, I think I had a discussion with George DeBell, that I
9 believe he initiated. And I believe it was before he was
10 appointed, or it may have been afterwards. Boy, it was a long
11 time ago.

12 Was that what you're referring to? Was that the person?

13 CHAIRMAN McCORQUODALE: I just remember testimony, and I
14 made a note here, from this Los Angeles hearing. This is a
15 quote:

16 "I visited Mr. Macomber in his office
17 one day, and he asked me would you
18 please look at what the hell they're
19 doing over there? You know, they're
20 just suing everybody."

21 MR. MACOMBER: I don't recall ever making that
22 statement, and I don't use language like that.

23 I had a discussion with George DeBell, is the only
24 person I can recall, who -- and I don't believe it was in my
25 office. I believe it was at breakfast one day, and he had -- to
26 the best of my recollection, had expressed his concern over PAI
27 on some action they had taken prior to me becoming Director to
28

1 gain access to client records, or clients who were in the State
2 developmental centers.

3 I believe it was George. It could have been another
4 State hospital parent, but I believe it was George. That's the
5 only conversation that I recall.

6 CHAIRMAN MCCORQUODALE: All right.

7 Let's see if there's any other questions. Does anyone
8 else have a question? Mr. Polanco.

9 ASSEMBLYMAN POLANCO: In light of the fact that there's
10 a lot of animosity, there's a lot of inconsistency, there's a lot
11 of bickering, a lot of questioning, what do you have in your
12 plans as an administrator in line to bring about some correction
13 to much of what has been discussed? What are your
14 recommendations that you bring forth today so that we can look at
15 them and see if, in fact, from a policy point of view, we can
16 begin to make whatever changes are necessary?

17 MR. MACOMBER: I think the only one is one I mentioned
18 just a few minutes ago. What's occurred to me today is perhaps
19 the -- as long as they're going to be changing the bylaws,
20 apparently, is that there be some type of restructuring of those
21 bylaws. And if there is specific interest, or demonstration that
22 there are minimum criteria that need to be established that are
23 more finite than what's present now -- for example, if you want,
24 say, experience, and experience means more than five years'
25 involvement in this field, then that's what it ought to say in
26 the bylaws so that they're sure that they meet that criteria.

1 Beyond that, because these boards and commissions don't
2 report to me, I have very limited involvement and responsibility
3 for them.

4 ASSEMBLYMAN POLANCO: I understand that you are in a
5 position that can have some impact on whether or not a person,
6 who may not be meeting those criteria and/or may not have the
7 experience, you're in a position to voice an opinion.

8 MR. MACOMBER: Sure.

9 ASSEMBLYMAN POLANCO: And I think the point of
10 leadership in terms of coming from you as one whom the public
11 looks to as the lead person in the area of developmental services
12 is very much present and very much needed.

13 MR. MACOMBER: If I had that information, I would very
14 much bring that forward.

15 CHAIRMAN McCORQUODALE: Any other questions?

16 SENATOR WATSON: Let me just ask one last question.
17 Let's talk about the composition of the Board.

18 There's an eleven-member Board, and when there were
19 suggestions of increasing the number to be able to get a more
20 representative group, I understand that your concerns were over
21 the administrative cost and Board efficiency.

22 Can you elaborate on that?

23 MR. MACOMBER: Sure. When the proposal, I believe, came
24 forward last fall sometime, I believe George DeBell -- yes,
25 George DeBell was the President of PAI at that time, I believe.
26 And he sent a proposal over to us by letter on Protection and
27 Advocacy stationery that outlined the proposal and asked for our
28 comments on it.

1 I assigned one of my civil service employees in the
2 Department to analyze this and give our comments. And that was
3 done, and the recommendation was one of why don't you look at
4 another way rather than automatically expanding the Board to a
5 larger Board. Why don't you constitute the Board so that you can
6 be fewer people and less money spent on administrative costs,
7 more money for services.

8 That letter was transmitted to Mr. DeBell as our
9 comments.

10 SENATOR WATSON: One of the things that concerns me is
11 that, looking at the composition of the Board, I guess the
12 Governor, the appointing authority, has acted in terms of the
13 word of the law, but the spirit of the law in each case, and you
14 suggest that yourself by saying we need to be more specific about
15 the requirements. And in order to meet not only the word but the
16 spirit of the law, I think it looks like we need some people,
17 more people on the Board who are seriously committed. There's
18 degrees of commitment.

19 What I'm trying to feel, and I mentioned this before, is
20 some sense of compassion, and passion, and even zealousness,
21 because that's what's been missing from the testimony up to this
22 point.

23 As was mentioned before, I think it was Senator Marks or
24 maybe Senator Rosenthal, you know, you ought to beg to get on
25 this Board and really want to be there. I think that's when the
26 best work is done.

1 MR. MACOMBER: I wish that was the situation on our
2 Board, Senator, that we had a large number of applicants, but
3 unfortunately we don't. Maybe all the publicity coming out of
4 this hearing --

5 SENATOR WATSON: I'm sure in this audience right here we
6 could get the other two, three, five members out here. There are
7 people who have lived with their children and nurtured them to
8 where ever they are now who'd be willing and ready to service the
9 general public, service the DDs, and service the Governor. But
10 they're never asked.

11 From what I can see, the people who we subpoenaed in
12 here are political appointments. The only background they've had
13 is that they're a relative of somebody, or they've been in the
14 Republican Caucus, or they have a degree.

15 I'm talking about the kind of passion and understanding
16 and experience that people in this audience have.

17 How many of you would accept an appointment? Look,
18 Mr. Macomber, does that answer?

19 MR. MACOMBER: I would encourage them to apply.

20 SENATOR WATSON: I've made my point.

21 MR. MACOMBER: I would encourage them to apply.

22 And the other comment, Senator, would be --

23 SENATOR WATSON: Well, let's get some letters in to
24 Mr. Macomber.

25 MR. MACOMBER: No, don't send them to me. Send them to
26 the Governor.

27
28

1 SENATOR WATSON: Well, you ought to know, too, so you
2 can, when the Governor sends them back to you, you can make the
3 kind of comments he's asking you to make.

4 Let's get some letters in to the Governor's Office. I'm
5 very serious about this. If you're concerned, let the Governor
6 know of your concern and ask him to appoint you. Give him
7 something of your background and your experience in this area,
8 and let's see what we can generate that way.

9 CHAIRMAN MCCORQUODALE: I'd asked you earlier regarding
10 the Lanterman Act requiring the Governor to seek out
11 recommendations from organizations.

12 What does the membership, or the people who are on there
13 by the basis of the status of their jobs, such as yourself and
14 other State employees on there, do to ensure that there is
15 appropriate representation from various economic levels, various
16 racial and ethnic groups?

17 MR. MACOMBER: I think it's something that we always try
18 to do. One person, I believe she's in the audience today, is a
19 woman who I was very, very much impressed with, Connie Martinez,
20 who is a consumer. And I heard her speak at Fiesta Educativa a
21 few years ago, and it kind of tore at my heart. And I thought
22 she'd be an outstanding person to speak as an advocate for
23 consumers with developmental disabilities. She's been an
24 outstanding member of the Council.

25 When you talked about voting in the minority, I think
26 Connie and I probably vote together more than anybody else does
27 on the Council. When has something to say, it's usually right
28

1 up-front. It's -- I rarely disagree with the lady, and she's an
2 outstanding appointee.

3 That's the kind of thing we've done to ensure that kind
4 of representation. There's not a Black on the Council right now.
5 I would like to -- you know, I would hope that we would get some
6 applicants for that, for any positions that might become
7 available soon for that.

8 CHAIRMAN MCCORQUODALE: In sitting on that Council, do
9 you represent the Governor, or do you represent the Department?

10 MR. MACOMBER: I guess both.

11 CHAIRMAN MCCORQUODALE: It seems to me that the natural
12 thing would be to want to try to minimize real issues so that
13 there's not an ongoing alienation one group from another, and
14 then at the same time, that you would seek out, feel that there
15 was a responsibility to seek out, people who would reflect the
16 broad makeup of the California population.

17 MR. MACOMBER: Right.

18 CHAIRMAN MCCORQUODALE: The developmentally disabled
19 especially.

20 You'd indicated that when you meet people, or when you
21 talk, but is there something that's done specifically to seek out
22 people? As an example, a Black representative?

23 MR. MACOMBER: We've done what we call Person to People,
24 and we've shown it to about 3500 different members of civic
25 groups throughout the State. And a part of that is to encourage
26 people to apply in this area, and specifically to get people who
27 traditionally would not have been involved in it. In meetings in
28

1 San Francisco, as I mentioned, and it was just two or three weeks
2 ago, I again made that offer, and there were people of various
3 ethnic backgrounds there, and we'll see if we get some applicants
4 out of that group.

5 In terms of your statement in cooperation, I'm guided by
6 an old African proverb, and it talks about that when the
7 elephants fight, it's the grass that dies. And I think if we can
8 work more cooperatively together, we can get a lot more done,
9 because when we fight among ourselves as bureaucrats, or people
10 up here in Sacramento, it's the client that suffers. We can do a
11 lot more by working cooperatively together.

12 CHAIRMAN McCORQUODALE: And I think that's the thing
13 that motivates us. We recognize that there are limitations on
14 what can be done at any particular time, and at times the ability
15 to provide for people is better than at others.

16 But at the same time, as we see the tremendous energy
17 that goes into this issue, and then when we look at those five
18 appointments that have been made by the Governor to PAI, they
19 certainly meet the desire to have men and women on the boards and
20 commissions, but after that, they all sort of look like they came
21 from the same mold.

22 I just wondered if your interest or concern on the part
23 of the Governor went beyond the State Council now to PAI, that
24 that representation should be there, and somebody should be
25 advising him that that's not the case.

26 MR. MACOMBER: I think that's something that he's very
27 sensitive to, based on directives that he's given to us. It's
28 something that we are therefore sensitive to.

1 CHAIRMAN McCORQUODALE: I keep remembering, I don't know
2 whether you've read Theodore White's Breach of Faith.

3 MR. MACOMBER: No, sir.

4 CHAIRMAN McCORQUODALE: It's a good book about people,
5 four people, who worked for elected officials.

6 I see the small steps that were taken along the way, and
7 someone mentioned this morning that they get the notices over
8 from the Governor's Office, and they are people who purport to
9 represent the Governor.

10 And I see the same pattern that developed there with
11 President Nixon, and the time and how. But I don't think even
12 today, he could tell you where the line was crossed on what was
13 right and what was wrong, because so much happened that he might
14 never have known about. And somebody representing him failed to
15 adequately advise him to a certain point, and then it was sort of
16 too late.

17 And it just seems to me that especially people who are
18 in appointed positions, who serve on these boards and commission,
19 have an added responsibility than just being a representative.
20 That they have the same institutional concern there that a person
21 who represents a family of a disabled, or some organization, has
22 a responsibility to represent and be aggressive in that regard,
23 because they're sometimes competing, and they need to be worked
24 out somewhere other than in sniping at each other.

25 MR. MACOMBER: I would agree completely.

26 MS. UITTI: I had two quick questions.
27
28

1 The first is, you made a comment earlier that DDS is
2 swearing in members of the Protection and Advocacy Board?

3 MR. MACOMBER: I've sworn in members of, I think, Area
4 Boards, Protection and Advocacy -- maybe it wasn't that. Maybe
5 it was when they were going on the Council. I've sworn in, I
6 know, Annette Ospital and Chris Jones. Maybe it wasn't on the
7 PAI; maybe it was when they went on the State Council. Maybe I
8 spoke in error.

9 MS. UITTI: To your understanding, you are swearing
10 people into the State Council but not to Protection and Advocacy?

11 MR. MACOMBER: That's probably more accurate.

12 MS. UITTI: The second dealt with another issue, and
13 that's related.

14 You brought up the Interagency Task Force on Early
15 Intervention. It brought up -- evidently there's the same issue
16 going on over there relating to appointments for that Council.

17 Has there been solicitation of parent and provider input
18 for that?

19 MR. MACOMBER: Absolutely. There was a very widely
20 distributed request for candidates for that. And there was a
21 multidisciplinary group that's worked on coming up with the best
22 candidates. There's parent involvement. There's professional
23 involvement. I believe there's 16 or 17 members on that. It's
24 federally mandated. And we submitted the proposed appointees to
25 the Governor's Office, I believe, in April.

26 MS. UITTI: Yes, because the law requires a coordinating
27 council with parent and provider participation.

1 When will that council be appointed?

2 MR. MACOMBER: I would hope very soon.

3 MS. UITTI: Will there be a requirement for those
4 applicants to state their political registration or affiliation?

5 MR. MACOMBER: Would there be?

6 MS. UITTI: Will there be.

7 MR. MACOMBER: I believe on the appointment form that
8 you complete for the Governor there is a box for that.

9 MS. UITTI: Thank you.

10 CHAIRMAN McCORQUODALE: All right, very good. Thank
11 you. We appreciate. Can you stay for the rest?

12 MR. MACOMBER: Certainly.

13 CHAIRMAN McCORQUODALE: We're now going to call Lori
14 Roos. I think the Sergeant has gone to get her.

15 We'll take a two or three minute break.

16 (Thereupon a brief recess was taken.)

17 CHAIRMAN McCORQUODALE: Ms. Roos, before you sit, would
18 you be sworn in.

19 MR. MILLER: Have you read the statement regarding your
20 testimony today?

21 MS. ROOS: Yes, sir.

22 (Thereupon the witness, LORI ROOS, was
23 duly sworn to tell the truth, the whole
24 truth, and nothing but the truth.)

25 MS. ROOS: Yes, sir.

26 CHAIRMAN McCORQUODALE: For the record, would you state
27 your name.

1 MS. ROOS: I'm Lori Michelle Roos.

2 Mr. Chairman, I'd like to request to be able to read an
3 opening statement before I start --

4 CHAIRMAN McCORQUODALE: I think we'd prefer to go ahead
5 and just ask some questions. We want to be able to get past --

6 MS. ROOS: I think that --

7 CHAIRMAN McCORQUODALE: -- a series of common questions
8 we're asking so that we can allow your friends from below to
9 return.

10 MS. ROOS: I believe this may help clarify a lot of the
11 problems which have come out, including the statements you made
12 on KRON T.V. I'd like to get that clarified --

13 CHAIRMAN McCORQUODALE: I think I'd rather go ahead with
14 asking the questions.

15 MS. ROOS: Yes, sir.

16 CHAIRMAN McCORQUODALE: Are you currently employed?

17 MS. ROOS: I'm a summer clerk at the Century City law
18 firm of O'Melveny & Myers.

19 CHAIRMAN McCORQUODALE: Would you describe any past
20 political position you've held, either salaried or volunteer?

21 MS. ROOS: I was salaried for Assemblyman Bill Baker,
22 working for the Ways and Means Committee. I was volunteered -- I
23 volunteered on the Youth for Reagan-Bush movement in Davis,
24 California.

25 CHAIRMAN McCORQUODALE: To which seat are you appointed
26 on the PAI?

27

28

1 MS. ROOS: I am a relative of a developmentally disabled
2 child.

3 CHAIRMAN McCORQUODALE: How did you first learn of PAI?

4 MS. ROOS: I had been interested since I was in college,
5 and actually before I was in college. I was a gymnastics
6 instructor during high school, and I was teaching a class for
7 developmentally disabled children on Saturday mornings.

8 I was volunteering during -- at the Sacramento County
9 home on -- during my school years at Davis, and I had been
10 interested in working for a board, or working within the
11 community for the developmentally disabled. I had heard about
12 the Board through Chris Jones.

13 CHAIRMAN McCORQUODALE: How did you learn there was a
14 vacancy on the Board?

15 MS. ROOS: I didn't know there was a vacancy at the
16 time. I was encouraged by Chris Jones to apply. He knew that I
17 had had an interest in working with developmentally disabled, and
18 he said that I might want to submit a resume and fill out a
19 questionnaire and go through the process.

20 And I was very fortunate, and I am pleased to have been
21 chosen by the Governor to be able to serve on this Board.

22 CHAIRMAN McCORQUODALE: Did you discuss that appointment
23 with anyone prior to being appointed?

24 MS. ROOS: I discussed --

25 CHAIRMAN McCORQUODALE: Other than Chris Jones.

26 MS. ROOS: Not with Chris Jones, no, sir. I discussed
27 it -- I had conversations with Bella Meese during the interview
28

1 process before I was appointed, but I had not spoken with anybody
2 else about it.

3 I had told my family that I had applied for this. And
4 my family has been very involved civically. My father has been
5 volunteering a lot of time at his synagogue, and then counseling
6 Holocaust victims, such as himself, and so he was very pleased
7 that I was going to get involved with the community service.

8 CHAIRMAN McCORQUODALE: You were interviewed for the
9 position?

10 MS. ROOS: Yes, sir.

11 CHAIRMAN McCORQUODALE: By --

12 MS. ROOS: Bella Meese.

13 CHAIRMAN McCORQUODALE: Anyone else?

14 MS. ROOS: No, sir.

15 CHAIRMAN McCORQUODALE: How did you know you were
16 appointed?

17 MS. ROOS: I received a call, phone call, from Bella
18 Meese.

19 CHAIRMAN McCORQUODALE: Did you get a formal commission?

20 MS. ROOS: Yes, sir, and I do -- I believe I have the
21 swearing in statement and the oath that I had to take. Gary
22 Macomber gave that -- swore me in before the -- when Bella Meese
23 informed me that I had been chosen, she told me that I'd be
24 receiving a packet from Protection and Advocacy on the meeting
25 which was coming up. And I actually received three packets, and
26 the material was about three or four inches thick, and I was told
27 to please have that read by the end of the week so that I would
28

1 know what was going on for the meeting. And I did read every
2 word of it to familiarize myself with what was going to be taking
3 place.

4 CHAIRMAN McCORQUODALE: Do you know the definition of
5 developmentally disabled?

6 MS. ROOS: Yes, sir, I do. And if you want, I actually
7 have the PL 95.602, which amended Pl 94.103, and there's actually
8 a standard definition. It's got five sections, and Section D
9 actually has seven parts in and of itself.

10 It's either a mental or physical handicap, or a
11 combination of the two. It's -- in California, it must manifest
12 itself before the age of 17, but federally it must manifest
13 before the age of 22.

14 It is likely to continue indefinitely, and then of the
15 seven different functional limitations, the child must have at
16 least three of them. And finally, they need special
17 interdisciplinary or generic care or treatment or services.

18 If you'd like, I could go through the seven different --

19 CHAIRMAN McCORQUODALE: That's all right.

20 When you were first appointed, was it clear what seat
21 you were occupying?

22 MS. ROOS: Yes, sir, it was.

23 CHAIRMAN McCORQUODALE: What was that?

24 MS. ROOS: I was the relative of a developmentally
25 disabled child. I am a cousin of a twelve-year-old girl who's
26 now actually has just turned thirteen, who has been classified as
27 developmentally disabled by the State of Maryland. Johns Hopkins
28

1 University did the second set of testing. She's at the John
2 Kennedy School for Learning Disabilities. And under those seven
3 qualifications, she fits six of them.

4 CHAIRMAN McCORQUODALE: What's her primary diagnosis?

5 MS. ROOS: Pardon?

6 CHAIRMAN McCORQUODALE: What is --

7 MS. ROOS: They have a whole list of diagnoses. And her
8 mother said if absolutely necessary, she would go digging through
9 and get you the entire list. If you need that, I will supply
10 that for you.

11 But she's unable to care for herself. Of course, she's
12 a thirteen-year-old child, but in terms of what a normal
13 thirteen-year-old child is able to do, she cannot meet up with
14 that standard. She has a problem with expressive language, and
15 therefore cannot be in a regular classroom with -- and she's not
16 even ready for a mainstream program. She has a learning
17 disability. Although she's able to read at a high level, she's
18 unable to do any type of task unless she's in a very structured
19 classroom with at least one to two teachers just for herself.

20 She cannot do anything without self-direction. Her
21 mother wrote to -- when I spoke to her mother, she said that she
22 was home sick and that she had to leave her a laundry list of
23 what things she needed to do, because without a directive list,
24 she doesn't -- she has a lot of problems functioning.

25 CHAIRMAN McCORQUODALE: Mr. Polanco.

26 ASSEMBLYMAN POLANCO: As a follow up, have you been the
27 primary caretaker of this particular child?
28

1 MS. ROOS: No, sir, I haven't, but that wasn't required
2 by the bylaws. We have been discussing at the PAI meetings
3 whether we should change the bylaws to make it so that it must be
4 a primary care giver, whether to just include parents and
5 siblings and --

6 ASSEMBLYMAN POLANCO: How much interaction have you
7 personally had with this child?

8 MS. ROOS: I see her about three times a year, and I
9 spend times over the summer with her. I speak with her -- her
10 mom on the phone, checking how she's doing, but I do not think
11 the fact that I'm not there 24 hours a day, or even 36 weeks of
12 the year, has had an effect on my care or my concern for the
13 disabled community.

14 ASSEMBLYMAN POLANCO: Let me ask Mr. Zonca, can you
15 elaborate a little bit further in reference to the legislative
16 intent for this particular category? In your opinion, does this
17 meet that legislative intent?

18 MR. ZONCA: First, to clarify, there is no legislative
19 intent. It is a factor relating to the PAI bylaws, the
20 organization's bylaws.

21 When the Council developed a plan for the Protection and
22 Advocacy system, it held hearings, a rather elaborate and long
23 process, to determine who should be represented on the Board.
24 And these are the categories they came up with, and this category
25 is for a consumer or family member.

26 The question has come up around the legitimacy of
27 Ms. Roos' appointment, and it was really directed to corporate
28

1 counsel to make a determination. You should have a copy of that
2 letter, which says that -- actually, if you don't, I should find
3 it and read it, rather than try to paraphrase it.

4 ASSEMBLYMAN POLANCO: So in your opinion, the federal
5 regulations and the State regulations make no clear, or give no
6 clear guidance, as to whether or not this particular matter meets
7 that criteria?

8 It is within the corporation bylaws and not so much a
9 State or federal standard or regulation?

10 MR. ZONCA: That is correct, although Mr. Olson, in his
11 opinion, raises some questions he says are legitimate in
12 relationship to whether or not this is in fact consistent with
13 the bylaws.

14 ASSEMBLYMAN POLANCO: So, from a policy point of view in
15 terms of the Committee, you're toying with the issue of whether
16 or not a distant relative in another state, who's communicated
17 via telephone, meets that criteria of --

18 MR. ZONCA: I will read you; that may help.

19 "Because the bylaws under the sub-
20 section in question require a consumer
21 representative, it is reasonable to
22 interpret the qualifying language
23 'family member of a developmentally
24 disabled person' to mean a family
25 member who resides with or is directly
26 involved with the care and maintenance
27 of the developmentally disabled person.
28

1 Under this interpretation, Ms. Roos may
2 not qualify under Section 3.11. In
3 addition, the disability Ms. Roos'
4 cousin has may not meet the federal
5 definition."

6 He goes on to say:

7 "However, we understand that Ms. Roos
8 does have an affiliation with a DD
9 organization such that she would qualify
10 under Section 3.12."

11 ASSEMBLYMAN POLANCO: So it's the organization that
12 allows her the opportunity to participate?

13 MS. ROOS: No, sir. It's still the relative. We have
14 yet to change the definition, and although Leg. Counsel has given
15 their opinion as that I may not qualify, it wasn't a view that --
16 I have actually contacted USC law professors where I am attending
17 school right now, and they said they came up with -- they would
18 come up with a completely different interpretation, including the
19 fact that under California Welfare and Institutions Code Section
20 361.3(c)(2), which defines the term relative as an adult who is
21 grandparent, aunt, uncle, first cousin, or sibling for purposes
22 of preferential consideration for placement of a child when
23 removed by the State from his parents.

24 In the Senate Constitutional Amendments Committee,
25 Amendment 55 by Assemblyman Johan Klehs, will be heard next week,
26 and he bends over backwards to define the term sibling as nothing
27 less than a brother, half-brother, half-sister, stepbrother or
28

1 stepsister, and an adopted brother, sister, half-brother or
2 half-sister.

3 We have yet to define it. We have taken this up twice;
4 it's been voted down to change it. That is still under the
5 purview of the Board of Directors, and until it's been changed, I
6 still qualify as a relative.

7 This Committee does have the ability to make a
8 recommendation to the Board of Directors, and we can once again
9 take up the issue. But so far, under the definition, I still do
10 qualify as a relative.

11 She is, under federally mandated standards, she is
12 developmentally disabled.

13 SENATOR MARKS: What is your relationship to this cousin
14 or to this person?

15 MS. ROOS: I'm her cousin.

16 SENATOR MARKS: First cousin?

17 MS. ROOS: Second cousin. She's my --

18 SENATOR MARKS: It says first cousin in the --

19 MS. ROOS: But this is only for placement of a child
20 when removed from his parents by the State. So for adoption
21 purposes, I would not be one of the first people who would be
22 contacted. But we're not in an adoption proceeding here.

23 CHAIRMAN McCORQUODALE: We, of course, are sorry that
24 anybody's disabled. Can you tell me how this child became
25 disabled?

26 MS. ROOS: She was born with this disability. It
27 surfaced when she was young, when she was three or four, but it
28

1 was actually qualified and quantified when she started school and
2 was having difficulty learning and interacting with the students
3 at her school. Her parents went through the IEP procedure, which
4 is where the local boards go through and make their
5 recommendations as to what the child's disability is.

6 The parents disagreed with this recommendation and
7 sought further to have Johns Hopkins University decide what her
8 -- quantify her disability, which they have done. And since
9 then, the State of Maryland has agreed with this
10 characterization.

11 SENATOR MARKS: What is her disability?

12 MS. ROOS: She is --

13 SENATOR MARKS: Learning disabled?

14 MS. ROOS: She's developmentally disabled. I asked her
15 mother if necessary could she send a list of the different types
16 of disabilities which she has, and I was told that if that's
17 necessary --

18 SENATOR MARKS: She qualifies under the State definition
19 of disability?

20 MS. ROOS: No, under the federal, under the federal
21 definition, which I read a few minutes ago, with five categories
22 with seven subsections under Section D, she qualifies as
23 developmentally disabled.

24 The State of Maryland is now paying for her education
25 because she --

26 SENATOR MARKS: Let me ask you another question on
27 another subject.

1 You were one of the people who refused the subpoena of
2 this Committee?

3 MS. ROOS: I was never -- I never refused a subpoena,
4 sir. I was never subpoenaed for the first meeting, and I was
5 given a subpoena for this meeting, and I'm here.

6 SENATOR MARKS: You were never subpoenaed the first
7 meeting?

8 MS. ROOS: I wasn't subpoenaed the first time. I would
9 never refuse a subpoena. I have to take the Bar exam in a year.

10 SENATOR MARKS: I thought you were asked --

11 MS. COLLINS: Lori, were you aware that a subpoena was
12 being attempted on you?

13 MS. ROOS: No, sir -- pardon me, ma'am, I'm sorry.

14 MS. COLLINS: You had no knowledge of that whatsoever?

15 MS. ROOS: No, I didn't. I didn't receive a call at the
16 law firm where I was working at the time.

17 I knew of the meeting, and I had intended to attend the
18 meeting. We had been told about it, the PAI Board, that we would
19 -- that if possible, it wasn't mandatory, but that we had been
20 requested to come to the Committee.

21 I was in the middle of a law case. I'm a second year
22 law student, clerking for the summer. I've got 14 weeks, and the
23 law firm's judge upon those 14 weeks, and in the midst of a
24 project that I actually ended up until three in the morning, I
25 couldn't leave.

26 SENATOR WATSON: On that issue, Mr. Chairman.
27
28

1 Was it mandatory? There were, as I understand,
2 subpoenas being sent out, word had gotten out. Doesn't that make
3 it mandatory that they attend?

4 CHAIRMAN McCORQUODALE: There were subpoenas. We,
5 because of the time, were not able to serve them because they had
6 publicly expressed.

7 I want you to recall that you're under oath.

8 MS. ROOS: That's right.

9 CHAIRMAN McCORQUODALE: That there had been publicly
10 expressed statements that they would not attend, and that we
11 would not be able to serve them.

12 SENATOR WATSON: Did you make it clear that it was a
13 mandatory meeting, that you expected them there?

14 CHAIRMAN McCORQUODALE: Yes, I don't think there was any
15 doubt.

16 SENATOR WATSON: Who told you it wasn't mandatory?

17 MS. ROOS: At the PAI Board meeting --

18 SENATOR WATSON: Who told that? Who made that
19 statement?

20 MS. ROOS: I am not sure. Al informed us that there was
21 going to be a hearing, and that we'd been requested if we had --
22 there had been no talk of a subpoena at that time.

23 SENATOR WATSON: You made the statement that you heard
24 it wasn't mandatory, therefore you had some other priorities.
25 That's what I heard.

26 MS. ROOS: Correct.
27
28

1 I heard it -- we had been told, if I'm not mistaken, and
2 you correct me, Al, that we were requested to come, but as far as
3 he knew, it wasn't mandatory because I believe Chris Jones had
4 asked you whether we --

5 SENATOR WATSON: Al, did you make that statement that it
6 wasn't mandatory?

7 MR. ZONCA: My recollection is that I had the same
8 question about my own attendance and what I would be required to
9 say to the Committee as well as to answer. So I asked corporate
10 counsel to issue his opinion to me, and I read my opinion and
11 handed it out at the Board meeting.

12 SENATOR WATSON: What was the essence of it?

13 MR. ZONCA: He recommended that I attend. He said that
14 if I were subpoenaed, I would be committing a misdemeanor, and we
15 had a discussion, and I agreed that I -- I recommended to the
16 Board that I do attend, and offered to --

17 SENATOR WATSON: Now, did you make the recommendation to
18 the Board that they need not attend; it wasn't mandatory?

19 MR. ZONCA: I don't believe it came from me.

20 MS. ROOS: Because we spent that whole -- John also was
21 reading it, and there was another Board member --

22 SENATOR WATSON: Let me give you my impression of what
23 happened, because we've been very intimately involved, the staff
24 has been involved.

25 The intent was to get the Board members here. Everybody
26 knew that. My staff knew it. Whatever my staff knows, this
27 whole Capitol knows.

(Laughter.)

1 MS. ROOS: Ma'am, if I had been --

2
3 SENATOR WATSON: And I'm not trying to be funny. I'm
4 just trying to make a point. It was known.

5 I understand. You can respond in whatever way; don't
6 incriminate yourself, but I understand that there was discussion
7 about not complying with the request to come.

8 MS. ROOS: We had been sent -- we had discussed at the
9 meeting, and John, being an attorney, had read through it also,
10 whether the subpoena -- whether or not we had to come without a
11 subpoena. And he had also stated that he didn't believe we had
12 to come without a subpoena.

13 Now, I, as I had said at the meeting, had intended to
14 come. I had never been issued a subpoena. I had never known
15 that subpoenas had been distributed.

16 SENATOR WATSON: You had not heard that this --

17 MS. ROOS: No, ma'am.

18 SENATOR WATSON: -- Subcommittee and Select Committee
19 was going to issue subpoenas?

20 MS. ROOS: No, I didn't.

21 SENATOR WATSON: You were not dodging the subpoena?

22 MS. ROOS: No, ma'am, I wasn't. I have to take the Bar
23 exam in one year from May.

24 SENATOR WATSON: I understand. I don't know what that
25 has to do with this right now.

26 MS. ROOS: I would never -- I have to take an ethics
27 exam. I would not do anything to jeopardize my legal career.
28

1 SENATOR WATSON: In my understanding, the word was out
2 that --

3 MS. ROOS: Ma'am, I didn't hear it.

4 SENATOR WATSON: -- that this Subcommittee, and other
5 people received the subpoenas. I'm just going to tell you what
6 happened, as I understand it.

7 MS. ROOS: Right, okay.

8 SENATOR WATSON: And that there was discussion about it.
9 And Al himself has said that he asked for an opinion, received
10 the opinion, and read it, and he went.

11 Now, you mean to say you did not know that you would be
12 receiving such and the rest of the members?

13 MS. ROOS: No.

14 SENATOR WATSON: He was the only one on the hot seat?

15 MS. ROOS: No, Al had wondered whether or not he should
16 attend. He decided to attend without the subpoena.

17 I did not know that there had been subpoenas issued.
18 Nobody had contacted me. I had not contacted anybody from the
19 Board or heard that any of the people from the Board were
20 subpoenaed.

21 I would not dodge a subpoena.

22 SENATOR WATSON: I hope.

23 MS. ROOS: I would never do such a thing.

24 SENATOR WATSON: It has been done in this
25 administration, because I've issued them myself.

26 MS. ROOS: I -- as I said, I am not going to jeopardize
27 my legal career. I have had a grant --

1 SENATOR WATSON: I appreciate that, and I'm not trying
2 to put you on the spot. I'm just trying to get some clarity as
3 to what was known and what was unknown.

4 MS. ROOS: It was completely unknown that the subpoena
5 went out.

6 SENATOR WATSON: Because I heard that there was a
7 conversation at the Board meeting, that Al read his -- he just
8 stated that he read his opinion from the attorney. There was an
9 agreement that he should go and answer the subpoena. The rest of
10 you weren't sure.

11 I don't know how you didn't understand that. Others
12 seem to have known it, or at least maybe I've got the wrong
13 information.

14 MS. ROOS: Five other people, I believe, did not come
15 either, apparently under the same --

16 SENATOR WATSON: Oh, yes, I know. We know very well
17 nobody showed up. That's why --

18 MS. ROOS: Okay, but -- and I was served this latest
19 subpoena at my law firm where I'm working right now. I did not
20 try to dodge it. I did not tell the -- you know, run back down
21 the elevators from whence I came. I stood there and accepted it
22 and explained to the secretary, who stood there puzzled what I
23 was receiving there, what I was going to be doing. I asked the
24 law firm for the day off so that I could come and testify.

25 SENATOR WATSON: You know, what we're trying to get to,
26 and I'm going to be as honest with you and straightforward and
27 candid as I've been with some of the other witnesses, is who
28 should be on this Board.

1 I'd like you to tell me how are you qualified to be on
2 the Board? Now, you have a cousin who lives in Maryland, as I
3 understand, and you talk to her mother, and you visit her three
4 times a year.

5 MS. ROOS: She visits me, for the record.

6 SENATOR WATSON: All right.

7 Now, what is your background, and what organizations do
8 you belong to, and why do you think you're qualified?

9 Now, let's forget about interpreting and clarifying the
10 law, but why do you think you're qualified to sit on the Board?

11 MS. ROOS: Well, the reason that I am qualified goes
12 back to the fact I am a family -- a relative of a developmentally
13 disabled child.

14 SENATOR WATSON: Okay, you've established that.

15 MS. ROOS: Correct, so to go on, I am a member of Ladies
16 Aid to Retarded Children in Sacramento.

17 SENATOR WATSON: How long have you been a member?

18 MS. ROOS: I've been a member for a year.

19 SENATOR WATSON: How long have you been on the Board?

20 MS. ROOS: I've been on the Board for nine months.

21 SENATOR WATSON: So, you joined a few weeks before you
22 went on the Board?

23 MS. ROOS: I was joined a few months before I was on the
24 Board. I was actually --

25 SENATOR WATSON: Nine from twelve is three.

26 MS. ROOS: Three; that's not a few weeks. A few months.
27
28

1 I was actually approached by Mrs. Ternis to -- if I'd
2 like to join. I had spoken with her at earlier times, because I
3 knew she had been very involved. She at one point was president
4 of the organization. And during my tenure at law school, I had
5 expressed my interest in her organization, and this was before I
6 had ever applied.

7 SENATOR WATSON: You applied --

8 MS. ROOS: I applied for the position on the Board. But
9 I had spoken with Mrs. Ternis long before that about joining
10 Ladies Aid to Retarded Children. I was in Sacramento. I thought
11 that was a very good way to get involved with the DD community.

12 I had -- as I said earlier, worked at the Sacramento
13 County home for children, children's home. I volunteered in a
14 class led by Steve Labezo, working with DD children, and that was
15 during my -- I believe it was my senior year in college; my
16 junior and senior year in college, in between surgeries I was
17 undergoing, I found time to go down there, or up there, to spend
18 time with them.

19 As I said earlier, during high school, I had been
20 teaching classes on Saturday mornings to developmentally disabled
21 children at the local gym where I -- who I competed for.

22 And since I've been at college, or since I've been at
23 law school, excuse me, if you've noticed the budget, I'm not sure
24 if you were able to see it, USC has increased their grant to PAI
25 from \$3,000 to \$8,000. And I'm not saying I had any -- I had a
26 direct effect on that, but I have spent time in Dean Lee
27 Campbell's office discussing with her the PAI Board, how we need
28

1 more students to be involved with this. We have a program now
2 where students may intern for units over at the PAI office, which
3 has just recently been moved. I have been in contact with
4 students who have interned there, discussing the problems that
5 they see that are occurring there. I've relayed those concerns
6 to the Board.

7 This year, as I said, we've increased the amount, the
8 stipend, that the students can receive because, as I had told
9 Dean Campbell, \$3,000 is not going to entice a student to go work
10 in public interest, unfortunately, because USC's tuition being as
11 high as it is, we usually use our summers to raise money for our
12 next year's tuition. We do have offers to work for large amounts
13 of money.

14 So agreeing with this, I hope in no small part my
15 discussions with her were what led to the increase at USC.

16 SENATOR WATSON: You are working and going to school
17 now?

18 MS. ROOS: I'm only working during the summers.

19 SENATOR WATSON: How many meetings were you able to
20 attend?

21 MS. ROOS: I have attended all the meetings.

22 SENATOR WATSON: You've attended all the meetings?

23 MS. ROOS: Yes, I have, and I had my committee meet
24 where I'm head of the --

25 SENATOR WATSON: You chair a committee.

26 MS. ROOS: I do --

27 SENATOR WATSON: Which one was that that you chair?
28

1 MS. ROOS: Organizational and Development Committee,
2 O&D.

3 And there were some concerns because I had called it at
4 such short notice. And I had listened to the concerns of both
5 Linda and Connie, and apologized. They did not realize that
6 this, being my first chaired meeting, and first time I'd chaired
7 the Board, I did not realize that they needed a longer length of
8 time.

9 My problem was, I was scheduled up to go to Oregon a
10 week later, and not knowing what was going to occur, I needed --
11 I figured we needed some time to discuss the bylaws, the problems
12 we were having, and to have enough time.

13 As it turned out when I went to Oregon, I had surgery,
14 and I've been out for two weeks since then.

15 And so, that was the problem with our O&D Committee. I
16 don't know if anybody has raised such an issue, but in case it is
17 of --

18 SENATOR WATSON: Do you belong to other organizations,
19 too?

20 MS. ROOS: Besides Ladies Aid to Retarded Children, no.
21 I have inquired in Los Angeles about working on the Special
22 Olympics, and as yet --

23 SENATOR WATSON: Do you attend the LARC meetings?

24 MS. ROOS: No, I don't attend the LARC meetings as of
25 right now because I'm at USC this semester.

26 SENATOR WATSON: But have you ever attended them?
27
28

1 MS. ROOS: I've only -- I've only been in LARC for as
2 long as I've been at USC. I'm what's called a --

3 SENATOR WATSON: Lori, do you really think that
4 qualifies you?

5 MS. ROOS: Ma'am, I'm not qualified -- I am not listed
6 as a member of an organization. I'm a relative of --

7 SENATOR WATSON: Yes, but do you see the point I'm
8 trying to get to?

9 MS. ROOS: Yes, I do see the point you're trying to
10 make, but the bylaws are explicit on those -- they're actually
11 nonexplicit on certain terms, and --

12 SENATOR WATSON: And I understand that in the meetings,
13 when there has been discussion, you're one of the ones that have
14 been resisting defining what a family member is.

15 MS. ROOS: No, ma'am.

16 SENATOR WATSON: Is that not true?

17 MS. ROOS: I have declined to vote on such an issue just
18 because --

19 SENATOR WATSON: You declined to vote?

20 MS. ROOS: -- because I am the one involved. I don't
21 think I should be voting on it.

22 SENATOR WATSON: Have you even entertained the
23 discussion?

24 MS. ROOS: I'm the focal point. I should not be the one
25 discussing.

26 I will not make the claim that I'm as closely involved
27 as Connie is with her child, or George DeBell. I've never made
28 that claim.

1 But I do think I have a lot of concern, and I truly want
2 to help the developmental disabled community and the mentally ill
3 as well. And I don't think that because I'm not on 16 different
4 boards, and spend every waking moment of my days working with or
5 going to meetings, that that somehow makes me less qualified.

6 Now, our law firm where I am right now, and I won't say
7 "our" because I'm not a member of it yet, gives us the
8 opportunity to choose our own pro bono work.

9 SENATOR WATSON: Do you have any idea why we're holding
10 this subpoenaed hearing?

11 MS. ROOS: To check my qualifications as well as those
12 of other members of the Board.

13 SENATOR WATSON: Why do you think we're doing that?

14 MS. ROOS: Because you're dissatisfied as well as some
15 of the members on the Board, and --

16 SENATOR WATSON: Why would we be dissatisfied?

17 MS. ROOS: Probably in part because I haven't given
18 explicit information as to the exact disability of my cousin, so
19 I haven't heard --

20 SENATOR WATSON: No. Why do you think we are
21 dissatisfied with what's happening on that Board?

22 MS. ROOS: To be honest, I don't know.

23 SENATOR WATSON: Let me explain it to you so you'll know
24 why we're spending all this time.

25 We've been in these hearings since 10:00 o'clock this
26 morning.

27 MS. ROOS: Yes, ma'am.
28

1 SENATOR WATSON: And we've had Floor sessions, and we've
2 been here.

3 We are concerned because we feel that the federal law,
4 and in some cases State guidelines, are not being complied with
5 by the current members. We can go down the list of what is
6 expected and what the law requires. There's somebody in this
7 room from the regional office, because they are quite concerned
8 about California.

9 We understand that the composition of the committees,
10 both the Council and the PAI, are less than people who have the
11 kind of what I consider compassion to be there, that many of them
12 are political appointments, and that they're there to watch the
13 budget, and to make the Governor look good, and to see that
14 there's a minimum of suits against the Governor. That's what
15 we've been told.

16 So, we're taking our time to talk to the members
17 concerned to see if we can identify this. All of us have many,
18 many, many things that we should be doing. We're here because we
19 are seriously concerned.

20 And apparently, there is a group of you that ignored --
21 and you say you didn't know anything about subpoenas, so you're
22 not included in that group -- but there are others who ignored,
23 thumbed their noses at us. And that makes us a little angry. It
24 makes us a little frustrated, and it looks like, you know, people
25 are just pooh-poohing what the law says.

26 And so that's what we're trying to get at. Now, I'm not
27 trying to target you, but you --
28

1 MS. ROOS: That's fine. I understand the reason for the
2 hearing, but I also am a little annoyed at the fact that the
3 question of my character, that I --

4 SENATOR WATSON: Not your character.

5 MS. ROOS: Well, Senator McCorquodale actually called in
6 question my character by the statement he made on KRON T.V., and
7 I have a statement here, if I may read it.

8 SENATOR WATSON: No. I'm not questioning your
9 character. I'm trying to question --

10 MS. ROOS: But Senator McCorquodale did.

11 CHAIRMAN MCCORQUODALE: Ms. Roos, Senator Watson, let
12 me.

13 I would think that you have a very bright future if
14 you're an attorney and you bill by the hour, because you're able
15 to fill up an awful lot of space with each answer, each comment
16 you make.

17 We're running this meeting. If I want you to make a
18 statement, I'll ask you to make a statement. Don't keep trying
19 to read into the record some statement.

20 I want to move this along. You now are delaying the
21 possibility of your friends being able to leave that room down
22 there.

23 MS. ROOS: I'm sorry. That is not my intent.

24 CHAIRMAN MCCORQUODALE: If you would just limit your
25 answers to specifically what the question is, and let's not
26 elaborate too much outside of that.

27 SENATOR WATSON: I'm not questioning your character.
28

1 MS. ROOS: Okay.

2 SENATOR WATSON: I'm asking, how many meetings have you
3 attended? What's the difference between twelve and nine, you
4 told me. That's the kind of thing I'm trying to get to.

5 MS. ROOS: Okay.

6 SENATOR WATSON: Because I am truly concerned that we
7 have boards that implement not only the word of the law, but the
8 spirit of the law. If we have obstructionists on those boards or
9 councils, then I want to be able to identify that as our problem,
10 and get rid of the problem so we can service our clients.

11 MS. ROOS: I agree. Our major concern --

12 SENATOR WATSON: That's where I'm coming from.

13 MS. ROOS: -- is servicing our clients, I agree. That
14 is our only concern.

15 SENATOR WATSON: Right.

16 MS. ROOS: That it's not playing, and having arguments
17 at meetings, which I find -- I find that abhorrent.

18 We have a community to serve. We are not serving them
19 very efficiently or effectively the way these Board meetings have
20 been held.

21 SENATOR WATSON: And that's what I'm trying to find out.
22 That's what I, Senator Watson, am trying to identify.

23 What are the problems? I mean, nobody needs to spend
24 this kind of time. We need to get on with what we're doing.

25 MS. ROOS: I agree with you. And I have spent numerous
26 hours at meetings, trying to figure out why, except for the fact
27 that they disagreed with my -- the fact that I'm on because of
28

1 the relative and my position, why they dislike me; what I have
2 done.

3 SENATOR WATSON: Who are "they"?

4 MS. ROOS: If you've ever attended a Board meeting, you
5 see that there's definite splits, there's definite arguments.
6 There's a five-four vote, or a four-five vote constantly.

7 And the arguments have not been over issues. It's been
8 over bylaw issues. It's not been over contracts. We have been
9 attempting to get -- I myself read contracts very explicitly,
10 being in the profession I am, hoping that we can get more for the
11 money than we have been, but if we can't, and we've been told
12 that these are the best contracts we can get, then we ratify
13 them. There hasn't been a problem on ratifying contracts.

14 There's been some question on salary, whether the
15 salaries are too high. There's where conflict has occurred after
16 meetings.

17 There's -- there has not been a conflict over whether to
18 provide services or not provide services as long as I've been
19 there. Now, I've heard there have been suits and there were
20 suits before I arrived. I have yet to be there when the suit or
21 the problem of a suit has arisen.

22 SENATOR WATSON: Let me get down to something very
23 specific.

24 PAI was asked to sue the Governor on behalf of the State
25 Council in the event the Governor defunded the Area Boards.

26 The question is, based upon your knowledge of the
27 situation, how would you have voted?
28

1 MS. ROOS: I was not involved in that issue at all, so I
2 have no background knowledge on the Area Boards. As much as I
3 know about Area Boards, I think they are a necessary item,
4 because that is where clients need to go when there is a problem.

5 SENATOR WATSON: Would you have voted --

6 MS. ROOS: I probably -- I would have waited until the
7 Governor had made -- I would have actually attempted to avoid a
8 lawsuit and see what other types of action we could take. Once
9 any type --

10 SENATOR WATSON: If the Governor said, and if that was
11 his line item to wipe out the funding, and that we have no more
12 Area Boards, what would your vote have been?

13 MS. ROOS: I would have voted not to sue until the
14 Governor took action. Once the Governor took action, I probably
15 would have --

16 SENATOR WATSON: Do you know what the Area Boards do?

17 MS. ROOS: Yes, ma'am, I do.

18 SENATOR WATSON: And do you think that --

19 MS. ROOS: I think they're a very necessary entity. I
20 may be at odds with other people on the Board in that, but --

21 SENATOR WATSON: No, I'm asking about you.

22 MS. ROOS: Myself, I believe they're a very necessary
23 entity.

24 SENATOR WATSON: Okay, if the Governor took the action,
25 would you have voted?

26 MS. ROOS: Yes, I would, if the Governor took the
27 action.

1 SENATOR WATSON: Please explain why you left in the
2 middle of the last Board meeting.

3 MS. ROOS: I left in the middle of the last Board
4 meeting because the discussion -- there was no more discussion.
5 It was a yelling match. There was nothing positive, or any --
6 there were certain members of the Board who were acting, in my
7 opinion, as juveniles, yelling and screaming, pointing fingers,
8 getting into the -- six inches away from other members and
9 screaming at them. That isn't a professional way in which to
10 act, and by us leaving, I -- or by leaving, I showed my protest.
11 I had --

12 SENATOR WATSON: Were you aware that other Board members
13 were leaving?

14 MS. ROOS: I knew that John Kellogg was leaving.
15 Annette had left earlier. She was nine months pregnant. She was
16 not feeling --

17 SENATOR WATSON: Was there any discussion that this
18 would be a strategy, and you'd break the quorum?

19 MS. ROOS: Not breaking the quorum, no. Chris had said
20 if we -- I had told Chris I had wanted to leave, and -- because I
21 had asked both Al what to do. Al didn't have any opinion as to,
22 you know --

23 SENATOR WATSON: So this wasn't a spontaneous thing?
24 You had thought about it beforehand --

25 MS. ROOS: As the yelling -- we broke for lunch in hopes
26 of calming this down. And during lunch, usually our lunches are
27 actually quite -- quite quiet, and we discuss things in a
28

1 rational method, and even our lunch was pretty heated. And I
2 decided then, I talked to Chris and said I don't think -- I'm
3 going to leave as a protest. I don't think that we're
4 accomplishing anything. We're not helping our constituents by
5 standing there and yelling at each other.

6 And I informed Chris, and John also came to the
7 conclusion that he --

8 SENATOR WATSON: Did you know you were breaking the
9 quorum?

10 MS. ROOS: No, I wasn't breaking the quorum when I left.

11 SENATOR WATSON: Well, there were others that were
12 leaving, too.

13 MS. ROOS: With John -- I had left before John, and so I
14 didn't break the quorum at that time.

15 SENATOR WATSON: But you knew that when the others left
16 and apparently you left --

17 MS. ROOS: I didn't know that everybody else was
18 leaving. I told Chris, and John had said he may do the same
19 thing, and so I left. Annette had left earlier, as I stated.

20 SENATOR WATSON: In PAI Board discussions relating to
21 who should have appointment power, it's been said that you have
22 opposed giving the Board power to appoint its members, and
23 instead support all appointment powers going to the Governor.

24 Can you respond?

25 MS. ROOS: Actually we -- since the time when you have
26 received that information, we had the O&D Committee meeting, and
27 we have tried since then to have two appointments made by our
28

1 Senators. And Pete Wilson has said that he has an interest in
2 doing so.

3 I don't believe in Board appointments. We -- actually,
4 part of the problem is, and it was shown when Bill Ternis was
5 brought before the Board, where he had had five years' experience
6 at the county office. His sister is developmentally disabled.
7 He's lived with his sister all his life, and four members of the
8 Board questioned whether he was actually qualified. They had his
9 resume in front of them; they had had it earlier, and they said,
10 "Well, how do we know? Where is his proof?"

11 And I've done the same thing when, I believe, Connie has
12 brought forth a name of somebody, and all I have is a resume
13 sitting in front of me.

14 SENATOR WATSON: You've been part of the dispute that's
15 been going back and forth?

16 MS. ROOS: Yes, I have.

17 SENATOR WATSON: But you left when the dispute got hot
18 this last time and broke the quorum.

19 MS. ROOS: There is a difference between the disputes
20 that have gone on and a rational tone, as we are discussing right
21 now, versus yelling and actual screaming that looked like
22 tantrums. And tantrums have not place at Board meetings.

23 SENATOR WATSON: Did you at any time indicate that you
24 would not attend or cooperate with these Committees in this
25 investigation?

26 MS. ROOS: No, ma'am, I haven't.

27 SENATOR WATSON: You did not.
28

1 You didn't attend the May hearing of this Committee --

2 MS. ROOS: Right.

3 SENATOR WATSON: -- because you did not know that you
4 had to?

5 MS. ROOS: I knew it was asked that we attend.

6 SENATOR WATSON: But you chose not to?

7 MS. ROOS: I chose -- I had actually thought at the
8 time, and when the meeting was over, that I would be attending.
9 And as circumstances turned out, I did not.

10 And had a subpoena been there, I would have been there.
11 I had other obligations also.

12 I can't tell you exact days. I have been in and out of
13 surgery. I have had braces being fitted and refitted. I fly to
14 Oregon on, unfortunately, a regular basis.

15 SENATOR WATSON: So what you're saying is that you've
16 had some contingencies. You're also working during the summer,
17 and you're in law school.

18 But in spite of all those things, you haven't attended
19 any of the LARC meetings.

20 MS. ROOS: I haven't attended them.

21 SENATOR WATSON: But in spite of all those things, you
22 qualify?

23 MS. ROOS: Yes, ma'am, I do.

24 SENATOR WATSON: Okay.

25 ASSEMBLYMAN POLANCO: I have a question, if I may.

26 Ms. Roos, I am very impressed with the resume that was
27 provided to this Committee: top ten percent of your graduating
28

1 class of law school; Constitutional Law Award; Harvard Journal,
2 Senior Editor. Very impressive.

3 I'd just like to make a couple of comments and then ask
4 the question.

5 I believe you when you say that you were not dodging the
6 subpoena. I believe you, and I will honor that.

7 But I sit here, and I find it real hard to come to grips
8 with the stretching of the relative portion that allows you the
9 opportunity to be a member. I'd like to ask a couple of
10 questions in reference for purposes of clarifying for myself
11 where that relationship is at.

12 You mentioned that your second cousin is attending a
13 Maryland school. What's the name of the Maryland school?
14 Without referring to the notes, please.

15 MS. ROOS: Thank you. I apologize for taking so long.

16 ASSEMBLYMAN POLANCO: Let me ask you --

17 MS. ROOS: It's the Kennedy Institute for Learning
18 Disabled in Baltimore, Maryland.

19 ASSEMBLYMAN POLANCO: What's your second cousin's zodiac
20 sign? What is her birth date?

21 MS. ROOS: I don't know her sign. I don't believe in
22 her zodiac sign.

23 ASSEMBLYMAN POLANCO: What's her birthday? When was she
24 born?

25 MS. ROOS: I don't know. I don't know her birthday. At
26 times, I couldn't even tell you my own father's birthday. Those
27 are not dates that I --

1 ASSEMBLYMAN POLANCO: Thank you.

2 MS. ROOS: No problem.

3 CHAIRMAN McCORQUODALE: Senator Marks.

4 SENATOR MARKS: Did you or anyone else ever claim you
5 were appointed to the Board as a primary consumer?

6 MS. ROOS: No, sir, I haven't. I have never claimed
7 such an outrageous statement.

8 I was injured in a gymnastics accident when I was 14
9 years old. I was in gymnastics by my own choice, knowing it was
10 a risky sport.

11 I would never, ever make such a claim. And that's why I
12 didn't understand the claim made on television.

13 I went back and asked Al Zonca whether he knew whether I
14 had ever made such a claim, and he didn't have it. I checked the
15 written records; I've checked the tapes. There has never been
16 such a statement made.

17 I am physically handicapped by the State of California.
18 I am defined as a physically handicapped individual. I am not
19 developmentally disabled, nor have I ever claimed to be such.

20 SENATOR MARKS: Let me say, with all due respect to you,
21 and I respect anybody who's in law school, because my son just
22 graduated from law school, so I wish you well.

23 I'm dismayed, concerned and frustrated by your testimony
24 on this day. I believe that everyone has advocated
25 responsibility. For example, abstaining from voting, even if
26 you're annoyed; not participating in discussion. Everyone claims
27 that they care about this population and want to serve them, but
28 their actions don't seem to demonstrate this.

1 I'm really concerned that that's the testimony that I
2 hear from you.

3 CHAIRMAN McCORQUODALE: Are there criticisms you have of
4 the Board, say, a year ago, PAI Board? Are there things that you
5 object to them doing?

6 MS. ROOS: Since I've been on board?

7 CHAIRMAN McCORQUODALE: No, before.

8 MS. ROOS: I was not -- I have not been aware of all the
9 different issues that have come up before the Board.

10 Since I've been on there, there has been nothing except
11 the arguments that have gone on over bylaw changes that have
12 upset me about the Board. I don't think we're doing a good
13 enough job for our community, and we have not been able to serve
14 the mentally ill like we are federally mandated to do at this
15 point.

16 CHAIRMAN McCORQUODALE: But that's new. Look at before
17 you were on the Board.

18 MS. ROOS: Before I was on the Board, I didn't follow
19 every suit or every action that --

20 CHAIRMAN McCORQUODALE: Nothing that you particularly
21 had a problem with?

22 MS. ROOS: If you would like to give me an instance,
23 sir, I'll be glad to answer that.

24 CHAIRMAN McCORQUODALE: I was wondering, one of the
25 issues and one of the problems and concerns that we have, and the
26 people who we hear from on an ongoing basis, is the problems of
27 the Board in the past year, less than a year now, but about a
28 year. And yet, we weren't hearing about those problems before.

1 I'm just looking, trying to isolate the things; I
2 suppose legitimizing our interest in that we didn't hear about
3 those problems until five new members of the Board went on.

4 MS. ROOS: I -- as I've said, I do not know what I have
5 done personally.

6 CHAIRMAN McCORQUODALE: And I agree with you that the
7 problems of the squabbling and everything on the Board --

8 MS. ROOS: I think that the community does have a right
9 to be upset about what's going on. We haven't been able to do
10 our job. We haven't been able to take --

11 CHAIRMAN McCORQUODALE: How do we solve that problem?
12 Are you a mediator in that, or are you part of the problem?

13 MS. ROOS: I don't think there's a mediator part of the
14 problem. I think we're all part of the problem. I think every
15 single one of us on the Board --

16 CHAIRMAN McCORQUODALE: That didn't exist before last
17 year, so how do we deal with that?

18 MS. ROOS: There are nine -- there are members on the
19 Board who have -- who disagree on the bylaw changes. We have
20 actually attempted to put the bylaws off. At the last meeting,
21 we attempted to put the bylaw changes off in order to get all
22 business done beforehand. And that was changed by some of the
23 members on the Board and asked to be talked about first. And
24 what happened, as it has happened in the past four meetings, is
25 that the entire time is taken up by the bylaw changes. And I
26 believe that it's a secondary problem that this point.

27

28

1 We have a community to serve. We have business to take
2 care of, and we are not getting that done.

3 CHAIRMAN McCORQUODALE: Are those solvable problems?

4 MS. ROOS: I think they are solvable problems. I think
5 we're -- the last meeting that we had that I chaired as the O&D
6 Committee, I think we made great strides. And I think Al will
7 agree with me that compromising and having not the Legislature,
8 not the Board, but Senators appoint some of our members, that
9 there is no --

10 CHAIRMAN McCORQUODALE: There was a firm that was hired
11 to talk to each member of the Board to see if there was room for
12 a mediator.

13 MS. ROOS: I was not approached. I heard about that
14 after. I was not approached about the mediator.

15 I did not have a problem with the mediator, because that
16 is --

17 CHAIRMAN McCORQUODALE: Prior to your appointment, did
18 you have any professional or personal contact? You said you did
19 with Chris Jones; what about Margaret Heagney?

20 MS. ROOS: I know Margaret Heagney as a friend. I did
21 not know she was applying to the Board. As to any of the other
22 members, I did not meet them until the first meeting.

23 CHAIRMAN McCORQUODALE: Annette Ospital, you didn't know
24 her until --

25 MS. ROOS: I did not know Annette.

26 CHAIRMAN McCORQUODALE: John Kellogg --

27 MS. ROOS: I did not meet John.
28

1 CHAIRMAN McCORQUODALE: Do you know of any reason why
2 your appointment was reportedly made just days before a scheduled
3 PAI Board meeting?

4 MS. ROOS: No, sir, I was not told. I was asked a few
5 days before the meeting, as I said. I was sent this huge packet
6 of material, which I was told I needed to read in order to be
7 able to understand --

8 CHAIRMAN McCORQUODALE: Who notified you?

9 MS. ROOS: Bella Meese.

10 CHAIRMAN McCORQUODALE: And then, did anyone else get in
11 touch with you?

12 MS. ROOS: Al Zonca did, and then I was sent the packet.
13 I was -- I gave the address and PAI sent --

14 CHAIRMAN McCORQUODALE: Did Chris Jones talk with you
15 before that meeting?

16 MS. ROOS: No, after the meeting or during the meeting.

17 CHAIRMAN McCORQUODALE: Did they talk during the meeting
18 or after the meeting?

19 MS. ROOS: Well, we had breaks in between the meeting,
20 so I talked to Chris. I've known Chris for a number of years.

21 CHAIRMAN McCORQUODALE: Did he talk to you about any
22 specific agenda items?

23 MS. ROOS: He told me we were going to be voting on the
24 bylaws, but I had already made my marks, and I actually still
25 have my copy of the bylaws that I had marked up before I had ever
26 went into the meeting. So what he said did not have an effect
27 upon the way I had thought.

1 CHAIRMAN McCORQUODALE: Did you attend an orientation
2 meeting regarding PAI?

3 MS. ROOS: I attended not the one by Al, because we
4 couldn't seem to get our -- I couldn't seem to be able to get up
5 to Sacramento during school to attend, and on the weekends he
6 wasn't available. But I have attended one from Gary Macomber
7 gave me.

8 CHAIRMAN McCORQUODALE: Was he in attendance at that
9 meeting?

10 MS. ROOS: Gary Macomber, I could not tell you. I don't
11 know if he --

12 CHAIRMAN McCORQUODALE: He was the one that you said you
13 did go to.

14 MS. ROOS: Right, you're saying was Gary Macomber at the
15 first meeting, and I'm saying --

16 CHAIRMAN McCORQUODALE: No, the one you went to.

17 MS. ROOS: The one in which he told me what was going --
18 what to expect of PAI? Yeah, he's the one who swore me in. On
19 that same day he swore me in, he gave me -- actually before that,
20 he talked to me about PAI, and then when I was sworn in, he --

21 CHAIRMAN McCORQUODALE: You dealt just with him? You
22 were the only one there?

23 MS. ROOS: No, there was -- Chris Jones had -- was there
24 because I didn't know where I was going, and Chris brought me
25 there. And then there was one other gentleman there, and I, to
26 be honest with you, don't know who it was, or don't recall who it
27 was.

1 CHAIRMAN MCCORQUODALE: Do you know Greg Sandin?

2 MS. ROOS: I don't know him personally. I know the
3 name, and I do know his wife, working in Bill Baker's office.

4 CHAIRMAN MCCORQUODALE: Would he have been the one
5 there?

6 MS. ROOS: He could have been the one. To be honest, I
7 don't recall. I could not tell you honestly whether or not he
8 was the one there. I would tell you if I knew.

9 CHAIRMAN MCCORQUODALE: You talked about leaving the
10 meeting and you were not coming back to the meeting because you
11 were upset. I wasn't clear whether you were aware that your
12 leaving would destroy the quorum?

13 MS. ROOS: At the time when I left, it did not destroy
14 the quorum, so no.

15 CHAIRMAN MCCORQUODALE: You planned on returning when
16 you left for lunch?

17 MS. ROOS: I had planned on returning for lunch, and
18 when the lunch activities were still just as heated, I believed
19 that the second half of the meeting would not -- that we would
20 not get accomplished anything else, any more than we did in the
21 previous three hours, four hours that we were there.

22 CHAIRMAN MCCORQUODALE: Have you talked about this
23 testimony before these Committees with any other members of the
24 Board or members of the administration?

25 MS. ROOS: Yes, I -- actually, Chris Jones was the one
26 who gave me the tape, so yes, from KRON T.V., so I did -- I knew
27 he was testifying, as he did I.

28

1 CHAIRMAN McCORQUODALE: Do you believe the Legislature
2 has the authority to question the appointment or actions of these
3 Boards?

4 MS. ROOS: I believe the Legislature does. I know
5 there's -- a question raised is whether certain subcommittees are
6 allowed to subpoena. I believe you're able to, since you have
7 done it.

8 This is a -- although it's a federally mandated Board,
9 we do serve the California constituency, and as do you, and so
10 yes, I believe you are.

11 CHAIRMAN McCORQUODALE: I agree with you about that
12 meeting. I listened to portions of that meeting, have the tapes
13 of the meeting.

14 But a proposal was made at a PAI meeting to have the
15 Legislature appoint some Board members. What was your reaction
16 to that?

17 MS. ROOS: I don't believe -- I don't agree with that.

18 CHAIRMAN McCORQUODALE: The idea was rejected, and there
19 was a statement that the Legislature was not accountable to the
20 public. Was that your --

21 MS. ROOS: I believe that there are certain areas that
22 have been gerrymandered, as I'm sure you will agree, that don't
23 represent the districts as well as they should. And so, no, I
24 don't think they're always accountable.

25 CHAIRMAN McCORQUODALE: In your expertise, have you
26 worked for any Democratic Legislators?

27 MS. ROOS: No, I haven't. My father has.
28

1 CHAIRMAN McCORQUODALE: So your knowledge of that would
2 be as your relationship to Republican Legislators.

3 MS. ROOS: No, not completely. As I said, my father is
4 -- actually, he just registered as a Republican, and I applaud
5 him on that, but my mother's still a Democrat. And all growing
6 up, my father was very involved in civic activities. And we have
7 had numerous discussions about gerrymandering as well as other --

8 CHAIRMAN McCORQUODALE: How does gerrymandering have
9 anything to do with representing --

10 MS. ROOS: I don't think at times that -- about
11 representation on the Board?

12 CHAIRMAN McCORQUODALE: On the accountability issue.
13 How can you not be accountable, regardless of what your district
14 looks like?

15 MS. ROOS: We had no -- we had been discussing who would
16 make the appointment: would it be Willie Brown; would it be Pat
17 Nolan. I don't -- as I'm sure you recognize that at times,
18 Speaker Brown has withheld chairmanships and everything else in
19 order that --

20 SENATOR WATSON: You probably don't want to go on with
21 that line.

22 (Laughter.)

23 MS. ROOS: Okay.

24 SENATOR WATSON: I'm trying to stop you before you trap
25 yourself.

26 MS. ROOS: That's fine. I don't believe --
27
28

1 CHAIRMAN McCORQUODALE: I don't know how the Assembly
2 works. I am only --

3 SENATOR MARKS: Can I suggest that, I'm the Chairman of
4 the Elections Committee. I'll be glad to look at your questions
5 about gerrymandering.

6 MS. ROOS: Okay, thank you.

7 CHAIRMAN McCORQUODALE: I think that completes it for
8 now. We may want to call you back at a later time.

9 MS. ROOS: May I stay in here, or do I have to leave?

10 CHAIRMAN McCORQUODALE: No, you can stay.

11 SENATOR WATSON: I have just one more question, and I'm
12 trying to get to the bottom of how influential we are.

13 Not only did subpoenas go out, but I understand the
14 Chair, Senator McCorquodale, sent a letter out.

15 Did you get the letter from Senator McCorquodale?

16 MS. ROOS: No, ma'am, I haven't.

17 SENATOR WATSON: About the May meeting?

18 MS. ROOS: No, I didn't. And I have also not received
19 plane tickets and everything else. Where I'm living, we have a
20 problem with our mail and --

21 SENATOR WATSON: Senator McCorquodale, do we have a
22 current address?

23 MS. ROOS: Yes, you have my Los Angeles address. I have
24 since then given the Sacramento address so that I can be called
25 if there's any problems, just for that reason.

26 SENATOR WATSON: Do we have your current address?
27
28

1 MS. ROOS: I believe PAI has my Sacramento address also,
2 because I am in the process of moving, and that I've had a
3 problem with my mail. I've had everything else sent to my
4 parents' address.

5 SENATOR WATSON: But you did know about the meeting?

6 MS. ROOS: I knew about the meeting from the PAI Board.
7 I did not receive a letter; I did not know there were any
8 subpoenas.

9 SENATOR WATSON: But you did know about it.

10 MS. ROOS: I did know that there was a meeting.

11 SENATOR WATSON: Thank you.

12 CHAIRMAN McCORQUODALE: You don't get mail at 400 North
13 6 Delverti Square, Sacramento?

14 MS. ROOS: No, sir. I've never had that as an address.

15 CHAIRMAN McCORQUODALE: No, I'm sorry, it's Morningside
16 Drive.

17 MS. ROOS: Yes, that is where I have mail sent now, and
18 that is my parents' address.

19 CHAIRMAN McCORQUODALE: You didn't get my June 28th
20 letter?

21 MS. ROOS: No, sir, I haven't.

22 CHAIRMAN McCORQUODALE: Or the July 27th letter?

23 MS. ROOS: No, sir.

24 MS. COLLINS: Or the May letter before the May hearing?

25 MS. ROOS: No, ma'am, I haven't.

26 MS. COLLINS: You discussed in the May Board meeting,
27 however, that the letter had been sent. At that point you
28 indicated that you would attempt to attend?

1 MS. ROOS: Yes.

2 MS. COLLINS: Why didn't you inform the Committee that
3 you weren't going to?

4 MS. ROOS: It was at a last minute that I was unable to
5 attend. As I said, I had planned on attending, and it wasn't
6 done just --

7 MS. COLLINS: What do you mean by "last minute"?

8 MS. ROOS: That I was working on a project that was --

9 MS. COLLINS: But in relationship to the hearing, what
10 do you mean by "last minute"? Did you decide several hours
11 before the meeting, several days?

12 MS. ROOS: It was the day -- a day or two before the
13 meeting.

14 MS. COLLINS: Why didn't you notify the Committee then?

15 MS. ROOS: I did not know that I had to notify the
16 Committee.

17 MS. COLLINS: You knew the Committee wanted you.
18 Wouldn't you sort of naturally assume that, since you couldn't
19 attend, that would be of interest to the Committee?

20 MS. ROOS: I did not believe that I needed to call. I
21 would have, had I known. It's not difficult for me --

22 MS. COLLINS: Just sort of out of common courtesy?

23 MS. ROOS: No, ma'am, I didn't. I did not know.

24 CHAIRMAN McCORQUODALE: All right.

25 MS. ROOS: Thank you.

26 MS. UITTI: Lori, you mentioned that you had approached
27 Senator Wilson's office, I believe, about the feasibility -- let
28 me just ask the question and then you can --

1 MS. ROOS: I just want to clarify.

2 MS. UITTI: No, I'll ask the question, then you can go
3 ahead.

4 That you were interested in exploring the feasibility of
5 alternative methods for appointments to the Board, one of which
6 might include appointments from other entities like our federal
7 Senators, and that Senator Wilson's office was looking at the
8 idea.

9 Did you also contact the Democratic representative, Alan
10 Cranston's office?

11 MS. ROOS: Yes. Actually, I wanted to clarify. I
12 didn't make the calls. Carolyn from PAI office made the calls.
13 And as -- she told me, as of last week, Pete Wilson was
14 interested; Alan Cranston did not seem as interested.

15 I have yet to -- I have it on my board to make the
16 follow-up call so that we can know what -- whether we can
17 convince Senator Cranston of doing -- of participating in this,
18 or what reservations he does have.

19 MS. UITTI: Okay, thank you.

20 CHAIRMAN MCCORQUODALE: Since the issue was raised about
21 the subpoena, I'm going to ask the Sergeant to briefly give us
22 his recollection of the process he went through to serve the
23 subpoena.

24 Give us your name for the record and then your comments.

25 MR. SONKSEN: My name is Timothy Sonksen with the State
26 Senate Sergeant at Arms Office; Assistant Senate Sergeant at
27 Arms.
28

1 CHAIRMAN McCORQUODALE: Do you want to respond to the
2 issue of what you did to serve the subpoena?

3 MR. SONKSEN: Yes, Senator.

4 The Senate Sergeants at the time of service to Lori
5 Roos, I was based in Los Angeles at the time. And they said that
6 Lori may not be receptive to the subpoena. So we did not give
7 her any advance notice of the subpoena at the time we served it.

8 But, coincidentally for us, and luckily for us, I had a
9 gentleman with me on staff who was an acquaintance of Lori's from
10 UC Davis. So when we went to Lori's office to serve the
11 subpoena, we used his name to bring her out to the reception
12 area. And I did serve her. She was surprised, and she did make
13 a few statements that maybe now she wishes that she hadn't.

14 One was that, it's my recollection, that she said that
15 she had heard that a subpoena probably was coming. And the
16 second statement was, when I served her -- the gentleman's name
17 was Cedric Smoots, and she said if we didn't use Cedric's name to
18 get her out there, I probably never would have gotten her.

19 CHAIRMAN McCORQUODALE: All right.

20 SENATOR WATSON: You did serve a subpoena to Lori?

21 MR. SONKSEN: Yes, I did, Senator Watson.

22 SENATOR WATSON: I'm baffled. I hear for this one, but
23 then --

24 MS. ROOS: I was not served for another one. I was only
25 served for this meeting.

26 CHAIRMAN McCORQUODALE: We had not been able to locate
27 her for the other meeting.

1 SENATOR WATSON: She was served twice.

2 MS. ROOS: No, ma'am, once. I didn't know that
3 subpoenas were being --

4 SENATOR WATSON: They couldn't find her for the first
5 one.

6 MS. ROOS: I knew there were subpoenas given for the
7 second meeting.

8 SENATOR WATSON: No, I'm not talking about what you
9 knew. I'm talking about the mechanics of it.

10 The first one was sent where? Did you try to deliver
11 that, too?

12 MR. SONKSEN: The first subpoena I received in Los
13 Angeles on a Friday afternoon for a committee meeting the
14 following Tuesday, and it was a three-day weekend. We weren't
15 even sure if Lori was in town.

16 I went to her home residence. She was not there. The
17 subpoena at that time was deemed unservable.

18 And so then I was responding to Senator McCorquodale's
19 questions as pertaining my service to Lori of the subpoena for
20 this Committee meeting this afternoon. And I was answering his
21 questions about her attitude at the time and statements that she
22 made at the time of service.

23 SENATOR WATSON: Thank you.

24 CHAIRMAN McCORQUODALE: Thank you.

25 We're going to take a break for a few minutes. Is
26 Mr. Kellogg here yet? We'll take him when we start.

27

28

(Thereupon a brief recess was taken.)

1
2 CHAIRMAN McCORQUODALE: Mr. Kellogg.

3 MR. OLSON: Mr. Chairman, may I be heard before
4 Mr. Kellogg testifies?

5 CHAIRMAN McCORQUODALE: If it's on a procedural issue,
6 if it's related to something, I'd just as soon have a letter on
7 it.

8 MR. OLSON: It is on a procedural issue.

9 CHAIRMAN McCORQUODALE: Fine. Write us a letter on it.
10 We'll be glad to take it under consideration.

11 MR. OLSON: I need to be able --

12 CHAIRMAN McCORQUODALE: We'd like to swear in Mr.
13 Kellogg at this point.

14 MR. OLSON: It's my understanding you're not going to
15 allow me to address this Committee on behalf of my clients on a
16 procedural matter that involves their rights.

17 CHAIRMAN McCORQUODALE: If you feel like it's something
18 that is of such an urgency that we can't wait, I would certainly
19 be glad to accommodate you.

20 MR. OLSON: The point I would like to raise, first of
21 all, I have been denied access to my clients, who have been
22 subpoenaed in this matter. I have not had an opportunity to
23 discuss with them any matter since they have been subpoenaed and
24 locked up in a room since 10:00 o'clock this morning.

25 There are issues which I think they should be advised of
26 which go to the waiver that your Counsel has read to each of the
27 members before they testified, asking them to waive their
28

1 constitutional right against self-incrimination. And you're
2 asking them to make a voluntary waiver.

3 Before you do that, I think I should have an opportunity
4 to consult with my clients on that waiver.

5 SENATOR MARKS: Can I ask one question.

6 CHAIRMAN McCORQUODALE: Senator Marks.

7 SENATOR MARKS: Why didn't you raise the point with
8 reference to the prior witnesses?

9 MR. OLSON: Because, quite frankly, I did not know you
10 were going to ask the type of questions that you ended up asking
11 her.

12 SENATOR MARKS: I'm just curious to know why you didn't.

13 MR. OLSON: Now that you've asked those questions, I
14 think it's --

15 SENATOR MARKS: Thank you.

16 MR. OLSON: -- important that I have an opportunity to
17 discuss --

18 CHAIRMAN McCORQUODALE: Mr. Miller, do you want to
19 comment?

20 MR. MILLER: Mr. McCorquodale, I just note that he's
21 been talking with his client for the last 15 minutes, and I think
22 he's had an opportunity to do that.

23 It might be appropriate for you to allow him a few more
24 minutes if he thinks that's necessary.

25 MR. OLSON: That is to Mr. Kellogg. I have had an
26 opportunity for a few minutes to take to Mr. Kellogg about this
27 issue, which is the next point I want to discuss with you.

1 I have not had an opportunity to take to Mr. Jones or
2 Ms. Heagney about this.

3 CHAIRMAN McCORQUODALE: You'll have the same chance.
4 Did you have enough time with Mr. Kellogg?

5 MR. KELLOGG: Yes.

6 MR. OLSON: Yes, I did.

7 CHAIRMAN McCORQUODALE: We'll give you some more time
8 whenever the others come up.

9 MR. OLSON: All right.

10 CHAIRMAN McCORQUODALE: You've assured me that you won't
11 talk to them about items that others have answered, and so I
12 trust you on that.

13 MR. OLSON: No, it has nothing to do directly with the
14 questions you're asking and the testimony that they are giving.

15 The concern I have as to Mr. Kellogg's questions, as he
16 answers in testifying, and the same as the other Board members,
17 has to do with a provision in the Government Code that makes it a
18 misdemeanor to refuse a summons before this body or any
19 legislative committee.

20 You have been asking extensive questions of the last
21 witness relative to why someone did or did not attend a
22 particular meeting. And I would like to have an opportunity to
23 advise my clients as to whether they wish to answer the questions
24 with respect to those questions.

25 As to the other questions, I see no possibility of any
26 of the testimony that they could give in any way could be self-
27 incriminating under any circumstances.

1 CHAIRMAN MCCORQUODALE: Okay, do you want more response
2 from me or not?

3 MR. OLSON: No, I just wanted to put that statement on
4 the record.

5 Mr. Kellogg, I believe, is going to take the waiver that
6 your counsel has given and requested of each of the other
7 witnesses, except for any questions that might relate to a prior
8 subpoena or hearing as to why he may not have attended that
9 hearing.

10 SENATOR MARKS: Mr. Chairman, let me see if I can ask a
11 question.

12 Why would he not take a question with regard to that?
13 You said he would not take a question as to prior subpoenas as to
14 why he didn't answer the subpoenas.

15 Why would he not take a question about that?

16 MR. OLSON: There is -- as to any subject that they have
17 discussed here today, in my opinion, there is no possibility of
18 any crime ever having been committed.

19 There is a provision in the Government Code where that
20 possibility does exist relative to subpoenas and response of a
21 legislative body. And therefore, I think my clients should be
22 advised of that fact and should be given the opportunity, if they
23 so desire, to decline to answer any questions relative to that
24 aspect.

25 SENATOR MARKS: In other words, he would decline to
26 answer on the basis that it might tend to incriminate him?

27 MR. OLSON: That's his constitutional right.
28

1 SENATOR MARKS: I realize that's his constitutional
2 right. I know the Fifth Amendment as well as you do, or just as
3 well, almost as well.

4 CHAIRMAN McCORQUODALE: Never having claimed that, I'm
5 not very familiar with it.

6 SENATOR MARKS: But I'm unable to --

7 MR. OLSON: I'm not sure if the members of the Board are
8 going to. I'm simply saying --

9 SENATOR MARKS: You mean we cannot ask him a question as
10 to whether he received a subpoena, in your opinion? We can ask
11 him a question, but he need not answer it?

12 MR. OLSON: That's correct.

13 MR. MILLER: I would point out to the Counsel that the
14 statute says that if a witness neglects or refuses to obey a
15 subpoena, if Mr. Kellogg was not served, then he didn't neglect
16 or refuse to obey the subpoena.

17 I think that it's a very common occurrence for people to
18 avoid service of processes, as you well know, and if you aren't
19 served, then you do not have an obligation to comply.

20 MR. OLSON: It's not that provision that I'm concerned
21 with. It's Government Code Section, I believe, 9412, which makes
22 it specifically a crime, and the word "subpoena" is not used in
23 that code section.

24 SENATOR MARKS: I think we should ask him the question.

25 CHAIRMAN McCORQUODALE: The issue is have you adequately
26 advised your client at this point?

27

28

1 MR. OLSON: Your Counsel has advised me that the word
2 "summoned" there is used -- means in the context of subpoena. If
3 that is the basis upon which you offer it and ask that question,
4 then I would so advise my clients, and I would suggest that they
5 then answer the question.

6 Is that your interpretation?

7 MR. MILLER: That would be my interpretation, and it
8 would be the Chair's -- it would be up to the Chair to determine
9 whether or not they wanted to accept that interpretation.
10 Otherwise, they will have to honor the witnesses' privilege, or
11 claim of privilege, against self-incrimination. Unless you want
12 to go ahead and compel the testimony, but if you compel the
13 testimony of the witness, then he has the right or cannot be
14 prosecuted for violating that particular code section.

15 CHAIRMAN McCORQUODALE: I'm familiar with it. Just so
16 your client's familiar with that. As long as you're satisfied
17 that your client is familiar with it.

18 MR. OLSON: Well, the point is, I would withdraw my
19 objections if this Committee were operating with the
20 understanding that the word "summoned" as used in 9412 means
21 subpoenaed.

22 CHAIRMAN McCORQUODALE: I'll stipulate that. I would
23 not want to prosecute somebody because I called him, asked him to
24 come to a meeting, and they didn't show up, so that's not my
25 intent.

26 MR. OLSON: May I have one minute with Mr. Kellogg,
27 then?
28

1 CHAIRMAN McCORQUODALE: Yes.

2 (Thereupon MR. OLSON spoke briefly with

3 MR. KELLOGG in an off the record discussion.)

4 MR. MILLER: Mr. Kellogg, you were in attendance this
5 morning when I read the provisions of the Government Code --

6 MR. KELLOGG: Yes.

7 MR. MILLER: -- regarding your rights and
8 responsibilities as a witness?

9 MR. KELLOGG: That's correct.

10 MR. MILLER: You're agreeing to testify voluntarily
11 before this Committee?

12 MR. KELLOGG: Yes, sir, I am.

13 MR. MILLER: Would you raise your right hand then.

14 (Thereupon the witness, JOHN KELLOGG, was
15 duly sworn to tell the truth, the whole
16 truth, and nothing but the truth.)

17 MR. KELLOGG: I do.

18 CHAIRMAN McCORQUODALE: Would you tell us your name and
19 your occupation for the record.

20 MR. KELLOGG: My name is John Kellogg. I'm an attorney
21 in private practice.

22 CHAIRMAN McCORQUODALE: Can you give us a definition of
23 developmental disabilities?

24 MR. KELLOGG: Yes, Senator, I can.

25 A developmental disability, in my view, is a physical or
26 mental impairment that is manifested before the age of 22 and
27 results in substantial mental or physical impairment. Examples
28 would be epilepsy, autism, cerebral palsy, Down's syndrome.

1 CHAIRMAN McCORQUODALE: Is that the federal or the State
2 definition?

3 MR. KELLOGG: I believe the two definitions differ in
4 that one of them requires an age of 18, if I'm not mistaken, and
5 the other 22. We can get back to you on that if you want,
6 Senator.

7 CHAIRMAN McCORQUODALE: What about defining the term
8 mental illness?

9 MR. KELLOGG: In my view, mental illness involves a
10 significant mental impairment. That's my definition of it.

11 Like the definition of developmental disability, it has
12 manifested itself and results in a substantial mental or physical
13 impairment of the individual.

14 CHAIRMAN McCORQUODALE: All right.

15 Are you familiar with the Developmental Disabilities
16 Assistance and Bill of Rights Act and the amendments of 1987?

17 MR. KELLOGG: I've read them but not recently.

18 CHAIRMAN McCORQUODALE: Do you support those amendments?

19 MR. KELLOGG: Yes, I do, Senator.

20 CHAIRMAN McCORQUODALE: All of them?

21 MR. KELLOGG: Yes, Senator.

22 CHAIRMAN McCORQUODALE: Can you describe what is
23 included in the federal Protection and Advocacy for Mentally Ill
24 Individuals Act of 1986? That's Public Law 99319.

25 MR. KELLOGG: I'd ask to have that in front of me before
26 I commented on it.

27

28

1 CHAIRMAN McCORQUODALE: Are you reasonably familiar with
2 it though, you would feel?

3 MR. KELLOGG: We've been implementing it in Protection
4 and Advocacy, but before I talk about a statute or law, I like to
5 have it in front of me.

6 CHAIRMAN McCORQUODALE: Can you describe what's included
7 in the State's Lanterman Developmental Disabilities Services Act?
8 I don't need it word by word, but just general. What does that
9 Act do?

10 MR. KELLOGG: Very basically, the Lanterman Act mandates
11 service to the developmentally disabled community.

12 CHAIRMAN McCORQUODALE: There's another element of that.
13 Does something come to mind besides services when you talk about
14 the Lanterman Act?

15 MR. KELLOGG: Discrimination, it outlaws discrimination
16 and provides for the services for the developmentally disabled
17 community.

18 Once again, I'd like to have the Lanterman Act so I can
19 refer to any specific suggestion here.

20 CHAIRMAN McCORQUODALE: Looking at it from the
21 standpoint of it gives certain rights to developmentally disabled
22 and it provides services for developmentally disabled, which
23 would you say is more important, the rights part of it or the
24 services part of it?

25 MR. KELLOGG: I think they're both very important.

26 CHAIRMAN McCORQUODALE: How would you describe the term
27 accessibility with regard to buildings and locations used by
28 people using wheelchairs, or who have limited mobility?

1 MR. KELLOGG: Accessibility means exactly what the word
2 -- how it is defined. Buildings must be accessible, and once
3 again, I don't have the specific provisions of the law, but
4 generally an individual must be able to get to them -- and
5 individual in a wheelchair. That's pretty much the definition of
6 the word.

7 CHAIRMAN McCORQUODALE: Is it necessary, in your mind,
8 to meet the accessibility requirements that the handicapped and
9 nonhandicapped should be able to go through the same door?

10 MR. KELLOGG: Absolutely. Are you referring to the same
11 door -- what are you referring to?

12 CHAIRMAN McCORQUODALE: In other words, if you've got
13 two doors going into a building, do they both have to be
14 accessible, or only one?

15 MR. KELLOGG: I'd have to look that up for you, Senator.

16 CHAIRMAN McCORQUODALE: How do you feel about that?

17 MR. KELLOGG: I feel very strongly that accessibility is
18 exactly what the word implies, accessibility. The buildings must
19 be accessible.

20 CHAIRMAN McCORQUODALE: What do you think about the Cal
21 Trans decision to change on their own the slant of the curb cuts
22 and buildings for people who are wheelchair-bound?

23 MR. KELLOGG: I'm not familiar with it, Senator.

24 CHAIRMAN McCORQUODALE: You haven't read about that?

25 MR. KELLOGG: Vaguely. I've heard of it.

26 CHAIRMAN McCORQUODALE: If you view that because they
27 changed that, that some number of people wouldn't be able to use
28

1 it, would that be an appropriate thing for PAI to go to court
2 over if necessary to force Cal Trans to change their policy?

3 MR. KELLOGG: If it involved the developmentally
4 disabled community, then it would be an appropriate thing for us
5 to litigate.

6 CHAIRMAN McCORQUODALE: In your mind, in your own
7 feeling about it, how would you describe the word advocacy?

8 MR. KELLOGG: An advocacy is one who advocates.

9 CHAIRMAN McCORQUODALE: That's an advocate. How about
10 advocacy?

11 MR. KELLOGG: Advocacy is one who represents other in
12 some cause.

13 CHAIRMAN McCORQUODALE: What about the advocacy role
14 performed by the Area Boards on Developmental Disabilities? What
15 is their main charge?

16 MR. KELLOGG: Well, the Area Boards are more of a local
17 level situation than we are. They give less advice that's legal
18 in nature than does Protection and Advocacy.

19 CHAIRMAN McCORQUODALE: How would you define the
20 advocacy role performed by PAI?

21 MR. KELLOGG: We represent our clients, the
22 developmentally disabled, now the mentally ill, and we perform
23 all services, including litigation, which you've mentioned, of
24 their behalf to make sure that they received all rights that
25 they're entitled to.

26 CHAIRMAN McCORQUODALE: In your mind, does PAI go to
27 court a lot, or a little bit?

1 MR. KELLOGG: I think 4½ percent is the percent of our
2 cases that we go to court on, so that would be a small number of
3 our cases.

4 CHAIRMAN McCORQUODALE: In general, do you think that
5 it's a good idea to use public funds to sue other public agencies
6 for not carrying out the law?

7 MR. KELLOGG: Absolutely, Senator.

8 I have a little conflict of interest here. I'm an
9 attorney, so I'm involved in lawsuits all the time. And I find
10 that in most lawsuits, the ones who win the most are the
11 attorneys, so I think you use lawsuits only when every other
12 recourse has been exhausted.

13 CHAIRMAN McCORQUODALE: What is the role of the Board
14 members in determining the type and extent of litigation which
15 can be filed by PAI attorneys? What's your role as a Board
16 member?

17 MR. KELLOGG: Our role --

18 CHAIRMAN McCORQUODALE: Do you decide on any suits?

19 MR. KELLOGG: Our role is very limited. Much of the
20 litigation is done through the staff attorneys. We are not
21 involved in very many decisions involving litigation.

22 CHAIRMAN McCORQUODALE: Would it be appropriate for PAI
23 to represent a client who's been denied transportation services
24 to a day program, as an example? Is that a legitimate --

25 MR. KELLOGG: If the client were developmentally
26 disabled.

27
28

1 CHAIRMAN McCORQUODALE: What about representing a parent
2 who lives with a developmentally disabled child who's been denied
3 respite services?

4 MR. KELLOGG: Absolutely. Anything involving a
5 developmentally disabled client is within our purview.

6 CHAIRMAN McCORQUODALE: Would it be appropriate for PAI
7 to represent a client who's been denied services because they've
8 tested positive for AIDS?

9 MR. KELLOGG: No discrimination is allowed on any of
10 this.

11 CHAIRMAN McCORQUODALE: Suppose they won't allow
12 themselves to be tested for AIDS and they're denied services?

13 MR. KELLOGG: That would be irrelevant to their
14 condition. We don't care if they have AIDS or not. All we care
15 about is if they're developmentally disabled.

16 CHAIRMAN McCORQUODALE: What about a mentally ill client
17 who wishes to have an abortion?

18 MR. KELLOGG: Abortion does not enter into our mandate.

19 CHAIRMAN McCORQUODALE: Denied services.

20 MR. KELLOGG: We don't -- abortion does not enter into
21 our mandate. We're concerned with the developmentally disabled,
22 whether their sexual orientation or anything of that matter
23 doesn't concern us.

24 CHAIRMAN McCORQUODALE: We're talking about a mentally
25 ill, though, now; a mentally ill person who wants to have an
26 abortion, and their parents have gone to court to prevent them
27 from having an abortion.

1 Would it be appropriate for you to go to court, your
2 agency to go to court, to ensure the person had a right to have
3 an abortion?

4 MR. KELLOGG: I'd have to look into that, Senator.
5 We've not dealt with that issue.

6 CHAIRMAN McCORQUODALE: So there are some places you
7 draw the line?

8 MR. KELLOGG: I draw the line -- I'd say that anything
9 involving a developmentally disabled person and their rights is
10 within our purview.

11 CHAIRMAN McCORQUODALE: I don't understand. Women in
12 California are allowed the right to have an abortion. And if a
13 mentally ill person wants to have an abortion, and they are being
14 denied that abortion, do you feel that it would be appropriate
15 for the PAI to ensure their right to an abortion?

16 MR. KELLOGG: I would have to look at the case law on
17 that, Senator. I -- we -- there was a case that came down on
18 that, I think, fairly recently, if I'm not mistaken. And once
19 again, I'm for anything that advocates the right of the
20 developmentally disabled person involving any area of the
21 government, any law, any regulation. I don't choose between
22 regulations we should enforce or not enforce.

23 CHAIRMAN McCORQUODALE: Give us some idea of your past
24 political positions, either salaried or volunteer.

25 MR. KELLOGG: I'm a volunteer down in Orange County.
26 I've been active in Republican causes for many years, and
27 continue to be active down in Orange County, my community.

28

1 CHAIRMAN McCORQUODALE: How did you first learn of PAI?

2 MR. KELLOGG: I got a call from the Governor's Office
3 asking if I'd be interested in service, and I said yes.

4 CHAIRMAN McCORQUODALE: Did you file an application
5 then?

6 MR. KELLOGG: After that, they mailed me an application,
7 which I returned to them.

8 CHAIRMAN McCORQUODALE: Do you remember who in the
9 Governor's Office called?

10 MR. KELLOGG: No, I don't. It was a gal from the
11 Governor's appointments office.

12 CHAIRMAN McCORQUODALE: Did you discuss your appointment
13 with anybody prior to being appointed, other than that person?

14 MR. KELLOGG: This was about a year and a half ago or
15 so, and I received an application. I filled it out, and I had
16 some conversations with people in the Governor's Office. I
17 recall -- I believe my application was submitted late in 1986, if
18 I'm not mistaken. There was a passage of time before my
19 appointment early in '87, and I checked back with them a couple
20 of times to find out what was going on.

21 CHAIRMAN McCORQUODALE: What seat do you occupy?

22 MR. KELLOGG: I'm a public member.

23 CHAIRMAN McCORQUODALE: How do you view your role as a
24 public member and the viewpoint you're expressing as different
25 from others? Do you see any particular viewpoint you're supposed
26 to represent?

27 MR. KELLOGG: Yes.
28

1 CHAIRMAN McCORQUODALE: If you felt like you had to
2 report to somebody, who would you report to as to what your
3 stewardship was?

4 MR. KELLOGG: I report to all the citizens of
5 California. Unlike just about everybody in this room, I suspect,
6 I don't represent a specific view or a specific plan or a
7 specific organization. I represent the public, and my
8 understanding, when the Governor's people approached me, I told
9 them, I said, "I have no background in this area." And they
10 said, "Good, that's what we want. We want a member of the
11 public; someone who doesn't represent any particular organization
12 or viewpoint."

13 CHAIRMAN McCORQUODALE: Prior to your appointment, did
14 you have any professional or personal contact with Chris Jones?

15 MR. KELLOGG: I had met Chris once or twice before very
16 briefly, but no, I had not spoken to him.

17 CHAIRMAN McCORQUODALE: What capacity was that in?

18 MR. KELLOGG: Well, he had been active in politics, and
19 I had met him at a reception, I believe, once or twice, but that
20 was the extent of it.

21 CHAIRMAN McCORQUODALE: How about Margaret Heagney?

22 MR. KELLOGG: No, I'd never met Margaret.

23 CHAIRMAN McCORQUODALE: You probably know her a lot
24 better now.

25 MR. KELLOGG: A lot better from being in that room down
26 there; we've gotten to know each other.

27 CHAIRMAN McCORQUODALE: How about Annette Ospital?
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1 MR. KELLOGG: I didn't know her before either.

2 CHAIRMAN McCORQUODALE: Lori Roos?

3 MR. KELLOGG: I didn't know Lori.

4 CHAIRMAN McCORQUODALE: What do you see as the greatest
5 needs and probably most pressing issues facing persons with
6 disabilities in California?

7 MR. KELLOGG: Simply that of -- it's simply to receive
8 their due from the law. They're entitled under the very statutes
9 to certain rights and privileges, and our job is to see that they
10 get those rights. For example, if a school district, or someone
11 who's denying their right to an education, we do a lot of cases
12 in that area. That's something that I find enjoyable to see that
13 someone gets an education where they otherwise wouldn't because
14 they're wrongfully denied it.

15 CHAIRMAN McCORQUODALE: How do you feel being an
16 attorney on a Board like this? What are your views on the role
17 of the PAI Board members in relation to the attorney-client
18 privilege which attaches for clients of PAI?

19 MR. KELLOGG: One more time, Senator?

20 CHAIRMAN McCORQUODALE: Do you view your role as a Board
21 member in any different relationship? In other words, are you
22 the attorney-client relationship, or is there somebody else
23 between you and the client in this regard? Who's actually suing?
24 Is it you, or is it the staff attorney?

25 MR. KELLOGG: The client -- the staff attorney sues,
26 makes that decision. We really don't view those decisions most
27 of the time. They make the judgment.

1 My role is really that of an overseer as a member of the
2 Board of Directors.

3 CHAIRMAN McCORQUODALE: Did you ever attend an
4 orientation meeting regarding PAI?

5 MR. KELLOGG: Yes, I did.

6 CHAIRMAN McCORQUODALE: Where was that held?

7 MR. KELLOGG: Here in Sacramento. I met with Al. I
8 came up, I believe, it was in March of 1987. I met with Al and
9 toured the office, then I met with Greg Sandin of the Department
10 and had an orientation.

11 CHAIRMAN McCORQUODALE: Was there somebody there from
12 PAI Board besides yourself?

13 MR. KELLOGG: I was the only Board member.

14 CHAIRMAN McCORQUODALE: Who was there from the State
15 Department or agency?

16 MR. KELLOGG: Greg was there, and I don't recall. There
17 was some other staff members there; I didn't know any of them.

18 CHAIRMAN McCORQUODALE: Who initiated that meeting?

19 MR. KELLOGG: I believe -- I believe they did. I
20 believe Greg said, "When you're up in Sacramento," I had planned
21 to make a trip up there to learn all about this, so I scheduled
22 an appointment with him when I came up to meet Al.

23 CHAIRMAN McCORQUODALE: Do you know Greg Sandin? Did
24 you know him before this appointment?

25 MR. KELLOGG: No, I didn't.

26 CHAIRMAN McCORQUODALE: Where did you first meet him?
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1 MR. KELLOGG: I first talked to him on the phone about
2 the time of my appointment or thereabouts, and he explained his
3 position and, you know, said that when I was up in Sacramento to
4 give him a call and get together.

5 CHAIRMAN McCORQUODALE: Did you discuss your appointment
6 with him before you were appointed or after?

7 MR. KELLOGG: About that same time frame, late in 1986
8 or early in '87, somewhere -- somewhere thereabouts.

9 CHAIRMAN McCORQUODALE: Do you know Caroline Michals?

10 MR. KELLOGG: No, I don't.

11 CHAIRMAN McCORQUODALE: Have you met her since your were
12 appointed?

13 MR. KELLOGG: The name is familiar.

14 CHAIRMAN McCORQUODALE: Do you know Jim Morgan?

15 MR. KELLOGG: No, I don't.

16 CHAIRMAN McCORQUODALE: What would you describe as the
17 single most significant factor contributing to your desire to
18 have the Governor appoint you to the PAI Board?

19 MR. KELLOGG: I was interested in service, and I've been
20 active down in Orange County. And I, you know, jumped at the
21 chance. I didn't know anything about this field, but I'm very
22 interested in public service, would prefer to have your job than
23 my job as an attorney. I enjoy it very much.

24 CHAIRMAN McCORQUODALE: Who suggested you serve on the
25 PAI Executive Committee?

26 MR. KELLOGG: Those were discussions that Chris and I
27 had several months ago.

1 CHAIRMAN McCORQUODALE: Did you talk about the necessity
2 of having your vote on the Executive Committee?

3 MR. KELLOGG: I was interested in expanding my service.
4 I ran unsuccessfully for the position of Secretary and was
5 defeated, and I'm looking to expand my service in this area.

6 CHAIRMAN McCORQUODALE: An issue has arisen as to the
7 past. Always in the past, officers were on the Executive
8 Committee. But one officer was not appointed.

9 Did Mr. Jones ever talk to you about that?

10 MR. KELLOGG: I don't recall. I've not been on the
11 Board that long. I wasn't aware of that issue.

12 CHAIRMAN McCORQUODALE: It's been raised in some of the
13 meetings. Have you attended all of the meetings?

14 MR. KELLOGG: All of the meetings.

15 CHAIRMAN McCORQUODALE: But you don't recall the
16 discussion about Ms. Lapin?

17 MR. KELLOGG: Well, there was some discussion that this
18 was the way that we've always done it, and that type of thing.
19 But I didn't look to the bylaws or -- you know, we took a vote on
20 it, and that was good enough for me.

21 CHAIRMAN McCORQUODALE: The bylaws allow anyone to be on
22 the Executive Committee?

23 MR. KELLOGG: [No response.]

24 CHAIRMAN McCORQUODALE: So Mr. Jones didn't discuss with
25 you his decision not to appoint her?

26 MR. KELLOGG: He discussed his decision to appoint me.
27 I asked him that I'd like to serve, and he saw that would be a
28

1 good vehicle to get some new blood on board, and he went ahead
2 and appointed me.

3 CHAIRMAN McCORQUODALE: When you were appointed, there
4 was this sort of a speed up to make appointments. Did you
5 discuss with Ms. Heagney or Ms. Roos the agenda pending at that
6 point?

7 MR. KELLOGG: No, Senator. That's incorrect.

8 I was appointed early in '86. The alleged speed up
9 occurred, I believe, earlier this year. I was appointed --
10 pardon me -- late in -- early in '87, and this speed up occurred
11 this year. I was appointed before the speed up.

12 CHAIRMAN McCORQUODALE: Going to the meeting of May
13 21st, we have been told that there was a lot of yelling at each
14 other, and some people said some people yelled and others didn't.

15 Were you a yeller or were you not a yeller?

16 MR. KELLOGG: Well, I think if you've got a tape of it,
17 I was trying to restrain those that were yelling. As a
18 practicing attorney for four years, I'm used to some decorum in
19 the court room, and I felt that it was ridiculous what was going
20 on there. We were not accomplishing anything, so I left.

21 CHAIRMAN McCORQUODALE: Did you feel that your leaving
22 would destroy the quorum?

23 MR. KELLOGG: Possibly. I knew that if I left,
24 possibly. That's a fair statement.

25 SENATOR WATSON: Let me just query that a bit.

26 Had you discussed possibly leaving the meeting with
27 anybody else?

1 MR. KELLOGG: Absolutely, Senator. I talked to Chris
2 and Lori at lunch, and I stated that I felt that the situation
3 degenerated to the point where we were not getting anything done,
4 and I felt --

5 SENATOR WATSON: What was the issue that created that
6 kind of emotional argument at that particular meeting?

7 MR. KELLOGG: Boy, I'd have to look back to my notes of
8 the meeting because we were going back and forth.

9 SENATOR WATSON: Do you always do this?

10 MR. KELLOGG: It's gotten worse, Senator.

11 SENATOR WATSON: No, I mean, since that time, have the
12 meetings deteriorated?

13 MR. KELLOGG: That's a fair statement.

14 SENATOR WATSON: What has been the issue that has caused
15 the decline in decorum, or issues?

16 MR. KELLOGG: Senator, I really couldn't tell you. I
17 could tell you that there should be no lack of decorum in a
18 meeting.

19 SENATOR WATSON: I've not been able to identify yet why
20 there's this kind of bickering and loud arguing. Why? What's
21 wrong with the mix?

22 MR. KELLOGG: Senator, if I knew that, we wouldn't -- it
23 wouldn't happen.

24 SENATOR WATSON: No, you don't have the appointing
25 power. What's wrong with the mix as you see it?

26 MR. KELLOGG: I've served on lots of groups. I really
27 couldn't tell you. Each group is different. This group, the
28 composition is changing, and hopefully things will --

1 SENATOR WATSON: No, can you help, as an attorney, help
2 us understand? You know, we've been spending lots of hours here
3 talking to all of you who sit there at those meetings. You said
4 you've been to every one of them.

5 Can you help me understand what we have done to that
6 meeting, or what the appointment power has done to that meeting?
7 Why is it that you have meetings that you have to walk out of?
8 Why is that you have meetings that you're concerned about the
9 decorum? What is happening in those meetings?

10 MR. KELLOGG: Senator, I don't really know. I could
11 tell you that if I stood up and ranted and raved, your Sergeant
12 at Arms would restrain me.

13 SENATOR WATSON: But there's some issues that would
14 create that kind of response from a lot of people, and I have not
15 been able to identify what the issues are.

16 If we're going to correct this situation, because my eye
17 is on the goal, and the goal is to serve our clients and to
18 follow the dictates of the law -- as an attorney, I'm sure you
19 agree with that approach -- but we can't seem to identify what's
20 creating the problem. That's why we're all here, sitting here
21 all day long, to see if we can fix it. If it's broken, let us
22 fix it.

23 Can you tell us how we can fix it?

24 MR. KELLOGG: I wish I could.

25 SENATOR WATSON: You don't know the issues, and you
26 don't know why they're having such disruption? And you've been
27 there every meeting?

1 MR. KELLOGG: Senator, it's a lack of order. I don't
2 mind anyone --

3 SENATOR WATSON: But what is creating it? Let me just
4 see if I can point out, you're saying that you've been to every
5 meeting. You don't know what's wrong with the mix. You don't
6 know what the issues are, but the meetings are very disruptive.

7 Is that a correct or fair statement?

8 MR. KELLOGG: That's fair.

9 SENATOR WATSON: Thank you.

10 CHAIRMAN McCORQUODALE: Let's see if there's any other
11 questions.

12 SENATOR MARKS: May I ask a question, please.

13 I forget what the attorney said. Am I entitled to ask
14 whether you've been subpoenaed?

15 MR. KELLOGG: Certainly, Senator.

16 SENATOR MARKS: Why don't I ask you that? I am asking
17 you that.

18 MR. KELLOGG: Yes, I have Senator.

19 SENATOR MARKS: You were subpoenaed.

20 MR. KELLOGG: Yes.

21 SENATOR MARKS: What did you do with that subpoena?

22 MR. KELLOGG: I put it on my folder and here I am.

23 SENATOR MARKS: No, no. Were you subpoenaed the first
24 time?

25 MR. KELLOGG: I wasn't subpoenaed the first time, no.

26 SENATOR MARKS: Did you know about the meeting?
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1 MR. KELLOGG: I was not subpoenaed at the first hearing.
2 I knew of the meeting, but I had a court appointment that date,
3 as I did today. I was ordered --

4 SENATOR MARKS: Did you notify the Committee that you
5 had a court appointment?

6 MR. KELLOGG: No, I didn't.

7 SENATOR MARKS: Why?

8 MR. KELLOGG: I obeyed my court order.

9 My understanding, this thing was thrown together fairly
10 at the last minute, the first hearing, if I'm not mistaken, and I
11 had a court appointment that day.

12 SENATOR MARKS: I'm a lawyer, too. But it seems to me
13 that if I'm ordered or requested to come to a Senate hearing, and
14 I have a court appointment, I would tell the Committee that I had
15 a court appointment.

16 MR. KELLOGG: I believe I told somebody. I mean, word
17 got through if I told one of the staff, or I talked to somebody
18 about it. It was known that I was not going to be there. I made
19 no secret of it.

20 MS. COLLINS: Did you receive a letter from the
21 Committee requesting your attendance?

22 MR. KELLOGG: Yes, I did.

23 MS. COLLINS: So you had notification prior to the
24 knowledge that a subpoena was being attempted?

25 MR. KELLOGG: That's correct.

26 MS. COLLINS: And you still didn't notify the Committee
27 that you could not attend?

1 MR. KELLOGG: Not personally, but I let it be known.

2 MS. COLLINS: You let it be known to whom?

3 MR. KELLOGG: I talked to some staff members or somebody
4 on it. It was known that I was not --

5 SENATOR MARKS: Staff of this Committee?

6 MR. KELLOGG: No, staff of PAI.

7 MS. COLLINS: PAI wasn't holding the hearing; this
8 Committee was. Did you notify the Committee?

9 MR. KELLOGG: No, I didn't.

10 SENATOR MARKS: I'm unable to understand your
11 justification for not notifying the Committee when you'd been
12 requested by a letter to be at a hearing. I can understand you
13 might have a court appearance, and that might excuse you, but I
14 think you have an obligation as an officer of the court, and as a
15 citizen of the State of California, who recognizes, presumably,
16 this Committee as having some jurisdiction, I think you have an
17 obligation to notify us.

18 MR. KELLOGG: Absolutely.

19 SENATOR MARKS: But you didn't.

20 MR. KELLOGG: No, I didn't.

21 SENATOR MARKS: That's the end of it? Absolutely, and
22 there's --

23 MR. KELLOGG: Senator, what I would do next time, and
24 what I should have done, is notify the Committee directly. I
25 notified PAI staff, somebody -- I talked to somebody, and it was
26 known I was not going to be in attendance. I said I had a court
27 date that day, and I did.

1 CHAIRMAN McCORQUODALE: Tell us about the last subpoena.

2 MR. KELLOGG: I was served with the subpoena, and here I
3 am.

4 CHAIRMAN McCORQUODALE: At your office?

5 MR. KELLOGG: I was served at home.

6 CHAIRMAN McCORQUODALE: It would have been easier at
7 your office; wouldn't it?

8 MR. KELLOGG: Senator, once again, I had a court date.
9 I was ordered to be in Juvenile Court, Pasadena Superior Court
10 this morning at 9:00 o'clock.

11 CHAIRMAN McCORQUODALE: I mean, it would have been
12 easier to have served the subpoena at your office.

13 MR. KELLOGG: That's correct.

14 CHAIRMAN McCORQUODALE: Is there a reason that didn't
15 happen?

16 MR. KELLOGG: I was handed it at my residence.

17 CHAIRMAN McCORQUODALE: Your secretary, or no one, had
18 told you that they were attempting to reach you at your office?

19 MR. KELLOGG: I was aware of that, Senator.

20 CHAIRMAN McCORQUODALE: Did you return calls?

21 MR. KELLOGG: No, I didn't, Senator.

22 CHAIRMAN McCORQUODALE: Why not?

23 MR. KELLOGG: Once again, I had a court date. I was
24 ordered to be in Pasadena Juvenile Court for a hearing this
25 morning, that I had to continue.

26 CHAIRMAN McCORQUODALE: I know that's the reason you
27 might not have wanted to come. I'm trying to figure out why you
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1 didn't talk to someone when you found out that they were trying
2 to reach you at your office to serve the subpoena?

3 Did you feel that this Committee had jurisdiction over
4 this issue?

5 MR. KELLOGG: Absolutely.

6 CHAIRMAN McCORQUODALE: And the right to hold the
7 hearing?

8 MR. KELLOGG: Absolutely.

9 CHAIRMAN McCORQUODALE: And that not coming would
10 frustrate the efforts of the Committee?

11 MR. KELLOGG: Senator, I'm happy to talk to anybody at
12 any time. You know, I'm available.

13 I find it interesting. I've been on the Board for a
14 year and a half, and I have not had anyone contact me directly --
15 my number is listed -- to talk to me on any issue.

16 CHAIRMAN McCORQUODALE: Your home number is listed?

17 MR. KELLOGG: No, my office number is listed.

18 CHAIRMAN McCORQUODALE: And your automobile, where is it
19 registered?

20 MR. KELLOGG: My automobile, where is it registered?
21 It's registered in California.

22 CHAIRMAN McCORQUODALE: At what address?

23 MR. KELLOGG: I don't even know. It would be either my
24 home or my work.

25 CHAIRMAN McCORQUODALE: How about the rental agency?

26 MR. KELLOGG: That's correct.
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1 CHAIRMAN McCORQUODALE: We had the issue about the
2 subpoenas with Ms. Roos, and we had the Sergeant testify. I
3 think we probably covered that well enough, unless you object to
4 me saying that it was about a week and a half that we were trying
5 to reach you at your office. Unable to reach you, they finally
6 were able to find your home address.

7 MR. KELLOGG: Senator, I'm a registered voter and have
8 been since I'm eighteen. That's public information, my address.

9 CHAIRMAN McCORQUODALE: Right.

10 SENATOR MARKS: May I say something.

11 I really am going to say this with great respect to you
12 as an attorney, but I think you're showing an utter degree of
13 arrogance here, utter degree of arrogance.

14 You know, you have a responsibility to tell us what is
15 going on. You had a responsibility to notify us when this
16 Committee was meeting, and I really find it very disgraceful.

17 You don't seem to have, at least to me, you don't seem
18 to have the concern that a member of PAI should have for disabled
19 people. I don't think you do have it. I'm very disturbed about
20 your arrogance.

21 CHAIRMAN McCORQUODALE: Any other questions? Senator
22 Watson.

23 SENATOR WATSON: I just wanted to say that you're an
24 attorney, and you seem to be pretty sharp.

25 I don't know how you could sit in on these meetings and
26 not know the issue, or not know why they are so raucous and the
27 decorum has been lost. I just don't think that you want to share
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1 these things with us, because a person of your ability, and I
2 notice how you've read your statements. You've read your
3 statements so that you'd be sure of what was being recorded. And
4 that's what I would expect out of an officer of the court. I
5 certainly would, and I respect that.

6 I don't know how you could attend the meeting and not
7 have some idea as to what's creating the problem. We're not
8 sitting here because we want to be here, and spend this time and
9 harass you.

10 We're trying to gather information. And I feel that you
11 could help demystify this if you chose.

12 I can tell you what we've heard, but that's hearsay.
13 You could tell us what you think is going on, and it might help
14 us so we don't have to do this again.

15 You don't need to be subpoenaed in here a day away from
16 the court. You need to be representing your clients. But we
17 can't seem to get to the bottom of this, and we're not getting
18 much help from you, and maybe some of the other witnesses.

19 I would hope that you would feel committed enough to the
20 Board that you sit on to want to be able to fix whatever's wrong.
21 And it doesn't have to be done in a hostile environment. But we
22 just have to get to a sense of what is wrong, and I haven't
23 gotten that yet.

24 CHAIRMAN McCORQUODALE: All right. I think that
25 completes -- Jane, you had a question?

26 MS. UITTI: I have two small questions.
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1 The first is, as an attorney, are you aware of the
2 seriousness of the subpoena process?

3 MR. KELLOGG: Absolutely.

4 MS. UITTI: The second question is, were you sworn into
5 office once you became a member of PAI?

6 MR. KELLOGG: I received -- in fact I have it at home --
7 a proclamation from the Governor.

8 MS. UITTI: No, were you sworn in by any entity as a
9 member?

10 MR. KELLOGG: I don't believe so.

11 MS. UITTI: Thank you.

12 CHAIRMAN McCORQUODALE: Thank you.

13 MR. KELLOGG: May I be excused to catch a flight?

14 CHAIRMAN McCORQUODALE: Yes, I think someone had talked
15 to me about your need to catch a plane, and I think we have
16 probably completed our questioning of you.

17 Sergeant, would you please bring up Chris Jones.

18 (Thereupon a brief recess was taken.)

19 CHAIRMAN McCORQUODALE: Well will be back in session.

20 Mr. Miller, do you want to swear in the witness.

21 MR. MILLER: Mr. Jones, were in the Committee Room 3191
22 this morning?

23 MR. JONES: Yes, I heard the initial statement, yes.

24 MR. MILLER: Would you stand and raise your right hand.
25 Are you testifying voluntarily?

26 MR. JONES: I am, yes, sir.
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1 (Thereupon the witness, CHRIS JONES,
2 was duly sworn to tell the truth,
3 the whole truth, and nothing but the
4 truth.)

5 MR. JONES: Absolutely.

6 CHAIRMAN McCORQUODALE: Would you give us your name and
7 your occupation for the record.

8 MR. JONES: Yes. My name is Chris Jones. I'm the
9 President of Protection and Advocacy, and my current occupation,
10 I'm the Executive Director of the Assembly Republican Political
11 Action Committee.

12 CHAIRMAN McCORQUODALE: Can you give us the definition
13 of the term developmental disability?

14 MR. JONES: Yes.

15 CHAIRMAN McCORQUODALE: Developmentally disabled, I
16 suppose is probably --

17 MR. JONES: The federal or the State?

18 CHAIRMAN McCORQUODALE: Either one.

19 MR. JONES: Well, to my mind, the definition is either a
20 mental or a physical impairment, or a combination of the two,
21 which was -- in the State context would be which had been
22 attained or gotten either before the age of 17, and at the
23 federal level before the age of 22, which is likely to continue
24 and which impairs the person's abilities in one of seven, I
25 believe, areas, including communications, self-care, learning, et
26 cetera.

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1 CHAIRMAN McCORQUODALE: How about the term mental
2 illness?

3 MR. JONES: The term the mentally ill is a really
4 unfortunately very ill-defined, both federally and State, simply
5 because, I think, there are a lot of mental illnesses whose
6 specific causes or classifications are very difficult to obtain.
7 So, I would view someone mentally ill as someone who is mentally
8 dysfunctional to a degree that would affect one of their life --
9 one of the seven similar categories, whether it be in their
10 ability to communicate, their ability to learn, their ability to
11 take care of themselves, et cetera. But it isn't very well
12 defined, unfortunately, in the statute.

13 CHAIRMAN McCORQUODALE: Are you familiar with the
14 federal Developmental Disabilities Assistance and Bill of Rights
15 Act and the amendments of 1987?

16 MR. JONES: Yes, I am.

17 CHAIRMAN McCORQUODALE: Can you describe generally what
18 that does?

19 MR. JONES: Well, in general, it provides the rights and
20 services that the system was designed to protect. Essentially I
21 view it as building upon the original, the Lanterman Act, which
22 passed here in California, which, you know, mandates the initial
23 -- or mandates the services that we provide as well as their
24 protections and rights that people who are developmentally
25 disabled have. And then we had it in 1986, the Congress passed
26 Public Law 99319, which extended that same protection to people
27 -- persons defined as mentally ill.

1 CHAIRMAN McCORQUODALE: Do you fully support the
2 amendments that I mentioned before and the mentally ill
3 provisions?

4 MR. JONES: I would say yes, that I do. I have not read
5 every single sentence of the Act's amendments, but yes, I very
6 strongly support the general thrust of what's in there.

7 CHAIRMAN McCORQUODALE: How would you define the term
8 advocacy?

9 MR. JONES: I believe that advocacy is the ability to
10 try and help those whatever -- whether it be in the civil rights
11 area, whether it be in the developmental disability area --
12 helping people that you are mandated to help. In our case,
13 developmentally disabled persons and persons with mental illness.

14 CHAIRMAN McCORQUODALE: Can you differentiate between
15 the advocacy of the Area Boards and the advocacy of PAI?

16 MR. JONES: Yes. The Area Boards in general are a local
17 monitoring watchdog group, if you will, that oversee the regional
18 centers and make sure that systemic abuses in their locales can
19 be identified and, hopefully, corrected.

20 Protection and Advocacy in general it provides legal
21 services to persons with developmental disabilities and
22 identified as mentally ill. We -- you know, our goal is to get
23 someone their legal rights or the services to which they are
24 legally entitled to. And we deal -- perhaps more in PAI, we deal
25 more generally with individual legal rights, whereas the Area
26 Boards tend to be more systemic, and I think appropriately so.

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1 CHAIRMAN McCORQUODALE: Are there any limits that you
2 can see on providing legal services to a person in the protection
3 of their rights?

4 MR. JONES: My view is that anyone who's developmentally
5 disabled is entitled to the same rights that any citizen who is
6 not developmentally disabled is entitled to.

7 CHAIRMAN McCORQUODALE: So you wouldn't have any problem
8 in providing representation for a client who's been denied
9 transportation services to a day program?

10 MR. JONES: Absolutely not.

11 CHAIRMAN McCORQUODALE: What about to a parent of a DD
12 child who's been denied respite services?

13 MR. JONES: Again, I believe that if they're legally
14 entitled to those services, they should get them.

15 CHAIRMAN McCORQUODALE: Suppose they're denied services
16 because they've tested positive for AIDS?

17 MR. JONES: It would depend on what the services are
18 for, whether they're AIDS-related services or developmentally
19 disabled related services.

20 Did you have a specific? I mean, if they're being
21 denied a service that's open to other developmentally disabled
22 people, I would tend to think that that's wrong.

23 CHAIRMAN McCORQUODALE: So, if they're in a workshop,
24 and they've been tested positive for AIDS, and the workshop says,
25 "You can't come any more," just on that basis --

26 MR. JONES: Well, and again, somewhat depending on the
27 individuality. One of the fascinating aspects about the
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1 developmental disability-mental health field is the -- it's hard
2 to generalize. Each individual person has to be treated
3 separately.

4 I can imagine that there are some cases, perhaps a
5 person who has a long history of biting, or, you know, inflicting
6 some kind of physical injury, being considered a danger to other
7 developmentally disabled people in a facility or in a class, them
8 being denied.

9 But I think, barring some kind of circumstance like
10 that, that people who are developmentally disabled should all be
11 entitled to the same services, regardless of their physical
12 condition.

13 CHAIRMAN McCORQUODALE: Suppose two developmentally
14 disabled people had been living together. And one tested
15 positive for AIDS, and the other one refused to be tested. And
16 they were removed from the day program.

17 Would you think that's appropriate to go to court over?

18 MR. JONES: It would depend on the individual case
19 involved. I tend to be one, for example, who believes that
20 spouses, or partners who are long-term living together, have the
21 right to know whether their partner or spouse has AIDS, just as
22 we're given a blood test when we're married. But it would just
23 depend completely on the particular case.

24 As I said, sometimes it's difficult to generalize
25 because each case can be, you know, quite different when you get
26 really through the surface part of it.

27

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1 CHAIRMAN McCORQUODALE: What about a mentally ill person
2 who wants to have an abortion, and they're denied an abortion?

3 MR. JONES: Well, in my judgment and my philosophy is
4 that mentally ill and developmentally disabled people are
5 entitled to the same protections, the same rights, as all
6 nonmentally ill and nondevelopmentally disabled people.

7 My personal view is that no one has the right to an
8 abortion unless the mother's life is in danger. However -- and
9 so, I would in general not be supportive of efforts to promote
10 the right, the so-called right, of abortion, whether it be to a
11 developmentally disabled person or a nondevelopmentally disabled
12 person.

13 SENATOR WATSON: Would you repeat that again?

14 SENATOR MARKS: May I ask a question?

15 The Court has stated that people have a right to have
16 abortions, whether you want it or not.

17 I realize that you and the Republican Members of the
18 Assembly are trying your best to change that, but that's what the
19 Court has stated.

20 MR. JONES: One thing I want to be very clear on is, as
21 a Board of Directors, it is not our business to interfere in the
22 individual legal representation of our clients. Our staff has a
23 client-attorney relationship, and in general, our Board rarely,
24 if ever, becomes involved in specific cases.

25 CHAIRMAN McCORQUODALE: You can set the criteria and the
26 categories for which the allocation of funds --
27
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1 MR. JONES: I think there are circumstances, you know,
2 when we do take major systemic actions, such as the action we
3 took, I believe it was in last summer, to sue the Governor over
4 the Area Boards. That is an action -- on behalf of the State
5 Council -- that is an action in which the Board plays a role.

6 On individual cases of people being denied service, I
7 would say by and large we're not -- the Board does not only not
8 want to get involved, but we legally can't get involved because
9 that would be an imposition on the attorney-client privilege, and
10 as such would open us, as a Board, to legal -- potential legal
11 consequences.

12 So in general, our Board does not get involved in
13 specific cases and have not intention -- at least, I certainly
14 have no intention to in the future.

15 CHAIRMAN MCCORQUODALE: Let me just clarify it.

16 My reason was not to pick out. I just wanted to know of
17 there were some limits to your willingness to provide advocacy.
18 That was all. And I just picked out things I thought would be
19 emotionally conflicting for you so that I could figure out, going
20 from the easy one like transportation, to the day program, to
21 this, to find out whether you might view some rights as more
22 important than other rights.

23 MR. JONES: If staff had deemed, for example, in the
24 abortion question, that that was something the Board needed --
25 you know, needed Board input, I would be in general against that,
26 because I'm against abortion.

27
28

1 However, as I stated, as a Board, we've -- to my
2 knowledge, we've never gotten involved in internal -- in micro
3 managing our clients' legal cases. That's not our role, and
4 that's not something that we can legally or ethically do.

5 CHAIRMAN McCORQUODALE: Senator Watson, you had a
6 question?

7 SENATOR WATSON: Yes, I wanted to query that response.
8 You are President of the Board; is that correct?

9 MR. JONES: That is correct.

10 SENATOR WATSON: If part of the service to the client
11 meant that you had to approve a service that would include an
12 abortion, would you then tend to impose your will over the
13 members of the PAI?

14 MR. JONES: Absolutely not. All members of the
15 Protection and Advocacy Board are equal. My role as the
16 President not to impose views on anyone. It is to, in essence,
17 act as kind of the referee to expedite the meeting, and so forth,
18 and that I have no desire, nor have I ever attempted to influence
19 members to vote the way I -- that I am essentially trying to
20 dictate their vote; I've never done that, and I don't ever plan
21 to in the future.

22 SENATOR WATSON: Would you tend to block a move that
23 would be providing these services according with the law to a
24 client?

25 MR. JONES: No, I would not.

26 SENATOR WATSON: So, you hold your own philosophical
27 position, but you would not intend to try to influence other
28 members to follow your lead?

1 MR. JONES: Absolutely.

2 You know, we do debate issues. And I might certainly
3 feel that, from time to time, I would vacate the chair and have
4 the chairman substitute for me and maybe make a speech on an
5 issue I felt about, but I would not use my position to
6 procedurally --

7 SENATOR WATSON: But you would use your position on the
8 Board to speak to this issue?

9 MR. JONES: Yeah, as I said, I would -- under those
10 circumstances, if it was something I felt very strongly about, I
11 would vacate the chair.

12 SENATOR WATSON: Regardless of the fact that if an
13 abortion was the question, that it has been authorized for
14 certain clients by the court?

15 MR. JONES: My point was that if an issue came up,
16 whether it's abortion or whatever, that I felt strongly about, I
17 would, and take a temporary leave of absence from the President's
18 position, make my speech, and then resume the presidential
19 position, but not -- I would not use my position to try and
20 influence people's vote on a particular issue regardless.

21 SENATOR WATSON: You're still on that same Board you're
22 the President of, regardless of whether you're sitting in a chair
23 or on the --

24 MR. JONES: Right, but as I said --

25 SENATOR WATSON: Oh, no, I was asking, would you, as
26 just a member, attempt to then stand in the way or interfere with
27 the providing those services to a client if the services included
28 abortion?

1 MR. JONES: No, as I said, it is not our practice --

2 SENATOR WATSON: No, would you, not "our". Would you?

3 MR. JONES: If I felt strongly about it, I might vote
4 against it, yes, but I would have no --

5 SENATOR WATSON: You just said that you would vacate the
6 seat, and you would take a position as a member --

7 MR. JONES: Right.

8 SENATOR WATSON: -- and make your speech. Now, isn't
9 that speech trying to influence your colleagues to vote against
10 the --

11 MR. JONES: I guess, yes, you could read it like that.
12 But I would not use my presidential position to --

13 SENATOR WATSON: But don't you think that by the fact
14 that you are the President, regardless of whether you have the
15 hat on or not, that there's a little more weight added to your
16 position than to another member, regardless of whether you're
17 over in this seat or you're in this seat?

18 MR. JONES: Well, I've found that our members are very
19 independent and vote --

20 SENATOR WATSON: That's what I'm trying to get to, is
21 the independence. From what you're saying, I don't know if you
22 are independent, because I'm hearing a particular philosophy
23 about abortion. The Court has already said it's legal for
24 everybody; it should be legal for recipients.

25 MR. BROWN: Mr. Chairman, excuse me.

26 SENATOR WATSON: Excuse me.

27 ASSEMBLYMAN BROWN: I would just like to ask --
28

1 SENATOR WATSON: Excuse me, no --

2 ASSEMBLYMAN BROWN: -- a question of the Chairman.

3 SENATOR WATSON: Let me finish.

4 ASSEMBLYMAN BROWN: Now, Mr. Chairman --

5 SENATOR WATSON: Wait just a moment. You're out of
6 order. I have the floor; my light is on. I'd like for you to
7 let me finish.

8 CHAIRMAN McCORQUODALE: Yes, Mr. Brown. Please wait
9 until --

10 ASSEMBLYMAN BROWN: I just wanted to make a point of
11 order.

12 SENATOR WATSON: Wait a minute.

13 CHAIRMAN McCORQUODALE: No, we're following --

14 ASSEMBLYMAN BROWN: Could I be recognized then?

15 SENATOR WATSON: As soon as I finish.

16 ASSEMBLYMAN BROWN: Okay.

17 SENATOR WATSON: Thank you.

18 ASSEMBLYMAN BROWN: I think that's very discourteous on
19 your part, but --

20 SENATOR WATSON: Now you just walked in here.

21 ASSEMBLYMAN BROWN: No, I didn't. I've been here a long
22 time, Senator.

23 SENATOR WATSON: You just walked in here, and we've been
24 here --

25 ASSEMBLYMAN BROWN: I've been here a long time, Senator
26 Watson.

27 SENATOR WATSON: We've been in here since 10:00 o'clock.
28

1 ASSEMBLYMAN BROWN: Yes, I've been listening to to this
2 kangaroo court a long time.

3 SENATOR WATSON: I think you're very much out of order.

4 ASSEMBLYMAN BROWN: No, I'm not.

5 SENATOR WATSON: And you have interrupted --

6 ASSEMBLYMAN BROWN: I think you're very much out of
7 order not to give me the courtesy of at least --

8 SENATOR WATSON: Of course I'm not going to give it to
9 you.

10 CHAIRMAN McCORQUODALE: Mr. Brown.

11 ASSEMBLYMAN BROWN: -- on a point of order.

12 CHAIRMAN McCORQUODALE: Mr. Brown.

13 SENATOR WATSON: Why don't you leave the room?

14 CHAIRMAN McCORQUODALE: I understand the role model now
15 of the PAI Board members in which they say that one of the
16 problems is the yelling --

17 ASSEMBLYMAN BROWN: The only thing you understand --

18 SENATOR WATSON: If I may go on.

19 You see, we talk about independence, you didn't come in
20 until this man came up here. I saw --

21 ASSEMBLYMAN BROWN: That is absolutely not true. I have
22 been in this room --

23 SENATOR WATSON: Excuse me --

24 ASSEMBLYMAN BROWN: -- in and out for two hours.

25 SENATOR WATSON: Excuse me.

26 CHAIRMAN McCORQUODALE: Mr. Brown, I asked this morning,
27 I indicated to Ms. Allen when she came in, that she was welcome
28 to sit up here.

1 I did not extend that beyond that point. I don't have
2 any objections to you coming in and having a comfortable seat,
3 but you're not one of the Senate Committee Members. I don't know
4 which committee you're here representing. There are four
5 committees or subcommittees meeting at this point.

6 If you're a member of one of those, I want to make sure
7 that you're able to participate to the fullest; otherwise, you're
8 a guest of this Committee, and I would ask that you sit there.
9 If you would like to speak, at some point I'll work you in. But
10 until then, either follow decorum of this Committee, or attend
11 the PAI meetings where you'll fit in.

12 ASSEMBLYMAN BROWN: That's what I was asking. I was
13 going to ask the Chairman --

14 SENATOR WATSON: You interrupted me, sir, and I do not
15 appreciate your interruption.

16 ASSEMBLYMAN BROWN: -- if he would let me --

17 CHAIRMAN McCORQUODALE: I said that you couldn't speak.

18 ASSEMBLYMAN BROWN: Pardon me?

19 CHAIRMAN McCORQUODALE: I said that you could not speak
20 until she was finished, then I'll see about recognizing you.

21 ASSEMBLYMAN BROWN: You weren't given the opportunity --

22 SENATOR WATSON: If you continue to be rude, I'm going
23 to ask the Chairman to ask the Sergeant to have you taken out of
24 here. I'd like to finish what I was asking. I'm making a point.

25 All right. Mr. Jones, the question is, how independent
26 from your views can you be? Now, you have stated that you feel a
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1 certain way about abortion, that you would give us the gavel,
2 would take a seat, and you would speak to your colleagues about
3 denying that particular service if it had to do with abortion.

4 Is that correct?

5 MR. JONES: Well, first of all, we don't deny. I mean,
6 perhaps you're misinformed. PAI doesn't deny service. We don't
7 provide abortion services.

8 It would be in the context of a legal case that would be
9 brought as to whether we would represent someone who was trying
10 to obtain abortion services.

11 It would only be brought to our attention -- I mean,
12 first of all, we've never had any such case brought before us.
13 And if it were, it would only be on the recommendation of staff
14 that Board input was required, and in that context, all Board
15 members would be free to discuss the issue, and to the best of
16 their conscience and judgment, cast their vote. And I would be
17 doing no different than any of the other nine Board members,
18 regardless of --

19 SENATOR WATSON: I think I was clear when I said, would
20 you interfere with providing that service?

21 MR. JONES: No.

22 SENATOR WATSON: Whatever the service may be.

23 MR. JONES: I don't understand how --

24 SENATOR WATSON: Let me ask you another question.

25 Did you seek the nomination to be President of PAI?

26 MR. JONES: Yes, I sent a letter in, I believe it was
27 January, to our Secretary at the time, Connie Lapin, advising her
28

1 that I would be seeking the presidency of Protection and
2 Advocacy.

3 SENATOR WATSON: Did you submit a resume?

4 MR. JONES: I don't believe so, no.

5 SENATOR WATSON: Would you like to explain why you
6 didn't submit a resume?

7 MR. JONES: I believe that all the Board members who
8 were voting knew of my qualifications, and I felt no need.

9 SENATOR WATSON: You felt no need to submit a resume.
10 Can you tell me about your background that would prepare you for
11 the position as President?

12 MR. JONES: Certainly. I graduated from UC Berkeley in
13 1983. Then I came to work for Assemblyman Pat Nolan. When Mr.
14 Nolan became the Republican leader in the State Assembly, I went
15 to work for the Assembly Republican Caucus. While employed at
16 the Caucus, in the spring of 1985, I helped Assemblyman --
17 freshman Assemblyman Gil Ferguson to put together a hearing, an
18 informational hearing, similar to this one, in his district on
19 the issue of the intermediate care facility DDH concentration.
20 It was on the concentration of those facilities that got me
21 interested in the issue.

22 I come from a strong conservative point of view, and I
23 believe there are a lot of people on government assistance that
24 shouldn't be there, but I do believe that people who are mentally
25 ill and people who are developmentally disabled --

26 SENATOR WATSON: What does that have --
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1 MR. JONES: I'm just explaining my -- that people who
2 are developmentally disabled and mentally ill do deserve
3 government service, and this is the people that I want to help.
4 And so, I applied, after doing reading, I applied to the
5 Governor's Office for an appointment to this particular board.

6 SENATOR WATSON: You didn't supply it to the committee
7 you're asking to be part of because you thought they already knew
8 your background; is that correct?

9 MR. JONES: I'm sorry. I'm talking about -- I applied
10 to --

11 SENATOR WATSON: I asked about resumes.

12 MR. JONES: Right. As I said, I'd been on the Board for
13 2½ years, felt that everyone knew my qualifications.

14 SENATOR WATSON: Could you supply this Committee with a
15 resume?

16 MR. JONES: Certainly.

17 SENATOR WATSON: Because I don't know your background.

18 Prior to being elected President, on which Board
19 committees did you sit, and did you ever miss a meeting of such a
20 committee?

21 MR. JONES: Well, I was appointed in January of 1986 to
22 Protection and Advocacy. I believe I was placed on the
23 Organization Development Committee at that time.

24 In February of 1988 -- I'm sorry. I was reappointed in
25 October of 1986 to a full three-year term. In February of 1988,
26 I was selected to be Protection and Advocacy's representative on
27 the State Council on Developmental Disabilities. And in March, I
28 was elected by my peers as President.

1 I believe as President I serve on all -- an ex officio
2 member of all the committees. The last committee meeting I did
3 attend was an Organizational Development Committee meeting in
4 July. It was my understanding that between January and July of
5 this year, that the Organizational Development Committee had not
6 met. So, I attended the only hearing of the committee -- that
7 particular committee this year.

8 SENATOR WATSON: So you're saying that you did attend a
9 meeting of the Organizational Development Committee?

10 MR. JONES: In July; that's correct.

11 SENATOR WATSON: You attended one?

12 MR. JONES: That's correct. That's the only hearing
13 that committee has had this year.

14 SENATOR WATSON: As President, did you appoint John
15 Kellogg to the Executive Committee?

16 MR. JONES: Yes, I did.

17 SENATOR WATSON: Can you tell us why?

18 MR. JONES: Because he had asked to be in an expanded
19 role on the Board. I felt that his legal background would be an
20 asset. The Executive Committee can, from time to time, be called
21 upon to make very important decisions in a very timely fashion.
22 And I felt that having a legal background, since our Board deals
23 primarily with legal issues, would be a major asset to the
24 Executive Committee.

25 SENATOR WATSON: But you didn't think that also one of
26 the assets would be to have some knowledge of the field?

27

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1 MR. JONES: I believe, you know, as a Board member who's
2 been on it almost as long as I do that he does have knowledge of
3 the field.

4 SENATOR WATSON: It's interesting, because the attorney,
5 Mr. Kellogg, could not tell me why the meetings were so
6 disruptive, or what he thought was happening in the meetings. He
7 didn't seem to know what issues were creating such a controversy.

8 I asked him the question twice. It's been recorded. He
9 didn't seem to be knowledgeable as to what the issues were that
10 were creating the disruption.

11 Do you have any idea? You know, the meeting that he
12 walked out on, and Ms. Roos walked out on, do you remember that
13 meeting?

14 MR. JONES: I believe that meeting was on May 20th or
15 21st of this year.

16 SENATOR WATSON: Do you remember that meeting?

17 MR. JONES: Yes, I sure do.

18 SENATOR WATSON: Do you have any idea what issues
19 created the kind of diversity that was demonstrated?

20 MR. JONES: Yeah, I think the primary issue is one of
21 accountability.

22 SENATOR WATSON: Whose accountability?

23 MR. JONES: The accountability of Board members. I'm
24 sure you've heard from other witnesses that we are in the process
25 of restructuring our bylaws to bring on representation for the
26 persons identified with mental illness.

27

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1 As part of that, and in fact there is no disagreement on
2 the Board about bringing on mental health representatives. The
3 question has come up as to who would those members be accountable
4 to, and who would make the appointments.

5 And it's my judgment, speaking only personally, that
6 those -- that persons appointed to boards and commission, such as
7 Protection and Advocacy, should be accountable to the public, the
8 people of California, through their elected officials. And I
9 have -- some other members of the Board have disagreed and
10 believe that we should have self-appointed Board positions. I
11 feel this would not increase accountability.

12 I think that being accountable to our public officials
13 is important. And I think that's one of the issues which has,
14 you know, somewhat split our Board.

15 SENATOR WATSON: I'm not clear on what you mean by
16 accountability. Do you mean the person who appoints them, or who
17 they --

18 MR. JONES: Well, the person in the process. For
19 example, if the Board is appointing all its own members, it's
20 hardly accountable to the public.

21 SENATOR WATSON: Explain to me what you mean. Who
22 should have the appointment power?

23 MR. JONES: My personal view is that the proper purview
24 for boards and commissions of this type lie within the Governor
25 as the Executive Branch.

26 SENATOR WATSON: As the exclusive appointment power?
27
28

1 MR. JONES: And my personal view is that I would like to
2 see --

3 SENATOR WATSON: You just said that you thought Board
4 members ought to be responsible or accountable to the public.

5 MR. JONES: Correct.

6 SENATOR WATSON: And you don't feel that the elected
7 Members of this Legislature should appoint any members?

8 MR. JONES: Because the people of the entire State don't
9 vote for any particular individual Legislator.

10 SENATOR WATSON: Legislators vote for policies for all
11 the people.

12 MR. JONES: That's correct.

13 SENATOR WATSON: They vote for policies that affect 28
14 million people.

15 MR. JONES: That's correct, but --

16 SENATOR WATSON: You don't feel that they are
17 accountable to the people?

18 MR. JONES: You're using the accountability in a
19 different context. What I'm saying is --

20 SENATOR WATSON: Let me see if I can figure out if we
21 understand the meaning of accountability. I'm trying to repeat
22 your words, and maybe I'm getting them confused.

23 You felt that the people on the Board ought to be
24 accountable to the public; is that correct?

25 MR. JONES: That's correct.

26 SENATOR WATSON: And you said to me that the Governor
27 ought to have, the Executive Branch, ought to have the exclusive
28 right; is that correct?

1 MR. JONES: That's correct.

2 SENATOR WATSON: And then I said to you, do you feel
3 that the 120 Members of the Legislature do not have to be
4 accountable to the 28 million people?

5 MR. JONES: No, I did not say that.

6 What I'm saying is that the people, all the people of
7 this State, vote for the Governor. All of them have equal --

8 SENATOR WATSON: No --

9 MR. JONES: -- if you could let me finish, please.

10 SENATOR WATSON: Let me focus my question for you.

11 Do you feel the 120 Members of the Legislature -- now,
12 my question is focusing on the Legislature, because you already
13 said the Governor should have the exclusive right.

14 MR. JONES: I believe that appointments to boards like
15 this are in the province of the Executive Branch.

16 SENATOR WATSON: You've already said that. Now I'm
17 focusing the question to you: do you feel that the 120 people of
18 the Legislature then are not accountable to the public?

19 MR. JONES: No, I don't.

20 SENATOR WATSON: All right, thank you.

21 SENATOR MARKS: May I ask one question, please, Mr.
22 Chairman.

23 The Governor makes lots of appointments, a tremendous
24 amount of them. But most of the appointments are confirmed or
25 rejected by the Senate.

26 Now, what would be wrong with that?

27 MR. JONES: That is --
28

1 SENATOR MARKS: What's wrong with the Senate, and maybe
2 we'll include the Assembly if you want to, but what's wrong with
3 the Senate confirming them?

4 MR. JONES: I never said there was anything wrong with
5 that.

6 SENATOR MARKS: You wouldn't object to the Governor
7 making the appointments and confirmed by the Legislature?

8 MR. JONES: If that were the will of the Legislature,
9 no, I would not.

10 SENATOR MARKS: I'm asking you as a President of this
11 Board whether you'd be agreeable to such a proposal?

12 MR. JONES: I am in general agreeable to all proposals
13 that increase accountability. And if such -- depending on how it
14 was worded, I would support that concept.

15 SENATOR MARKS: It would be worded that they'll be
16 subject to confirmation.

17 MR. JONES: I would have no problem with that.

18 SENATOR MARKS: Thank you.

19 SENATOR WATSON: I'd like to get back to your
20 appointment to the Executive Board.

21 Are you aware that PAI Board practice since its
22 inception has been to include all Board officers on the Executive
23 Committee?

24 MR. JONES: That is correct.

25 SENATOR WATSON: Given that long-standing precedent,
26 then, why have you refused to seat Connie Lapin, who's the Board
27 Secretary, on the Executive Committee?
28

1 MR. JONES: Because I don't feel she's a constructive
2 member of our Board.

3 SENATOR WATSON: Three things you've said to me, and
4 we've got them recorded, show me that you are not independent in
5 your thinking, and you're very much attached to your own, shall I
6 say, philosophy.

7 You said to me that you didn't feel the Legislature was
8 accountable.

9 MR. JONES: I did not say that. If I did, I misspoke.

10 I believe the Legislature --

11 SENATOR WATSON: Let me ask the Reporter to read back
12 the last about three minutes of testimony.

13 I just want you to go back to the last three minutes,
14 because I asked the question twice. And I'm choosing my words
15 very carefully because I don't want to misspeak.

16 I asked a very specific question, and I asked it for a
17 purpose. Give me the question and then the answer.

18 (Thereupon the record was read.)

19 SENATOR WATSON: Repeat that, please.

20 (Thereupon the record was read.)

21 SENATOR WATSON: Okay, "through their elected
22 officials", there's an "s" on that? All right, thank you.

23 I don't want to misquote you, Mr. Jones, but I asked you
24 a very specific question, and maybe I heard wrong.

25 MR. JONES: Or maybe I misspoke.

26 SENATOR WATSON: Listen, rather than go back, let me
27 just ask the question again.

1 You don't think that the 120 Members of the Legislature
2 are accountable to the people?

3 MR. JONES: My answer, which I tried to impart and
4 apparently I didn't, is that yes, they are accountable.
5 Legislators are accountable to the people.

6 SENATOR WATSON: And we should not have appointment
7 power?

8 MR. JONES: I think the more appropriate response would
9 be something that Senator Marks had proposed as far as
10 confirmation. I think that these type of boards are, whether
11 it's a federal or State --

12 SENATOR WATSON: No, my question is: we should not have
13 appointment power?

14 MR. JONES: That's correct.

15 SENATOR WATSON: No is your answer?

16 MR. JONES: That's correct. Perhaps confirmation, but
17 not appointment.

18 (Thereupon the Reporter left the hearing
19 for a prior commitment, and the following
20 is transcribed verbatim from the tapes.)

21 CHAIRMAN MCCORQUODALE: We're going to record the rest
22 of it, and then we'll merge them together.

23 SENATOR WATSON: As I understand, getting back to where
24 we were, you refused to seat Connie Lapin because you feel that
25 she is disruptive?

26 MR. JONES: Well, no, that's not what I said. I feel
27 that both John and Connie had requested a position on this Board,
28

1 and my feeling is that John's legal background, and frankly, more
2 constructive attitude would make him better suited to that
3 appointment than Ms. Lapin.

4 SENATOR WATSON: Describe his constructive attitude. He
5 said that he walked out of a meeting because there was a great
6 deal of confusion, and he didn't want to be part of it. He just
7 walked away from it, he said to us, and he could not identify the
8 issues, and he could not identify why these meetings were
9 deteriorating.

10 Can you, for me, identify what the issues are that
11 create the deterioration of the decorum?

12 MR. JONES: Well I think, as I've already stated, I
13 think accountability is one of the key issues, and the fact that
14 we've been struggling to try and come up with a bylaws revision
15 which can attain the necessary two-thirds vote so that we can
16 bring mentally ill people on board as full representatives.

17 SENATOR WATSON: Do you feel that walking out of a
18 meeting and breaking the quorum is responsible and constructive
19 behavior?

20 MR. JONES: To whom are you referring?

21 I mean, the reason I asked that question is, I also left
22 the meeting.

23 SENATOR WATSON: You left the meeting?

24 MR. JONES: Yes.

25 SENATOR WATSON: Were you chairing the meeting?

26 MR. JONES: Yes.

27 SENATOR WATSON: Can you explain that to me?
28

1 MR. JONES: Absolutely.

2 I, as President, it was my first meeting, and I was
3 presiding over the meeting. When we broke for lunch, we had a
4 quorum. When we returned, I noticed, as is required under
5 Robert's Rules of Order, that no quorum was present. I informed
6 the Board members of such that we could reconvene as a committee
7 of the whole to make recommendations, but that we could take no
8 action other than adjourning.

9 The four other Board members in attendance refused to
10 acknowledge that and wanted to continue as a meeting. I pointed
11 out that, you know, that would not be legal in my judgment, and
12 that I frankly did not want to have the liability question of us
13 taking illegal acts, so I exercised my right to leave.

14 SENATOR WATSON: Who was presiding?

15 MR. JONES: I -- at that time I was presiding.

16 SENATOR WATSON: You did not adjourn the meeting?

17 MR. JONES: An adjournment takes a motion, which
18 requires --

19 SENATOR WATSON: You did not adjourn the meeting?

20 MR. JONES: I suggested to the Board that we convene as
21 a committee of the whole. That suggestion was rejected in favor
22 of continuing the meeting as if there was still a quorum.

23 CHAIRMAN McCORQUODALE: Senator, let me clarify
24 something.

25 You indicated in your answer that you'd noticed that
26 there wasn't a quorum.

27 MR. JONES: That's correct.

28

1 CHAIRMAN McCORQUODALE: That's the first time you were
2 aware that there was not a quorum or would not be a quorum?

3 MR. JONES: Well, we had -- as I said, we had convened
4 -- or broken for lunch, and when we convened, then there was only
5 five members present. We had ten members on the Board; a quorum
6 would be six.

7 CHAIRMAN McCORQUODALE: There was testimony given that
8 there was discussion at lunch that people would not return and
9 there would not be a quorum. Do you recall that?

10 MR. JONES: I talked to both John and Lori -- John
11 Kellogg and Lori Roos -- and I felt that the Board had
12 degenerated to the point where there really, frankly, was not
13 much constructive we could do, and they both made to me or told
14 me that they were very likely to leave. I did not try and
15 dissuade them on that.

16 CHAIRMAN McCORQUODALE: So when you went back, you knew
17 there would not be a quorum.

18 MR. JONES: When I went back to the Board, I noticed
19 there wasn't a quorum. They said they might leave, and they did.
20 I did not know for a fact that there wouldn't be a quorum.

21 SENATOR WATSON: How would you describe the role that
22 the public will play or will have under your presidency?

23 MR. JONES: I've been -- as I said, I've been President
24 for one meeting, and I encourage everyone to participate. I
25 think that's one of the most important things that both
26 Protection and Advocacy and the State Council do, is we try and
27 rotate the meetings at different parts of the State so that
28

1 interested citizens can express their concerns, their
2 information, tell their experiences, and I think that's an
3 important function. We encourage -- in general, we have a public
4 comments portion of our meeting, and in addition, we encourage
5 members of the public to comment on individual agenda items as
6 they come up.

7 So, I'm a big believer in maximum public participation.

8 SENATOR WATSON: How, then, do you explain why you, in
9 the course of the last several meetings, continually called for
10 the question on a standing motion shortly after the public
11 comment session would begin; refused to recognize members of the
12 audience, and at one point, referred to the audience as "the
13 peanut gallery"?

14 Furthermore, how is your commitment to maximum public
15 input reflected in your decision to leave the bylaws issue in the
16 committee where agreements might be reached without the pressure
17 of a public meeting?

18 MR. JONES: That's a long question.

19 SENATOR WATSON: Do you want me to go back to the first
20 question?

21 MR. JONES: Sure, do them one at a time, sure.

22 SENATOR WATSON: In the course of, say, several meetings
23 lately, you continually called for the question on a standing
24 motion shortly after the public comment session began. You
25 refused to recognize members of the audience, and at one point
26 referred to the audience as "the peanut gallery".

27

28

1 MR. JONES: Regarding the first portion, it would depend
2 on the individual question, individual issue. Obviously, there
3 are times in any discussion -- I'm sure Chairman McCorquodale and
4 yourself, as a chairwoman, come to this -- that debate has
5 essentially been exhausted, and that we're simply getting
6 repetition on the same points that have been brought up several
7 times before.

8 If you'd like to ask me on a specific case, but in
9 general, that's when I call for the question, if I felt that
10 everybody in the audience and everybody on the Board had had the
11 full opportunity to discuss the issue, and that we're simply
12 getting a repeat of what's already --

13 SENATOR WATSON: Did you ever refer to the audience as
14 "the peanut gallery"?

15 MR. JONES: I referred to one member of the audience as
16 "the peanut gallery".

17 SENATOR WATSON: One member made up the peanut gallery?

18 MR. JONES: Yes.

19 CHAIRMAN MCCORQUODALE: Who?

20 MR. JONES: Actually, I don't know his name. He had
21 rudely interrupted myself and other Board members during the
22 course of the meeting, and I felt that he deserved a -- just as
23 you chastised the audience this morning for interrupting into
24 cheers, I felt that he deserved to be chastised.

25 CHAIRMAN MCCORQUODALE: In looking through or going
26 through all the material that we have, and listening to the
27 tapes, at some point along the line I came across the term that
28

1 you applied to kindly, soft-spoken George DeBell while he was
2 President of the PAI Board as "S.O.B."

3 I'm not familiar with all the slang that young people
4 use now. Now, is that "Superior Officer of the Board"? Is that
5 what you meant?

6 MR. JONES: I'm sure it was, but no, in the context I
7 used it, it was not "Superior Officer of the Board"? It was a --
8 intended to express my strongest protest of what I felt was an
9 extremely illegal and unethical action upon his part.

10 I did apologize to -- for offending anyone in the
11 audience, but I do felt [sic] that his action was an attempt to
12 unilaterally disenfranchise a Board member; deserved the
13 strongest condemnation.

14 I think that taking away someone's right to vote is a
15 very serious thing to do and deserves the swiftest and strongest
16 response.

17 CHAIRMAN McCORQUODALE: One of the earlier witnesses
18 said that a statement ascribed to them could not have been true,
19 because it used the word "hell" in a public meeting in a slang,
20 derogatory manner.

21 I liked that response. I have a lot of regard for that.

22 How could you justify using "S.O.B." in a public
23 meeting?

24 MR. JONES: As I say, I did apologize for any offense
25 that I gave to members of the audience, and in fact did send a
26 letter expressing my regrets to Mr. DeBell. However, I do feel
27 that when somebody takes action I feel violates, you know, our
28

1 basic right to vote, that I think that deserves strong
2 condemnation, just as I would condemn somebody who tried to deny
3 a particular minority group's right to vote.

4 CHAIRMAN McCORQUODALE: In connection with the "peanut
5 gallery", "S.O.B.", and the other comments, we're back to the
6 issue that Senator Watson had raised.

7 How do you justify that from someone who wants to have
8 strong leadership skills and is interested in finding a
9 compromise position? How do those things work towards that, or
10 do they not work towards that?

11 MR. JONES: First of all, and I think there's been
12 somewhat of a, perhaps, misinformation. I think if you look at
13 the record that Protection and Advocacy has built since I've been
14 on the Board, in January of 1986, it's quite an impressive
15 record.

16 CHAIRMAN McCORQUODALE: Well, let's take that. You
17 touched on it before, but aren't the decisions, many of those
18 decisions that you have listed, don't they come from one of the
19 committees?

20 MR. JONES: No, they do not.

21 For example, our budget has increased, has nearly
22 tripled, since I've been on the Board. Part of that is as a
23 result of our new services to developmentally disabled; part of
24 it is also our aggressive approach to attaining private sector
25 funding.

26 And I would challenge the Committee to name another
27 agency that provides \$500,000 more in services than we're legally
28 required to. I think we're doing a great job.

1 CHAIRMAN McCORQUODALE: But don't those things come from
2 the committees to the Board? Don't you operate through the
3 committees?

4 MR. JONES: Yeah, and by and large, we do have
5 committees make recommendations.

6 CHAIRMAN McCORQUODALE: Tell us the committees you've
7 served on.

8 MR. JONES: I served on the Organizational Development
9 Committee.

10 CHAIRMAN McCORQUODALE: And how many of those meetings
11 did you make?

12 MR. JONES: I can't recall.

13 CHAIRMAN McCORQUODALE: All of them?

14 MR. JONES: No, I did not go to all of them.

15 CHAIRMAN McCORQUODALE: Most of them?

16 MR. JONES: [No response.]

17 CHAIRMAN McCORQUODALE: Any of them?

18 MR. JONES: As I said, I did attend the last one. I
19 cannot recall, Senator. I'm sorry.

20 CHAIRMAN McCORQUODALE: That's prior to your presidency,
21 though?

22 MR. JONES: That's correct.

23 You know, you get on enough of these type of boards,
24 it's difficult to remember how many times they met when.

25 CHAIRMAN McCORQUODALE: Aside from what PAI is doing in
26 the things that you've listed here, in the funding, you indicate
27 that you take some of the responsibility for that, to increase
28 funding?

1 MR. JONES: Oh, I think all the members can share in
2 that. I think, you know, we were recently audited by the
3 Administration on Developmental Disabilities, a federal agency,
4 and they took a review of the entire State DD system. We were
5 the only part of that system which was rated as meeting every
6 single category of its federal mandate. And I'm very proud of
7 that record.

8 And I would ask the Committee if there are specific
9 services or programs that we are providing that they have a
10 concern with. I think that our efforts to contract out in areas
11 that had previously been underserved, that our private sector
12 funding, that our minority outreach programs, are very
13 commendable and deserve not criticism, but strong public support.

14 CHAIRMAN MCCORQUODALE: You indicate that PAI has nearly
15 doubled its staff since 1985, but in a separate section of that,
16 you indicate that you're only serving maybe 30-something percent
17 more clients than you served, 35 percent more clients than you
18 served in '85.

19 MR. JONES: The figure of increasing 2,000 new clients
20 was in last year. I believe the staff size has increased over --
21 and Al would be better -- I was not -- I was on the Board in
22 1985, but Al would be better prepared to say when the staff
23 increased.

24 As I said, part of them are bringing on the entire new
25 population of mental health, where we've had to bring on new
26 people and -- that had skills that are -- we lacked previously in
27 terms of the services and protections of people that have mental
28 health.

1 CHAIRMAN McCORQUODALE: Mr. Polanco.

2 ASSEMBLYMAN POLANCO: Mr. Jones, I have one or two
3 questions.

4 My first question is, what are your thoughts, and
5 assuming that I were a Board member, and assuming that I fit the
6 category of having a relative outside of the State of California,
7 elsewhere, as the basis from which it allowed me to qualify to be
8 a Board member, and not being the primary caretaker, share with
9 me what your thoughts are in reference to that?

10 MR. JONES: Well, in regard to specific individuals,
11 I'm, you know, not medically or legally qualified to do that.
12 Our bylaws do not stipulate that a person's relative has to be in
13 state, out of state, or that they have to be involved in the
14 day-to-day care. Several of our Board members have their
15 children in institutions, so they're not with them every day.

16 ASSEMBLYMAN POLANCO: Let me speak with a specific.

17 There is a member who sits in that category with that
18 type of relationship, second cousin.

19 What would you say if I were that Board member, and I
20 couldn't tell you the type of treatment plans that my second
21 cousin was in, the day that that child has a birthday? What are
22 your thoughts in terms of qualifying?

23 MR. JONES: Again, I think given those criteria, that
24 that's insufficient information to make a judgment about
25 somebody's qualifications.

26 ASSEMBLYMAN POLANCO: So philosophically, you're okay
27 with that?

1 MR. JONES: Well, I'd have to see what the person's
2 other experiences and qualifications were.

3 ASSEMBLYMAN POLANCO: So philosophically, you're okay?
4 I mean, here we have a situation --

5 MR. JONES: What I'm saying is, philosophically, I don't
6 think that's enough information to make a value judgment on
7 qualifications.

8 ASSEMBLYMAN POLANCO: What would be the type of
9 information that you would need, as the chairperson? And what
10 would you do with that information if in fact it were provided?

11 MR. JONES: Well, I'd certainly like as much information
12 as possible, but anyone -- are you talking about people who are
13 applying for the Board, or --

14 ASSEMBLYMAN POLANCO: I'm talking about a current
15 situation now. It's not a hypothetical situation I've just
16 described. This is for real.

17 MR. JONES: I would prefer to have as much information.
18 If there's certainly a question about a particular Board member,
19 I prefer to have as much information as possible.

20 ASSEMBLYMAN POLANCO: What type? Like what?

21 MR. JONES: For example, a letter from a facility,
22 perhaps, or from the family, the immediate family of that person,
23 and specifying that they are developmentally disabled.

24 ASSEMBLYMAN POLANCO: That's already been established.
25 What else?

26 MR. JONES: Then, in my mind, you know, that would be
27 sufficient.
28

1 I would ask that we -- since I've been on the Board, we
2 have never required Board members, whether Board appointed or
3 non-Board appointed, to produce any kind of medical proof.

4 ASSEMBLYMAN POLANCO: You're missing my point,
5 Mr. Jones, either purposefully or I'm not communicating it very
6 effectively.

7 I think the fact that we have a hearing today that deals
8 with the question of whether or not members who have been
9 appointed there really fit the criteria, and in one particular
10 case, it was your testimony today that, in my opinion, really
11 stretches. It's like a real rubber band. It's really stretching
12 it out.

13 There are many individuals out in the state who could
14 fill that without having to stretch it out.

15 And I sit here, and I listen to you state that you would
16 want more information. But the fact of the matter is, that's not
17 really going to make a difference. It's being stretched out.
18 It's wrong, and we ought to call a spade a spade. We really
19 should, so that we can get on with the business of providing and
20 advocating for those individuals whom you are all appointed to
21 protect.

22 MR. JONES: Well, as I said, I think, a, we're doing a
23 good job of advocating --

24 ASSEMBLYMAN POLANCO: I'm not questioning the issue of
25 services. I'm questioning whether or not we are stretching it.
26 In one particular case we are, and you as chairperson, who is in
27 the middle of a lot of the bickering and the confrontation that
28

1 is not productive, counterproductive, ought to take some
2 leadership out there, and call it for what it is.

3 MR. JONES: Well, first of all, you're talking to the
4 wrong person in that regard. I'm assuming you are referring the
5 question about Lori Roos.

6 That's not a Board appointed position. The people to
7 contact on that, and if there's a question about their
8 qualifications, are the Governor's appointments office.

9 ASSEMBLYMAN POLANCO: But you're the chairperson there.
10 You can exert some leadership there. And when it's stretched to
11 that point, it's wrong. It's just wrong.

12 CHAIRMAN McCORQUODALE: Let me ask you a few questions.
13 How many of these five people that we're considering
14 here today did you know before they were appointed?

15 In other words, did you know John Kellogg?

16 MR. JONES: I had met him extremely briefly in a
17 cocktail reception in Orange County. I had no idea that he was
18 interested or applying for any position with the State. He was
19 simply a social acquaintance that I met once or twice in Orange
20 County.

21 CHAIRMAN McCORQUODALE: When you left that meeting with
22 him, you didn't know that he had put in his application?

23 MR. JONES: That's correct.

24 CHAIRMAN McCORQUODALE: How about Lori Roos?

25 MR. JONES: I encouraged Lori to apply for a position on
26 the Board. I feel that as part of my responsibility as someone
27 who's serving the developmentally disabled-mentally ill
28

1 community, that I want to encourage people to get involved. And
2 as a consequence, I have, as I meet people across the state,
3 people that I'm impressed with that I think would bring a strong
4 knowledge and strength to the Board, I encourage them to join. I
5 have encouraged, in fact, three people to join: Lori Roos, Bill
6 Ternis, and Margaret Heagney.

7 And I think that people should be encouraged to
8 participate in their government.

9 CHAIRMAN McCORQUODALE: Annette Ospital you didn't know
10 before she was appointed?

11 MR. JONES: I knew Annette. She and I worked, I
12 believe, in the Assembly Caucus at roughly the same time for a
13 short period. I remember she was there, so I knew of her, yes.
14 But I did not know she was applying for a position on this Board.

15 CHAIRMAN McCORQUODALE: Did you discuss with Margaret
16 Heagney the requirements for appointment to the Board, and the
17 categories, and discuss with her the way she could become
18 eligible to fill one of the spots?

19 MR. JONES: Yeah. I suggested that she should join an
20 organization. I feel that her knowledge, background, is
21 outstanding, and that she's eminently qualified to be a member of
22 this Board. And she'd expressed interest in this area, and I
23 suggested that she apply and also seek membership in a
24 developmental disability organization.

25 CHAIRMAN McCORQUODALE: I just read a treatise on the
26 importance of where you went to school.

27 Where did you go to school?
28

1 MR. JONES: The University of California at Berkeley is
2 where I graduated.

3 CHAIRMAN McCORQUODALE: These other folks aren't
4 Berkeley connections?

5 MR. JONES: No.

6 CHAIRMAN McCORQUODALE: Where did you first know them if
7 not in school?

8 MR. JONES: I've met -- different social events. Like I
9 said, I met Annette when, for a brief time, we worked together.

10 I believe the first time I met Margaret, she also worked
11 for a Republican Assemblyman. And I was at the time was an
12 Assembly Republican also.

13 I can't remember, frankly, where I met Lori first. I
14 believe it was at a social function.

15 SENATOR MARKS: Can I ask a question, please?

16 CHAIRMAN McCORQUODALE: Senator Marks.

17 SENATOR MARKS: I'm not talking about this event this
18 time, but the last time we met, were you subpoenaed?

19 MR. JONES: No, not to my knowledge. I never was --
20 certainly never served a subpoena.

21 SENATOR MARKS: Was a letter written to you telling you
22 we were going to have a meeting?

23 MR. JONES: There was a letter written to me.

24 SENATOR MARKS: What did you do with that letter?

25 MR. JONES: I believe I filed it away for future
26 reference.

27

28

1 SENATOR MARKS: That letter did not indicate to you that
2 you must come?

3 MR. JONES: No, it did not. It asked -- it requested
4 that I come, and my work schedule at the time was very heavy and
5 I could not.

6 SENATOR MARKS: Do you think you have some
7 responsibility to notify the Committee that you're not going to
8 be present?

9 MR. JONES: You mean to give them -- to call them and --

10 SENATOR MARKS: Well, we are Members of the Legislature,
11 and we have, I believe, and I guess you agree, that we have the
12 authority to call you through a subpoena.

13 MR. JONES: I did announce at the -- at our May meeting,
14 which I believe preceded the -- your Los Angeles hearing by about
15 a week, I did make the announcement. It was my intention to
16 attend if possible. I had a very heavy schedule at that time of
17 the year, as I do now. And I can't recall what my --

18 SENATOR MARKS: Supposed you'd been subpoenaed the first
19 time?

20 MR. JONES: Then I would have, obviously, complied with
21 the law and attended, as I've done today.

22 SENATOR MARKS: But you get a letter, and you don't
23 think you have any responsibility to tell us that you cannot be
24 there?

25 MR. JONES: As I said, it was my intention, if my
26 schedule permitted, to be there. Unfortunately it didn't, and I,
27
28

1 you know, perhaps was remiss in not notifying the Committee the
2 day before.

3 SENATOR MARKS: If you don't mind my asking, what were
4 you doing that particular day that you could not attend?

5 MR. JONES: I was doing some work out at the office.

6 CHAIRMAN McCORQUODALE: Have you discussed your
7 testimony here with other Board members?

8 MR. JONES: I'm sorry?

9 CHAIRMAN McCORQUODALE: Have you discussed the type of
10 testimony you would provide here with other Board members?

11 MR. JONES: Well, I certainly, you know, have talked to
12 them about that we're coming here, and encouraged them to be as
13 forthright as possible with the Committee.

14 CHAIRMAN McCORQUODALE: How about with the Department?
15 Have you discussed it with anybody in DDS?

16 MR. JONES: No.

17 CHAIRMAN McCORQUODALE: How about in the administration,
18 in the Governor's Office?

19 MR. JONES: I did let them know that this was occurring,
20 and that I planned to be there and testify.

21 CHAIRMAN McCORQUODALE: Did they give you any direction
22 on the type of testimony you should provide, or the style in
23 which you should provide it, or anything?

24 MR. JONES: No. As I recall, they just thanked me for
25 letting them know.

26 CHAIRMAN McCORQUODALE: Did you ever tell a Board member
27 that you discounted her opinion because you thought she was too
28 liberal?

1 MR. JONES: Not to my knowledge.

2 CHAIRMAN McCORQUODALE: We had that testimony in Los
3 Angeles. You don't recall?

4 MR. JONES: At your hearing?

5 CHAIRMAN McCORQUODALE: Yes.

6 MR. JONES: May I ask who it was?

7 CHAIRMAN McCORQUODALE: Linda Kowalka.

8 MR. JONES: I don't recall making that remark. It's not
9 inconceivable that I did, but it's --

10 CHAIRMAN McCORQUODALE: Do you think she's too liberal?

11 MR. JONES: I don't know what her politics are.

12 CHAIRMAN McCORQUODALE: Do you think she acts too
13 liberal?

14 MR. JONES: No, I wouldn't use the word liberal, but
15 she, at least in recent meetings, has acted very irresponsibly.

16 CHAIRMAN McCORQUODALE: Very what?

17 MR. JONES: Irresponsibly.

18 CHAIRMAN McCORQUODALE: You don't equate
19 irresponsibility and liberal together?

20 MR. JONES: Well --

21 (Laughter.)

22 MR. JONES: My personal view is that all liberals are
23 irresponsible, but not necessarily all irresponsible people are
24 liberal.

25 (Laughter.)

26 CHAIRMAN McCORQUODALE: But you don't discount the
27 possibility that you might have?

28

1 MR. JONES: It's possible that I said something, but I
2 seriously do not recall ever making that kind of comment,
3 certainly, at a Board meeting.

4 CHAIRMAN McCORQUODALE: How do you feel about PAI
5 winning such a large percentage of its cases against the Governor
6 or DDS?

7 MR. JONES: I think that bespeaks very well for our
8 staff.

9 CHAIRMAN McCORQUODALE: It doesn't bother you? Have you
10 discussed that issue with anyone?

11 MR. JONES: We discussed -- you mean in terms of our
12 win-loss record? No, we discussed specific cases in Board
13 meetings, you know.

14 CHAIRMAN McCORQUODALE: What about the administration?
15 Does anyone in the Department ever express concern about the
16 number of cases that PAI bring?

17 MR. JONES: No.

18 CHAIRMAN McCORQUODALE: Have you talked about it in
19 connection with the budget, the problems created with the budget?

20 MR. JONES: No. I have never spoke about litigation to
21 anyone in the administration.

22 CHAIRMAN McCORQUODALE: You haven't initiated that
23 discussion yourself with anyone?

24 MR. JONES: That's correct.

25 CHAIRMAN McCORQUODALE: Do you know if anyone in the
26 Department supported your appointment --

27 MR. JONES: No.
28

1 CHAIRMAN McCORQUODALE: -- to PAI?

2 MR. JONES: No.

3 CHAIRMAN McCORQUODALE: What about to the State Council?

4 MR. JONES: No, not to my knowledge. The process by
5 which we apply to the State Council was -- I can't remember at
6 which meeting it was, but Linda Kowalka had volunteered to be
7 the Protection and Advocacy representative. Our Board voted that
8 she should be the representative, myself and, I believe, Hale
9 Zukas offered to be alternates. I do not now have -- the choice
10 was made between those three people.

11 CHAIRMAN McCORQUODALE: Do you know Greg Sandin of DDS?

12 MR. JONES: Yes, I do.

13 CHAIRMAN McCORQUODALE: What's the nature of your
14 relationship?

15 MR. JONES: We've been friends since I came to
16 Sacramento in 1983. I knew him socially as a friend long before
17 he came to the Department of Developmental Services.

18 CHAIRMAN McCORQUODALE: Do you discuss PAI or State
19 Council business with him?

20 MR. JONES: I'm sure it's come up from time to time, but
21 I don't recall specific --

22 CHAIRMAN McCORQUODALE: What about the pending
23 Governor's appointments to these boards?

24 MR. JONES: I may have mentioned that I've encouraged
25 several people to apply.

26 CHAIRMAN McCORQUODALE: Do you know Jim Morgan?

27 MR. JONES: I never met him.
28

1 CHAIRMAN McCORQUODALE: Do you know his relationship to
2 Michael Morgan?

3 MR. JONES: Other than that they have the same last
4 name, no.

5 CHAIRMAN McCORQUODALE: Do you know Michael Morgan?

6 MR. JONES: Yes, we serve on the State Council together.
7 He's our chairperson.

8 CHAIRMAN McCORQUODALE: What's your relationship with
9 Gary Macomber?

10 MR. JONES: I respect him. I think he's on the -- we
11 serve on the State Council together. I find him to be very
12 knowledgeable and very committed to serving people with
13 developmental disabilities. I believe that --

14 CHAIRMAN McCORQUODALE: Did you like the other position
15 in the Brown administration?

16 MR. JONES: I believe I had heard that sometime before.

17 CHAIRMAN McCORQUODALE: How do you reconcile saying good
18 things about him if you --

19 MR. JONES: There's been a lot of good things --

20 CHAIRMAN McCORQUODALE: You don't have to answer that
21 one.

22 MR. JONES: But as far as -- you know, I've never called
23 him, or had him call me. The only time that I can recall going
24 to his office was to be sworn in upon my appointment, I believe.
25 Annette Ospital and I were appointed at the same time and were
26 sworn in together there.

27

28

1 CHAIRMAN McCORQUODALE: Why was the last PAI Board
2 meeting cancelled?

3 MR. JONES: It was postponed because it was felt that --
4 two reasons. There was not enough agenda items to justify the
5 expense of the meeting, and secondly, to allow some time, a
6 cooling off time, so that hopefully it would induce constructive
7 compromise on the bylaws question.

8 We only postponed it a month, I might add.

9 CHAIRMAN McCORQUODALE: We heard that there was a firm
10 that was hired to consider whether there was a possibility of
11 mediating some of the conflicts between Board members. Were you
12 one of the --

13 MR. JONES: Yes, I met with I believe his name was Jack
14 Parham, and we discussed --

15 CHAIRMAN McCORQUODALE: Did you feel that was a
16 possibility?

17 MR. JONES: I talked to him for quite some time. I felt
18 that a lot of the issues were very deeply imbedded, and that I
19 was not real optimistic of his chances. I think the issue of
20 accountability that's dividing our Board is a very deep one, and
21 I think it's -- we did get -- I don't know if other witnesses
22 have mentioned this, at our last Organizational Development
23 Committee meeting, we had a compromise, which I think is a very
24 bright one, having the U.S. Senators, perhaps, make appointments
25 to the Board in lieu of the Legislature or the Board.

26 CHAIRMAN McCORQUODALE: Who called that meeting?

27 MR. JONES: The chairperson, Lori Roos.
28

1 CHAIRMAN McCORQUODALE: How did you get a notification
2 of it?

3 MR. JONES: I talked to her on the phone. She said she
4 wanted to have a meeting, so I said --

5 CHAIRMAN McCORQUODALE: Do you serve on that committee?

6 MR. JONES: I serve as an ex officio on all committees.

7 CHAIRMAN McCORQUODALE: We were wondering this morning
8 in discussion, do you get a vote on that as ex officio, or do you
9 not get a vote?

10 MR. JONES: I'm not sure. I would not vote in most
11 circumstances. I'm there more as, you know, to try and help
12 along -- in the particular case, help along the compromise
13 efforts on the bylaws.

14 CHAIRMAN McCORQUODALE: Did you try to contact Linda
15 Kowalka about that meeting?

16 MR. JONES: Yes, I believe I left a couple of messages
17 on her machine, and I think Al finally talked to her about it and
18 notified her of the meeting.

19 CHAIRMAN McCORQUODALE: Had Linda or other Board members
20 expressed concern that such a meeting occurred that you're aware
21 of?

22 MR. JONES: We had at the May meeting voted to rerefer
23 the -- I'm sorry, at the March meeting we had voted to rerefer
24 the bylaws question to committee in the hopes that in a smaller,
25 less polarized forum, that the fruits of compromise might be able
26 to take root. And I believe this was the first meeting towards
27 that end.

28

1 All members of the committee are interested, I think, in
2 resolving the problem. We had, as I recall, four members
3 present: two committee members, myself, and Connie Lapin, who's
4 not on the committee.

5 CHAIRMAN McCORQUODALE: Again in line with trying to be
6 a reconciler, trying to provide leadership, did you feel that
7 there was a greater urgency in the need to notify Linda Kowalka
8 of that meeting?

9 MR. JONES: As I said, I believe I left several messages
10 on her machine. As I recall, the meeting somewhat got off the
11 ground late, but we did have four Board members present.

12 Quite frankly, the meeting was more for, I think,
13 discussion purposes than for taking any particular action.

14 CHAIRMAN McCORQUODALE: Did you know whether Linda would
15 be there before the meeting started:

16 MR. JONES: I believe I did. I'm trying to think. I
17 believe I had talked to Al, and he had said he had contacted her
18 and she would be planning to be there.

19 CHAIRMAN McCORQUODALE: Is that your recollection, Al?

20 MR. ZONCA: Yes, it is.

21 CHAIRMAN McCORQUODALE: You indicated earlier the
22 concern related to self-appointing boards, and this has been a
23 recurrent concern of Board members.

24 However, you nominated Bill Ternis as the Board-
25 appointed member?

26 MR. JONES: That's correct. We have a vacancy.

27 CHAIRMAN McCORQUODALE: Why did you do that?
28

1 MR. JONES: Because I felt he would contribute a lot to
2 the Board, and I hate to see -- this vacancy has been vacant, if
3 you will, this position has been vacant for over a year. And I
4 felt that -- or almost a year.

5 CHAIRMAN McCORQUODALE: What seat did you want to
6 recommend him for?

7 MR. JONES: This would have been the position previously
8 held by Lottie Moise. It would be a relative position. Bill has
9 a developmentally disabled sister in, I believe, Concord,
10 California.

11 CHAIRMAN McCORQUODALE: So the qualification is that you
12 thought he had a developmentally disabled family member?

13 MR. JONES: Correct. The Board -- I would point out,
14 the Board decided that we should get the bylaws compromise taken
15 care of, and so his nomination was defeated and the spot left
16 open in the hopes that we could appoint a member, a person with
17 mental illness or family member in that category.

18 CHAIRMAN McCORQUODALE: Is there some possibility that
19 his family member would qualify as mentally ill?

20 MR. JONES: That's possible. That's possible.

21 CHAIRMAN McCORQUODALE: In deciding to nominate him, did
22 you make any effort at ascertaining whether his family member
23 really was developmentally disabled and met the qualifications?

24 MR. JONES: To the best of my judgment, his sister did.
25 He gave me -- he expressed an interest in being on the Board; had
26 given me a resume and information. And I had no reason to doubt
27 that.

1 As I said, since I've been on the Board, we've never
2 required anyone to medially prove they had -- their children were
3 DD or that they were relatives. You know, I would view that as
4 somewhat of an invasion of a person's confidential medical
5 records.

6 CHAIRMAN McCORQUODALE: I'll get back to that, but since
7 these appointments started, we have one person who was appointed
8 who has a family member that's developmentally disabled but at
9 some other location. And a controversy arose about whether that
10 qualified.

11 Another one who joined an organization a week before
12 they were appointed, and a controversy arose about that one.

13 And as far as I know, in all the time before,
14 controversies hadn't arisen, even though the same people were out
15 there, watching what was going on.

16 Wouldn't that make a good policy, then, to have a better
17 ascertainment of the category that the person is filling?

18 MR. JONES: Again, you're still asking the wrong person.
19 You know, we certainly can make recommendations to the Governor's
20 Office --

21 CHAIRMAN McCORQUODALE: I'm sticking with Mr. Ternis,
22 because that's one you had a responsibility for.

23 MR. JONES: Right. To my knowledge, he was, you know,
24 given the background and resume he'd given me, I had no reason to
25 doubt that his sister was developmentally disabled.

26 In fact, I believe his mother has been -- was recently
27 the treasurer of either LARC or the Sacramento Association for
28

1 Retarded Citizens. So, she's clearly been active and the whole
2 family has been active.

3 CHAIRMAN McCORQUODALE: The issue of resumes is an
4 interesting one. I mentioned this morning to Ms. Ospital that,
5 unsolicited, I get one to three resumes a week coming across my
6 desk. If I speak to a group, if my name appears in the paper,
7 people who want a job, who are looking for either a job or some
8 appointment write to me and ask me to support or endorse them or
9 to hire them. So I get a lot of resumes.

10 And then, when we asked for the resumes of people who
11 it's normal that they would submit a resume in connection with
12 their appointment and we don't get them, it always raises the
13 question: why? What is there about this? We don't have
14 problems getting resumes from the Mental Health Advisory Board,
15 from the Area Boards, or any other group or person that's
16 appointed that I would like resumes from.

17 But we don't get them here. Not only that, the
18 Governor's Office can't get them, and the offices that we
19 normally would contact can't get them.

20 MR. JONES: Well, I did submit a resume with my
21 application, as I recall. And I did earlier tell Senator Watson
22 that I'd be more than happy to provide the Committee with -- or
23 Committees -- with copies of my resume. Be glad to send that in
24 the mail first thing tomorrow.

25 CHAIRMAN McCORQUODALE: Why wouldn't it have come
26 before? You even urged the people to send them, but then you
27 didn't send yours.

1 MR. JONES: Must have been just an oversight.

2 CHAIRMAN McCORQUODALE: Did you at any time indicate
3 that you would not attend or cooperate with these Committees in
4 this investigation? Senator Watson touched on that, and I wanted
5 to ask a little more about that.

6 MR. JONES: No, as I said, you know, it was my intention
7 that if I could, I would make the hearing. My work prevented me
8 from doing so. And when I was subpoenaed -- I might add that I
9 got the second, the letter for this particular hearing I received
10 at my home in Rockland on Friday. I was subpoenaed on Monday, so
11 there wasn't much of a chance to formally respond to the letter
12 for this particular hearing.

13 CHAIRMAN McCORQUODALE: July 27th, did you get that one?

14 MR. JONES: I'm looking. I believe I got it earlier.

15 CHAIRMAN McCORQUODALE: There were two or three letters.

16 MR. JONES: Well, this says -- this subpoena is signed
17 the 1st of July, and I believe the letter I received for this
18 particular hearing was dated the 1st of July, or I received it on
19 the 1st of July. So, I hadn't had any chance to respond before
20 getting the subpoena.

21 CHAIRMAN McCORQUODALE: Did you at any time encourage or
22 discuss nonattendance with other Board members to this meeting?

23 MR. JONES: No, in fact, at the last -- our last Board
24 meeting, I urged all members to make an effort to attend.

25 CHAIRMAN McCORQUODALE: Do you believe this Committee
26 has authority to question the appointments or actions of these
27 advocacy boards?
28

1 MR. JONES: Yes, I do.

2 CHAIRMAN McCORQUODALE: What was your position with the
3 Olson campaign during the race?

4 MR. JONES: I was the campaign manager.

5 CHAIRMAN McCORQUODALE: Were you supervising Mr. Titus
6 at that time?

7 MR. JONES: He worked for the campaign, yes.

8 Might I ask what that has to do with fulfilling our
9 mandate for developmental disabilities?

10 CHAIRMAN McCORQUODALE: Well, you're holding yourself
11 out as a reconciler, a person who can try to bring people
12 together, work with the public, and I'm just looking for whether
13 that's a previous pattern, or whether you feel that's a change
14 that's going to take place.

15 What we've seen is the public Chris. We don't know what
16 the private Chris is, and maybe the public Chris doesn't look
17 that great. And we have to look, then, at the private Chris to
18 see if we think there's going to be this change.

19 We've been in this meeting, and you've been waiting
20 around, you lost a day. We've used the day. This is the result
21 of hundreds of hours of staff time to reach this point. We still
22 have a long ways to go, because all this stuff that's said today
23 we have to review, compare that back with all the other material,
24 determine whether there's enough information to go on or not.

25 And so, we're concerned about what the future holds.
26 And you've indicated, and there's been discussion about the
27 bylaws, and what those bylaws will be. We recognize that as time
28

1 goes by, there will be the seven or eight, or some number, of new
2 people on the Board since you went on.

3 So what does that hold for the developmentally disabled
4 and mentally ill? Is it your intent to change those bylaws to
5 the extent that -- people who also behind you, 100 people or more
6 who've been here also since 9:30 this morning, who are interested
7 in this, most of them paid their own way to be here because
8 they're concerned about what's happening. And so we want to know
9 what the future holds.

10 Are we going to look at problems in this area once
11 again, or are those problems going to recede, and is PAI going to
12 do the fine work that it has done?

13 I told people at the meeting in Los Angeles, recounting
14 the history of PAI, I opposed the former Governor in what he was
15 going to set up as the mechanism to deal with this. I liked the
16 broad base. I felt there were problems, and at that time I felt
17 we ought to break up the appointments, but I knew I wasn't in the
18 Legislature; I didn't have that much voice about it at that
19 point. So, I thought that the new compromise that was accepted,
20 which is the current status of the Board, was at least better
21 than what the Governor had proposed.

22 And so, now things have gone relatively quiet, and
23 you're right. The data and the hundreds of people, and I
24 understand that you saw the report from Channel 4, the people of
25 this state need PAI.

26 So I would like to know what you think the future holds.
27 Is this a new Chris, or is this a Chris that, if he's in charge,
28 doesn't have that great a past?

1 MR. JONES: I certainly, you know, look forward to
2 continuing to provide the most high quality legal services we can
3 to the constituencies that we are mandated to serve. And I think
4 our record's been really good on that, and I don't see where that
5 will change. I hope that we can do more to bring more services
6 to more people.

7 And I think if you do look at the record, and take away
8 some of the surface rhetoric and look at the record, that it's
9 very good, and that will continue. And I'm, frankly, very
10 optimistic that, you know, we'll continue on and achieve new
11 heights and services.

12 CHAIRMAN McCORQUODALE: Well, there are a lot of us, and
13 I think you probably would come in that category, that would like
14 to see PAI go out of business. But we want to see them go out of
15 business because the agencies and the departments are doing their
16 jobs, and there's no reason for lawsuits, not because the
17 problems continue and people lose confidence, and people aren't
18 willing to work for the agency, and it loses its ability. And
19 that we end up with all the services contracted out, which are
20 very expensive and create a great opportunity for people to abuse
21 that system, but at the same time, doesn't provide the ongoing
22 oversight necessary, still necessary, for the clients. So that's
23 our concern.

24 So, I understand that there are some things that
25 probably I'm hesitant to say. It embarrasses me; I know it
26 embarrasses you at this point; it embarrasses others, but still
27 it --
28

1 MR. JONES: I would disagree. I am not embarrassed by
2 our record at all.

3 CHAIRMAN McCORQUODALE: Well, actually, that worries us
4 even more.

5 Again, the reason that I was looking at Mr. Titus, he
6 was a worker. So if he got coerced by you and taken along --
7 it's the Lori Roos who's working so hard to get through law
8 school and to raise some money to pay for her support, and doing
9 all those things that are necessary to get through, is she going
10 to be led along by Chris? Or is she going to not have his
11 interests superimposed on her?

12 Is Annette Ospital, the new mother who has all the
13 problems related to motherhood and the other issues of family, is
14 she going to be an independent person, or will she have Chris
15 superimposed on her decisions?

16 I could go through all the others, but the concern I
17 have is that you represent a public position. Yet, your
18 livelihood, by its nature, is very partisan. I would say this if
19 you were the chair of the Democratic counterpart. I think that
20 you have to be to do the things and put out the effort that you
21 do, you'd have to really feel strongly about that.

22 So if you see on the one hand, your work being torn down
23 by an agency that brings lawsuits and gets bad publicity, and
24 causes 100,000 parents, and relatives, and friends of the
25 developmentally disabled to feel badly about your party, does
26 that influence you to try to stop that process?

27

28

1 Or do you say, on the one hand, I worked all day today
2 to help get more Republicans in office, and tonight I come to the
3 meeting and vote to do things to tear down their possibility of
4 being elected in close races, because the developmentally
5 disabled might view the Republicans as being not the friend of
6 developmentally disabled.

7 Did that ever come into your way of thinking?

8 MR. JONES: No, the two roles are completely separate.
9 Just as when you were a County Supervisor and also on the Area
10 Board, I'm sure you did the same. It's a different hat, and I
11 have a different responsibility, a different boss. In the case
12 of PAI, my boss is the constituencies that we serve and the
13 effort to provide the maximum number of services to the maximum
14 number of people.

15 And I'm -- as I say, if you look at the record, I think
16 it's very good, and I think it will continue to be very good.

17 And I, you know, would, you know, encourage you to
18 please keep in touch with me if you have concerns about the
19 direction Protection and Advocacy is heading. I think it's a
20 very good direction, and I'm very proud of our record.

21 CHAIRMAN McCORQUODALE: You don't have any specifics
22 that you're thinking of today in the bylaw changes that down the
23 road that you might want to propose?

24 MR. JONES: Well, as I said, the compromise solution
25 that we're working on right now is perhaps involving the U.S.
26 Senators. That seems to be one that gets some support from
27 people that had previously been quite far apart, so I'm hopeful
28 that that will perhaps lead to a resolution of the problem.

1 SENATOR WATSON: Why the U.S. Senators?

2 MR. JONES: This is what I was trying to explain
3 earlier. I think it's felt that we need the broadest based
4 accountability possible, and that people who are elected by all
5 the people of the State are more -- and appointees of those --
6 are more accountable to all the people than a particular
7 Legislator who's elected by one-eightieth, or one-one hundred
8 twentieth, or one-fortieth of the State. And that's why, at
9 least my feeling, that we should encourage the broadest possible
10 accountability as far as appointments go.

11 My personal preference, as I said, is that the Board be
12 entirely Governor appointed, but I recognize that that's probably
13 not one that would get a two-thirds vote on the Board. And so,
14 I'm willing to take a good look at seeing if the U.S. Senators
15 would be, you know, since we have both parties represented in the
16 U.S. Senate, at least until January, that, you know, that would
17 provide some balance and something that everybody could support.

18 SENATOR WATSON: I find it very curious that you don't
19 consider the 120 Members accountable.

20 You said we only represent one-eightieth or one- one
21 hundred twentieth, but we do go back every two and four years to
22 be held accountable for everything that we do. We appoint to
23 many boards and commissions. Over 5,000-6,000 appointments are
24 made, and many of them are made by a body that has to answer to
25 the public.

26 We vote every day on issues that affect everyone's
27 livelihood, all 28 million people, but we can't be accountable to
28 appoint to the PAI Board.

1 That strikes me as very curious.

2 Getting back to a question I asked you earlier, I asked
3 you why Connie Lapin was not appointed to the Executive Board.
4 You said she was disruptive.

5 Can you tell me what she was disruptive about? What was
6 the issue of her disruption?

7 MR. JONES: Well, as I stated, I felt between the two of
8 them that John --

9 SENATOR WATSON: Between the two --

10 MR. JONES: Between John Kellogg and Connie Lapin, the
11 two people who had expressed interest in the position, that
12 John's background, his cool-headedness, his more detached and
13 less emotional approach was better suited for the Executive
14 Committee.

15 I have found that, you know, Connie is a very charming
16 woman and has done lots of good things over her short life to
17 benefit the disabled. And she should be very proud of that.

18 However, I have found in my experience that she's been a
19 very difficult Board member to deal with, and that John has been
20 a much more reasonable and compromising member. And I felt that
21 between that and his legal background, it would be a -- it would
22 add a greater strength to the committee.

23 SENATOR WATSON: Are you saying that he agrees with your
24 opinions and she does not?

25 MR. JONES: No, that's not true. I also supported Hale
26 Zukas for the other Board position and --

27

28

1 SENATOR WATSON: He is more of technocrat and she is
2 more emotional, but you said she was a very charming woman. I
3 don't know what that has to do with anything.

4 I kind of get a little bent out of shape when I hear men
5 go to those kinds of things when they're describing a person's
6 functions. The person functions charmingly, or the person
7 functions competently or incompetently.

8 But anyway, let me go beyond that. Did I understand you
9 to say that you will be recommending people to fill the vacancies
10 that are going to come about in September?

11 MR. JONES: I did not say that, no.

12 SENATOR WATSON: Are there going to be one or two
13 vacancies in September?

14 MR. JONES: My understanding is that two of our Board
15 positions -- actually three expire at the end of September. I
16 believe Annette Ospital, George DeBell and Hale Zukas.

17 Now, the way our bylaws are structured, the Governor-
18 appointed members, like George and Annette, retain their position
19 on the Board until they are either reappointed or replaced.

20 SENATOR WATSON: Yes, I know that.

21 MR. JONES: Hale has served two full terms, which is the
22 limit allowed by our bylaws.

23 SENATOR WATSON: I know that.

24 MR. JONES: And then he will become vacant.

25 SENATOR WATSON: I don't want to take too much time on
26 this one.

27 Have you recommended any replacements --
28

1 MR. JONES: No.

2 SENATOR WATSON: -- for any of those three positions?

3 MR. JONES: No, I have not.

4 SENATOR WATSON: Do you intend to do so?

5 MR. JONES: Not -- no. As I said, as I go around the
6 state and meet people, I encourage them to apply, to get involved
7 and --

8 SENATOR WATSON: But you have not recommended --

9 MR. JONES: But I have not said apply for such-and-such
10 position, no.

11 SENATOR WATSON: Have you made up your mind to select
12 someone as chief financial officer when Hale Zukas' term expires
13 in September?

14 MR. JONES: Absolutely not. That's not, frankly, my
15 decision. It's the -- the way the process works is, the
16 Nominating Committee, obviously, takes requests from Board
17 members to see who's interested in that position.

18 SENATOR WATSON: Have you given a name?

19 MR. JONES: No, I have not.

20 SENATOR WATSON: You have not said that you wanted John
21 Kellogg to fill that position?

22 MR. JONES: No, not to my knowledge.

23 SENATOR WATSON: You did not call someone by phone and
24 say, "This is the person I want to fill the chief financial
25 officer position"?

26 MR. JONES: I -- it may have come up as a possibility,
27 but I have not selected. It's not my role to select anyone for
28

1 an officer position. That's a decision made by a majority of the
2 members of the Board.

3 SENATOR WATSON: That supposedly is what should take
4 place. Have you suggested one to any other Board member?

5 MR. JONES: I had -- it may have come up in a
6 conversation that -- and different people would be possibilities
7 for positions, but I have not chosen anyone, nor do I intend to.
8 It's up to whether the Board members want to --

9 SENATOR WATSON: But John Kellogg would have been one
10 person's name you would have recommended?

11 MR. JONES: Possibly.

12 SENATOR WATSON: And you have mentioned that name?

13 MR. JONES: I may have, yes.

14 SENATOR WATSON: You have.

15 MR. JONES: I may have. As I say, I may have mentioned
16 others also.

17 If you're certain, if you were in the conversation --

18 SENATOR WATSON: I said you have; yes or no?

19 MR. JONES: I may have. I'm not sure.

20 SENATOR WATSON: You're not sure whether you've
21 mentioned that name, all right.

22 This is my last question. When you asked to be
23 considered as President, as you have asked or I understand you
24 have asked that other people be considered to fill certain slots,
25 you talked about being a person of compromise.

26 You referred to someone as an "S.O.B." You referred to
27 an individual as the "peanut gallery". You referred to Connie
28

1 Lapin as disruptive. You have talked about issues that you feel
2 emotional about, giving up the gavel and sitting down and
3 speaking against them. You left a meeting as the chair of that
4 meeting without adjourning that meeting.

5 You seem to be part of the problem.

6 MR. JONES: You're entitled to your opinion, Senator.

7 SENATOR WATSON: I'm trying to see where you've tried to
8 compromise. From what I just said, is there anything that I
9 described to you that is not true?

10 MR. JONES: Several things.

11 SENATOR WATSON: Tell me what I said that wasn't true.
12 I'll correct it and apologize.

13 MR. JONES: Well, for example, you know, I did not leave
14 the meeting to try and disrupt.

15 SENATOR WATSON: No, I didn't say that. I said you left
16 the meeting.

17 MR. JONES: That is correct.

18 SENATOR WATSON: You called somebody an "S.O.B."

19 MR. JONES: Correct.

20 SENATOR WATSON: You called someone the "peanut
21 gallery."

22 MR. JONES: Correct.

23 SENATOR WATSON: You said Connie Lapin, who should be on
24 the Executive Committee, you did not appoint because she was
25 disruptive.

26 MR. JONES: That is correct also. Those things are
27 correct.

1 SENATOR WATSON: All right.

2 MR. JONES: I thought I heard something else there.

3 SENATOR WATSON: I don't want to accuse you of something
4 that's not true, I really don't. I want to be fair and just.

5 I'm trying to document the things that I have heard.

6 Now, how does this signal us that you can run an
7 organization that will reach consensus and compromise, and
8 service the clients?

9 You talk about how disruptive and chaotic; somebody else
10 described the loss of decorum. And I'm trying to figure out who
11 is part of the problem, and from what I described, you seem to be
12 part of the problem, not part of the compromise consensus and
13 solution.

14 MR. JONES: As I said, I disagree with that statement.

15 SENATOR WATSON: Well, in conclusion, Mr. President, it
16 seems to me as the President with the gavel, you're the one that
17 should look for compromise. You're the one that, when everybody
18 gets up to leave the meeting, that you certainly will stay there
19 and try to bring it together.

20 I understand that bylaw issues were put over. I
21 understand some issues don't get on the agenda by you. And it
22 seems like you're playing a role.

23 You've already told me of your philosophy, and how
24 strongly you feel. I understand that, because I'm driven, too.
25 You made a statement about liberals as being disruptive.

26 I just feel that as the President, you've shown your
27 hand. That certain things that go your way are all right, but if
28

1 they don't go your way in the conservative block, that they're
2 not going to have an easy time on your Board.

3 Now, that really concerns me because we're dealing with
4 the lives of human beings, and they aren't pretty; they're not
5 easy. They're long-suffering; the families are long-suffering,
6 and it sounds to me like you've got some political ideology that
7 you're letting come into your decision making.

8 I think the Board's in trouble.

9 MR. JONES: I would just, again, point to the record.
10 There are -- our services that we deliver and the quality of our
11 staff, and et cetera, and I'm very proud of our record and will
12 continue to be so.

13 SENATOR MARKS: May I ask a question.

14 It sort of bothers me a little bit, I think you are
15 sincere, but it does bother me a little bit that you a whole
16 bunch of people sitting out there, all of whom are devoted to
17 this whole problem, and who seem very much disturbed with you.

18 How is that possible? I'm not trying to ask the same
19 question that Senator Watson asked, but we've got a whole bunch
20 of people sitting out here, who've sat here all day, who are very
21 much concerned with the problem. And they are very much
22 disturbed with the way in which you've operated.

23 Now, how is that possible? Are they all wrong?

24 MR. JONES: They may have a difference of opinion.

25 Again, Senator, I don't mean to sound like a broken
26 record, but I look at the record of Protection and Advocacy, and
27 I think it's a very good record. And we are more than fulfilling
28 our federal mandate, and that's something that I think --

1 SENATOR MARKS: But you have a large group of people out
2 in the audience, you must recognize that, and they're not just
3 the people who are here. They're a large group of people who are
4 very much disturbed with the way in which you're operating -- you
5 and Mr. Kellogg and others -- are operating this agency.

6 Why is that occurring? You must think they're wrong.

7 MR. JONES: You'd have to ask them.

8 SENATOR MARKS: You must think they're wrong because
9 they don't agree with you.

10 MR. JONES: I don't necessarily -- I mean, I don't know
11 if they all have the same view or not.

12 CHAIRMAN McCORQUODALE: We did hear a lot of those,
13 Mr. Jones, at the Los Angeles hearing.

14 MR. JONES: Certainly. There's been, you know,
15 different issues that have come up where certain members of the
16 community have voiced disagreement with what -- on an issue with
17 the Board. But that's, I think, very typical. Just as when you
18 hear legislation, there's almost always two sides, you know,
19 proponents and opponents. And I think that's very typical and
20 part of the democratic process.

21 ASSEMBLYMAN BROWN: Well, I think just in response to
22 that, Senator Marks, with all due respect, both you and Senator
23 Watson both represent very heavily Democratic districts, as you
24 well know. And yet, when you come up for re-election every year,
25 you have thousands and thousands of people that vote against your
26 re-election; do you not?

27 SENATOR MARKS: Not too many. Not too many.
28

(Laughter.)

1 ASSEMBLYMAN BROWN: But they are --

2 SENATOR MARKS: I used to be a Republican.

3 ASSEMBLYMAN BROWN: They are in the thousands, even in
4 your districts that are very heavily Democrat, so I don't see,
5 obviously, anything --

6 SENATOR MARKS: The point I'm trying to make, and I
7 won't interrupt you, but the point I'm trying to make is that
8 there is a large group of people sitting out in the audience
9 who've been working very closely in this field, who know
10 something about this field, and they are diametrically opposed.

11 I'm saying that he must feel --

12 ASSEMBLYMAN BROWN: But that's their God-given right.
13 That's what our country is all about.

14 CHAIRMAN McCORQUODALE: I think the thing that concerns
15 us, though, Mr. Brown --

16 ASSEMBLYMAN BROWN: I mean, none of us get 100 percent
17 approval from our constituents.

18 SENATOR MARKS: That's in your district.

19 ASSEMBLYMAN BROWN: No, I don't either.

20 CHAIRMAN McCORQUODALE: In all of the testimony that
21 we've received from the, for lack of a better term, the newer
22 appointees to the Board, and the administration, this idea that
23 we've got to have new people in. And that the people who've
24 spent in some cases their lives, their adult lives, taking care
25 of family members, and seeing the difficulty of working to so
26 slowly get new services and get new programs, and the willingness
27

1 to serve on boards and commissions over the years, and it was
2 hard to find people willing to do it, are now being told that
3 they're irresponsible, that they're too aggressive, that they
4 talk too long, or that they get upset if people don't do certain
5 things.

6 I'm just curious as to the philosophy that, all at once,
7 we want to make this whole change. I was hoping that Mr. Jones
8 would go ahead and say something critical about the liberals,
9 because it seems to me that what he's doing is, he's being very
10 liberal in this. The definition of a liberal being that you want
11 to make change, and a conservative is more likely to protect the
12 status quo and the institutions. But he's got the whole thing
13 turned around.

14 But we're making a whole change in which we aren't quite
15 sure that those people in the audience, and who've written to us,
16 who've called us, who've watched the development since the
17 Lanterman Act was adopted, there's nothing ever come easy in
18 this. It's all been the route of compromise, and working, and
19 trying to move forward one step at a time.

20 And if now, all at once, a group of people who haven't
21 had the real involvement and the history of the problems come in
22 and create this problem, maybe we're going to see a dissolution
23 of the process of ensuring that the agencies and the departments
24 carry out their responsibilities. It worries people.

25 ASSEMBLYMAN BROWN: Well, Senator, could it just
26 possibly be that maybe these people that you're referring to had
27 been so used on this Board of controlling things for so long, and
28

1 they just couldn't take it, that some other people had come on
2 the Board, perhaps, that had a different view of the way this
3 Board should be run, the priorities that it should have, and how
4 it should operate, and the way it should function, and so on and
5 so forth. And much like, to try to find an analogy, when George
6 Deukmejian took over as Governor. There were a couple houses of
7 this Legislature that were so used to having their way on
8 everything, and they just couldn't take it that they didn't have
9 someone down on the first floor that rubber-stamped everything
10 that they did.

11 And it could be that these individuals on this Board
12 that had, perhaps, runs things, and been the majority for a long,
13 long time, just couldn't take it that there were some new people
14 on the Board.

15 I know you can't accept that, and Senator Watson
16 apparently can't, either, but sometimes the truth hurts.

17 SENATOR WATSON: I think we really ought to move on, Mr.
18 Chairman. We don't want to take this time --

19 ASSEMBLYMAN BROWN: Yes, let's move on. We don't want
20 to get into anything factual here at all.

21 SENATOR WATSON: We don't want to get into a discussion
22 with Mr. Brown over politics, and who's in the office. I'd like
23 to get to the next person.

24 CHAIRMAN McCORQUODALE: Let me ask you a couple of other
25 things to clarify.

26 I have the agenda for the August 20th meeting, which I
27 understand is just simply they changed the date, and it was the
28 July meeting otherwise, but the items are still on there.

1 MR. JONES: That's incorrect.

2 CHAIRMAN McCORQUODALE: There have been things added?

3 MR. JONES: The budget items would not have been ready
4 by a July meeting, according to staff, and that's the reason.

5 CHAIRMAN McCORQUODALE: The '89 budget or '88 budget?

6 MR. JONES: Both.

7 CHAIRMAN McCORQUODALE: Both would not have been ready
8 at the --

9 MR. JONES: Right, and that was per direction of our
10 Executive Director.

11 CHAIRMAN McCORQUODALE: And so you'll take those up at
12 this --

13 MR. JONES: That's correct.

14 CHAIRMAN McCORQUODALE: -- meeting.

15 Maybe you have the same feeling Mr. Brown did about the
16 philosophy of this change that's taking place. Do you have a
17 philosophical feeling about the ousting of the old and the --

18 MR. JONES: Well, I think that it's always good to get
19 new blood. But again, I look at the record. I think the
20 record's going to continue to be good on providing the services
21 that we're mandated to provide. I don't see any change in that.

22 I'm hopeful that we can develop more sources of private
23 sector funding, lessen our reliance on the federal government
24 which, you know, with the deficit problems can sometimes be a
25 somewhat unreliable source of funding, and expand our reach, if
26 you will, to all corners of the state. I don't see where that's
27 -- I think that's something that's commendable.

1 SENATOR MARKS: Mr. Chairman.

2 CHAIRMAN McCORQUODALE: Senator Marks.

3 SENATOR MARKS: I'm in a sense answering Mr. Brown.

4 You know, most administrations, most organizations are
5 ones where you have sort of a balance between the two parties.
6 And you try to have good Republicans and good Democrats to
7 operate these things.

8 But it seems to me that all, almost all and maybe all,
9 all the appointments that have been made have been made by people
10 who are very active in the Republican Party, who work
11 constructively in campaigns. Those are the only people that go
12 in.

13 Now, is that the idea that everything should be all
14 Republican, no Democrats? You can't find a good Democrat once in
15 a while? I can't find that; that's hard for me to believe.

16 CHAIRMAN McCORQUODALE: Let's see if there are any other
17 questions. If not, I think this concludes our questions for you
18 at this point.

19 MR. JONES: May I be permitted to stay? I know we only
20 have one witness left. I'm interested in staying and watching
21 the rest of the proceedings. Since I've already testified, I
22 don't see where that would --

23 CHAIRMAN McCORQUODALE: I think it would be better if
24 you stay for a little bit longer. We only have Ms. Heagney, and
25 then we have some Department people. We hope to move relatively
26 quick. Of course, I said that at 10:30 this morning.

27 If you could stay longer, I think we would like that.

28

1 All right, Margaret Heagney.

2 MR. MILLER: Were you in Room 3191 this morning when I
3 read the Government Code provisions?

4 MS. HEAGNEY: Yes.

5 MR. MILLER: Are you here to testify voluntarily?

6 MS. HEAGNEY: Yes.

7 MR. MILLER: Would you raise your right hand.

8 (Thereupon the witness, MARGARET
9 HEAGNEY, was duly sworn to tell the
10 truth, the whole truth, and nothing
11 but the truth.)

12 MS. HEAGNEY: I do.

13 CHAIRMAN McCORQUODALE: Tell us your name and your
14 profession or your job for the record.

15 MS. HEAGNEY: My name is Margaret Jean Heagney. I'm
16 currently Assemblyman John Lewis' chief of staff. I'm on leave
17 to run an Assembly campaign.

18 CHAIRMAN McCORQUODALE: And you fill the seat on the PAI
19 Board of an organization?

20 MS. HEAGNEY: Yes, I do.

21 CHAIRMAN McCORQUODALE: Could you tell us your
22 definition of the term developmental disability?

23 MS. HEAGNEY: Would you like the State or the federal
24 definition?

25 CHAIRMAN McCORQUODALE: Either one.

26 MS. HEAGNEY: Okay. The federal definition is either
27 physical or mental limitation, disability, that is acquired
28

1 before the year -- age 18, that limits your ability to either
2 care for yourself, or actively participate in school. It's a
3 limiting disability of either a physical or mental or both
4 nature.

5 The difference between the federal definition and the
6 State definition is that the State has a more inclusive
7 definition. We go up to the age 22. And the reason that that's
8 important is that, for instance, in drowning accidents, when your
9 oxygen is cut off for a period of time, you can lose your mental
10 faculties and exhibit or actually become mentally retarded, or
11 lose your faculties later on in life. So we have a more
12 expansive definition, and we in the State, in our services,
13 provide services to more individuals because of that.

14 CHAIRMAN McCORQUODALE: Are you familiar with the
15 federal Developmental Disabilities Assistance and Bill of Rights
16 Act and the amendments of 1987?

17 MS. HEAGNEY: Vaguely. Or not vaguely, I haven't read
18 it line by line. I understand it fairly well.

19 CHAIRMAN McCORQUODALE: Speaking to the amendments of
20 1987, would you say you were supportive of those amendments or do
21 you have concerns about them?

22 MS. HEAGNEY: Generally supportive.

23 CHAIRMAN McCORQUODALE: Can you describe what's included
24 in the federal Protection and Advocacy for Mentally Ill
25 Individuals Act of 1986? That's Public Law 99-319.

26 MS. HEAGNEY: Right.
27
28

1 What we did recently was expand our services to include
2 advocation and -- legal advocation and educational resources for
3 the mentally ill.

4 Currently, most of the -- most of our activities does
5 not actually result in litigation. Much of what we do is provide
6 public advocacy information. We have very excellent video tapes
7 where we describe in detail the -- a fair hearing process, and
8 what both the developmentally disabled and the mentally ill are
9 entitled to in a fair hearing.

10 And several of those things, I would like to add, we
11 have not observed today. In a fair hearing, you are entitled to
12 an attorney. You're entitled to a public hearing.

13 CHAIRMAN McCORQUODALE: In Children's Services?

14 MS. HEAGNEY: Not in -- actually, the only area where we
15 are not -- we do not have a public -- a fair hearing process is
16 in the California Children's Services, and that bill that Diane
17 Watson put forth this year to address that was actively supported
18 by the PAI Board.

19 CHAIRMAN McCORQUODALE: Do you know the status of that
20 bill?

21 MS. HEAGNEY: The last I heard, it was having some
22 difficulty. So, I'm not sure what the current status is.

23 CHAIRMAN McCORQUODALE: Tell us about the Lanterman
24 Developmental Disabilities Services Act.

25 MS. HEAGNEY: That Act -- actually the original Act both
26 described what a developmental disability was, and also listed
27 what entitlements people who qualified as developmentally
28 disabled should receive.

1 Amendments to that Act expanded what the definition of
2 developmental disabilities were.

3 It's basically an Act of entitlement. And much of what
4 we do, we advocate both -- and much of the concern is about
5 agencies that the Governor controls, the regional centers and the
6 Department of Developmental Services. But actually, much of what
7 we do has to deal with special education and the IEEP process --
8 IEP process -- excuse me, I'm nervous. And ensuring that
9 children receive proper services and special education.

10 Much -- many of the parents that call our Board, I
11 believe, are concerned about services that they are receiving
12 from the Department of Education and Mr. Honig.

13 CHAIRMAN McCORQUODALE: Do those rights arise from the
14 Lanterman Act?

15 MS. HEAGNEY: Yes. The entitlements? Yes.

16 CHAIRMAN McCORQUODALE: The educational requirements.

17 MS. HEAGNEY: No, I don't believe so. I think that that
18 -- no.

19 CHAIRMAN McCORQUODALE: How would you describe the term
20 accessibility? If I just said, "accessibility" to you, what's
21 your reaction to that?

22 MS. HEAGNEY: The ability --

23 CHAIRMAN McCORQUODALE: Not very long, just short.

24 MS. HEAGNEY: Exit and egress, accessibility; is that
25 what you're concerned about?

26 CHAIRMAN McCORQUODALE: That's one.

27 MS. HEAGNEY: Okay.

1 CHAIRMAN McCORQUODALE: If we looked at it from the
2 standpoint of buildings, which you responded to there, how far do
3 you think we should go in accessibility?

4 MS. HEAGNEY: Well, I guess I'm --

5 CHAIRMAN McCORQUODALE: Well, Cal Trans has decided that
6 they would change the angle of the cut that they will provide in
7 sidewalks, and streets, and buildings because, they say, it's
8 more expensive, too expensive, to meet the federal and State
9 requirements.

10 The highway budget is pretty strained at the present
11 time as it is, and it may cost a million, it may cost a billion
12 dollars to make those cuts according to the law.

13 Would you feel a hesitancy if it were you making the
14 decision on the Board in bringing lawsuits against the Governor
15 for not complying with that if you knew it was going to cost a
16 lot of State highway money?

17 MS. HEAGNEY: So, you're talking about retrofitting
18 current sidewalks?

19 CHAIRMAN McCORQUODALE: The State has built a tremendous
20 number of cuts --

21 MS. HEAGNEY: Or --

22 CHAIRMAN McCORQUODALE: They've retrofitted them and, in
23 some cases, they've built them.

24 Now, the standards that Cal Trans on their own adopted
25 don't relate to the law; just Cal Trans' own standards. And now
26 the issue is, do you ignore that?

27

28

1 MS. HEAGNEY: I think Cal Trans should meet the
2 standards that are specified in law.

3 CHAIRMAN McCORQUODALE: That's not an issue that you've
4 discussed at this point?

5 MS. HEAGNEY: No.

6 CHAIRMAN McCORQUODALE: Do you think all builders and
7 developers should be required to make their buildings accessible,
8 new ones?

9 MS. HEAGNEY: Absolutely.

10 CHAIRMAN McCORQUODALE: Are there limits that you could
11 see to which you would not want to go in advocating for the
12 rights of developmentally disabled or the mentally ill under your
13 new requirements?

14 MS. HEAGNEY: I can't foresee any. I would certainly,
15 after today, I've become a much stronger advocate of the fair
16 hearing process; much, much stronger.

17 CHAIRMAN McCORQUODALE: As a former teacher, I always
18 look for things that help people understand true life situations
19 better. I'm glad I was a success today.

20 MS. HEAGNEY: Yes.

21 CHAIRMAN McCORQUODALE: I'm sure that you would think
22 it's appropriate to represent a client who's been denied
23 transportation services to a day program. No question about
24 that.

25 Going on down, though, we go into a whole range of them,
26 but what about a client who's been in a day program, who's been
27 excluded because he tested positive for AIDS. How would you feel
28 about that?

1 MS. HEAGNEY: I think my emotions on that are really
2 mixed. And of course, the day programs are different from
3 residential care. A lot of residential care facilities have
4 several clients in one room, and I would be concerned if we put
5 one client with AIDS in the same room with clients that did not
6 have AIDS.

7 There's so much about AIDS that we do not know. I think
8 it's a very frightening disease. It's something that makes me
9 quite nervous, so I'd hate to say positively.

10 CHAIRMAN McCORQUODALE: So you'd modify their absolute
11 right at that point?

12 MS. HEAGNEY: But I wouldn't modify their right to
13 services, but I think your right extends to where you're harming
14 others. And there's so much about AIDS that I do not know, and I
15 would hate, absolutely hate, to kill, I mean, because it's a
16 deadly disease.

17 CHAIRMAN McCORQUODALE: But it might be possible to
18 provide protections. They'd be expensive.

19 MS. HEAGNEY: Oh, you know, you'd absolutely protect the
20 rights of that AIDS patient, but you wouldn't do it to the
21 detriment of the rights of the others with developmental
22 disabilities.

23 CHAIRMAN McCORQUODALE: What about two clients of a day
24 program who live together, and it was discovered that one of them
25 had AIDS, and the other one was excluded from the program because
26 they refused to be tested? How would you feel about that?

27

28

1 MS. HEAGNEY: I don't know. I mean, I don't think they
2 should be denied treatment, but it --

3 CHAIRMAN McCORQUODALE: What about a mentally ill person
4 who wanted an abortion and had been refused one?

5 MS. HEAGNEY: I personally believe that abortion is
6 murder, so --

7 CHAIRMAN McCORQUODALE: If the person has a right. I
8 mean, I may feel that eating kills us, too, you have a right to
9 eat, especially french fries.

10 Do you think that it's right that you would make a
11 decision on which rights a person ought to have available to
12 them?

13 MS. HEAGNEY: I do believe that the right to life is the
14 first right that's guaranteed to us. I mean, I think that's very
15 important.

16 SENATOR MARKS: May I ask a question.

17 CHAIRMAN McCORQUODALE: Senator Marks.

18 SENATOR MARKS: A lot of us can disagree on abortion,
19 and someday somebody will understand my position, because it's
20 not one in favor of abortion; it's been one in favor of the
21 rights of people that need it.

22 But if the Supreme Court has upheld abortion -- I'm not
23 arguing with you. I'm not discussing abortion at all -- but has
24 upheld it, and you're telling me that if it's upheld it, and the
25 Supreme Court of the Deukmejian Court upheld it, it wasn't the
26 prior Court, now you say that you would not comply with what the
27 Supreme Court has done? Present Court. Not the old Court; the
28

1 present Court. Not the Rose Bird Court, but the Deukmejian
2 Court.

3 MS. HEAGNEY: I do believe that courts make mistakes. I
4 think the greatest mistake that our Supreme Court made was the
5 Dred Scott case, where they ruled that Blacks were chattel,
6 slavery. Remember that?

7 I mean, I do think Supreme Courts --

8 SENATOR MARKS: I wasn't in the Legislature at that
9 time, but --

10 (Laughter.)

11 SENATOR MARKS: Almost.

12 But present Court has made a decision, right or wrong.
13 You may disagree with it violently, but it's made a decision.

14 Don't you think you have a responsibility to comply with
15 that decision? And you have an important position. Do you say
16 that you would not comply with a Court decision? Any court?
17 Whatever the court might be? The court having on it three
18 members of the court appointed by Governor Deukmejian, all
19 responsible people, good judges; three judges made their
20 decision.

21 How can you ignore it?

22 MS. HEAGNEY: I'm not sure -- that would be a very
23 difficult decision for me to make. I'm very firm in my
24 commitment on that.

25 SENATOR MARKS: I'm not trying to dissuade you from your
26 view about your commitment. That's your responsibility, and I
27 think you have a right to exercise it.

1 But if the Court and the Legislature, the Court has made
2 a decision known, how can you be contrary to that decision?

3 I don't want to delay this, but I find it very hard to
4 believe that you could belay the viewpoint.

5 Now the Court the other day made a decision which you
6 probably don't agree with either. They ruled that Mr. Lungren
7 cannot be the Treasurer. I'm sure you don't agree with that.
8 But the Governor's not going to appoint Lungren.

9 MS. HEAGNEY: I think there's a difference. Well, I
10 think we just --

11 CHAIRMAN McCORQUODALE: I think we can --

12 MS. HEAGNEY: There's a difference in kind.

13 CHAIRMAN McCORQUODALE: The point I was trying to make,
14 and it keeps getting lost in this, is to whether you're willing
15 to support absolutely the right of a developmentally disabled, or
16 whether you're going to make judgments about what rights they
17 ought to be able to get, if you get a chance to make that
18 decision, or not get.

19 You told us how you're currently working. When were you
20 appointed to the PAI Board of Directors?

21 MS. HEAGNEY: Just this last year.

22 CHAIRMAN McCORQUODALE: This late --

23 MS. HEAGNEY: Right, I'm a recent.

24 CHAIRMAN McCORQUODALE: To which seat were you
25 appointed?

26 MS. HEAGNEY: I represent a developmental disabilities
27 organization.

1 CHAIRMAN McCORQUODALE: And that organization is?

2 MS. HEAGNEY: The Sacramento Association for the
3 Retarded.

4 CHAIRMAN McCORQUODALE: You're aware that there's some
5 controversy about your --

6 MS. HEAGNEY: Yes, I am.

7 CHAIRMAN McCORQUODALE: You're evidently not a strict
8 constructionist. On the one hand, you didn't quite agree with
9 the Court, and who should get the rights. Maybe that makes you a
10 strict constructionist because it's not mentioned in the
11 Constitution.

12 What about the issue of the spirit of organizational
13 representation? Do you think that was put in for some particular
14 reason, or was it important?

15 MS. HEAGNEY: Yes, I guess rephrase your question?

16 CHAIRMAN McCORQUODALE: What I wanted to do was to give
17 you a chance to react. There has been this issue of whether you
18 are an appropriate representative of an organization, and that
19 the purpose of that representative is to be sensitive to concerns
20 that organizations have that they might report occasionally, or
21 organizations if they have concerns would have somebody that's
22 easy for them to go to and understand their concerns.

23 And I just wanted to hear your reaction as to whether
24 you thought the Legislature intended that -- not the Legislature,
25 but the Board of Directors intended that when they wrote the
26 bylaws, or it was just something they thought they'd put in?

27 Is there a real reason for that being in there?
28

1 MS. HEAGNEY: I imagine you're correct, and they wanted
2 someone that was accessible to organizations.

3 CHAIRMAN McCORQUODALE: Have you made an effort to be
4 active in that organization since --

5 MS. HEAGNEY: No, I haven't. I've moved since then.

6 CHAIRMAN McCORQUODALE: Is there a similar organization
7 where you are now?

8 MS. HEAGNEY: Yes, I believe so, and I haven't been
9 active.

10 CHAIRMAN McCORQUODALE: How did you find out that there
11 was an appointment available on the PAI Board?

12 MS. HEAGNEY: Chris Jones.

13 CHAIRMAN McCORQUODALE: Did he suggest to you how you
14 could qualify for that?

15 MS. HEAGNEY: Chris felt that my experience with 3½
16 years as the Minority Consultant on the Human Services Committee
17 would lend, I think, you know, some expertise to the Board, and
18 suggested that I apply.

19 CHAIRMAN McCORQUODALE: Did you know any of the PAI
20 Board members prior to your appointment?

21 MS. HEAGNEY: Yes.

22 CHAIRMAN McCORQUODALE: Which ones?

23 MS. HEAGNEY: Chris Jones and Lori Roos.

24 CHAIRMAN McCORQUODALE: What about John Kellogg? Had
25 you met him?

26 MS. HEAGNEY: Only -- actually, I think we passed -- I
27 mean, we're not close associates.

28

1 CHAIRMAN McCORQUODALE: Annette Ospital?

2 MS. HEAGNEY: No, I did not know her at all.

3 CHAIRMAN McCORQUODALE: Did anyone ask you to submit
4 your application, other than Chris?

5 MS. HEAGNEY: No.

6 CHAIRMAN McCORQUODALE: Did you discuss your appointment
7 with anyone prior to being appointed, other than Chris?

8 MS. HEAGNEY: No.

9 CHAIRMAN McCORQUODALE: Were you interviewed prior to
10 being appointed?

11 MS. HEAGNEY: Yes, by Bella Meese.

12 CHAIRMAN McCORQUODALE: Was there any issue raised as to
13 your filling the appropriate slot at that point?

14 MS. HEAGNEY: No.

15 CHAIRMAN McCORQUODALE: You put on your application that
16 you were seeking that position particularly, or how did she know
17 that you --

18 MS. HEAGNEY: No, not on my application, actually. When
19 they called, they asked what activities that I had participated
20 in, and I mentioned that affiliation.

21 CHAIRMAN McCORQUODALE: Did she know how long you'd been
22 a member?

23 MS. HEAGNEY: No.

24 CHAIRMAN McCORQUODALE: So she didn't know whether it
25 was a week, or a year, or how long?

26 MS. HEAGNEY: [No audible response.]

27

28

1 CHAIRMAN McCORQUODALE: How were you notified of the
2 appointment?

3 MS. HEAGNEY: By phone.

4 CHAIRMAN McCORQUODALE: Who called you?

5 MS. HEAGNEY: Bella Meese.

6 CHAIRMAN McCORQUODALE: Did you receive a formal
7 commission, or were you sworn in, or did something --

8 MS. HEAGNEY: Yes, I was sworn in.

9 CHAIRMAN McCORQUODALE: By whom?

10 MS. HEAGNEY: By Gary Macomber.

11 CHAIRMAN McCORQUODALE: Do you know if Gary Macomber --

12 SENATOR WATSON: Mr. Chairman, for the record, is Gary
13 here? Didn't you say you didn't swear anybody in?

14 MR. MACOMBER: [Inaudible response from the audience.]
15 I believed I swore those in as PAI as -- when they went onto the
16 State Council. But as I thought about it more out here, I did
17 swear them in, because several people I swore in not members --

18 SENATOR WATSON: I just wanted to be sure that I heard
19 what I heard.

20 MR. MACOMBER: I swore in Margaret, Lori, at different
21 times, Chris and Hal Sobel.

22 SENATOR WATSON: Annette?

23 MR. MACOMBER: Some of the people on the PAI Board have
24 also been sworn in as members of the State Council and
25 [inaudible].

26 SENATOR WATSON: Thank you.
27
28

1 CHAIRMAN McCORQUODALE: Do you know if Gary Macomber or
2 any other employee of DDS took any affirmative effort to get you
3 appointed?

4 MS. HEAGNEY: Not that I'm aware of.

5 CHAIRMAN McCORQUODALE: Do you know Greg Sandin?

6 MS. HEAGNEY: I met him after my appointment.

7 CHAIRMAN McCORQUODALE: What about Robin Brett?

8 MS. HEAGNEY: I met her after I met Greg Sandin.

9 CHAIRMAN McCORQUODALE: You didn't know her before?

10 MS. HEAGNEY: No.

11 CHAIRMAN McCORQUODALE: Were there ever any discussions
12 early about anybody's dissatisfaction with PAI and the State
13 Council appointments of the past? Not you, but others? Did
14 anybody talk to you about it and say they were disappointed in
15 the appointments, or they had problems with them, or they were
16 concerned, or they objected to the lawsuits, or anything like
17 that?

18 MS. HEAGNEY: Not that I can recollect. I think there
19 must have been some disappointment long-standing, because prior
20 to my appointment, there already seemed to be a very divided and
21 divisive attitude on this Board. And I think perhaps George
22 DeBell may have been appointed with prior appointments of the
23 Governor, because they drafted a bylaw in such a way that
24 excluded the Governor's appointing process.

25 In fact, I do recall at a Board meeting, and I believe
26 it was Connie Lapin who mentioned that the Governor's appointing
27 process had been very slow.

1 So yes, I imagine there was disappointment prior to my
2 appointment.

3 CHAIRMAN McCORQUODALE: Are you aware of any particular
4 reason why your appointment was reportedly made days before a
5 scheduled PAI Board meeting?

6 MS. HEAGNEY: No.

7 CHAIRMAN McCORQUODALE: No particular reason.

8 Did Chris Jones or any other person provide you with
9 information about a PAI Board meeting occurring several days away
10 at that time?

11 MS. HEAGNEY: Yes. He received -- gave me copies of the
12 minutes and all of the action items were there, but that having
13 been given to me by George DeBell or Al Zonca, and I don't
14 believe I went in for my briefing until afterwards, after I was
15 appointed. That was some weeks afterwards.

16 CHAIRMAN McCORQUODALE: Did Chris talk to you about any
17 particular agenda items that were on the upcoming meeting?

18 MS. HEAGNEY: Just the bylaws, actually.

19 CHAIRMAN McCORQUODALE: Was he supportive of those?

20 MS. HEAGNEY: No, I believe he had some disagreement.

21 CHAIRMAN McCORQUODALE: Did he urge you to disagree with
22 them?

23 MS. HEAGNEY: I think he just voiced his concerns.

24 SENATOR MARKS: May I ask a question?

25 CHAIRMAN McCORQUODALE: Senator Marks.

26 SENATOR MARKS: I'm not sure, listening to your
27 testimony a few minutes ago, you're no longer a member of the
28 organization which you joined?

1 MS. HEAGNEY: No, I'm still a member. I've moved,
2 however. I'm in Southern California now.

3 SENATOR MARKS: Where is the organization located?

4 MS. HEAGNEY: Sacramento.

5 SENATOR MARKS: How often do you attend it?

6 MS. HEAGNEY: I haven't.

7 SENATOR MARKS: You haven't?

8 MS. HEAGNEY: No.

9 SENATOR MARKS: Are a member of an organization in
10 Southern California?

11 MS. HEAGNEY: No.

12 SENATOR MARKS: Do you intend to join one?

13 MS. HEAGNEY: Actually, I don't plan on being in
14 Southern California very long, so when I return, I will be active
15 here.

16 SENATOR MARKS: And there's no requirement that when
17 this member is appointed to occupy this position, you don't have
18 to be a member of the organization?

19 MS. HEAGNEY: I'm -- I have a year --

20 SENATOR MARKS: You're a member of it; you just don't
21 go.

22 MS. HEAGNEY: Right. I have a year's membership, sir.

23 SENATOR MARKS: Do you think that really carries out the
24 purpose of the statute?

25 In other words, I could belong to the American Legion in
26 San Diego, but I live in San Francisco. Would that be okay?

27
28

1 MS. HEAGNEY: I've recently moved to Southern
2 California. I didn't intend to --

3 SENATOR MARKS: How long are you going to be there?

4 MS. HEAGNEY: Two more months.

5 CHAIRMAN McCORQUODALE: Until November 8th.

6 MS. HEAGNEY: Absolutely, then I'm coming on back.

7 CHAIRMAN McCORQUODALE: How long were here while you
8 were a member and on this Board?

9 MS. HEAGNEY: Two months, I believe, two or three.

10 CHAIRMAN McCORQUODALE: You've been a member almost a
11 year now?

12 MS. HEAGNEY: But I moved down to Southern California
13 several months ago, and I've been actually back and forth.

14 CHAIRMAN McCORQUODALE: And so, you didn't go while you
15 were here?

16 MS. HEAGNEY: No.

17 CHAIRMAN McCORQUODALE: Did you attend an orientation
18 meeting regarding PAI?

19 MS. HEAGNEY: Yes, in fact a whole day. Al Zonca and I
20 spent several hours discussing his management philosophies, and I
21 believe they're very sound. He has, I think, some very good
22 views, very healthy --

23 CHAIRMAN McCORQUODALE: Is that the only one?

24 MS. HEAGNEY: No -- I'm sorry?

25 CHAIRMAN McCORQUODALE: Is that the only --

26 MS. HEAGNEY: That's the only orientation meeting that
27 I've spent, yes, but he's not the only person I spoke with. We
28

1 also spoke with Carolyn Schneider and Gail, and how many other
2 members of your organization? Pat Briggs also.

3 CHAIRMAN McCORQUODALE: Did you go to another meeting,
4 maybe not an orientation meeting, in the Department of
5 Developmental Services?

6 MS. HEAGNEY: I was sworn in by Gary Macomber, and I
7 went to his office to be sworn in.

8 CHAIRMAN McCORQUODALE: Some of the members went to a
9 meeting with Greg Sandin and others in the Department; discussion
10 about the role of the Department and that type of thing.

11 You didn't take part in that?

12 MS. HEAGNEY: No.

13 CHAIRMAN McCORQUODALE: Do you know Jim Morgan?

14 MS. HEAGNEY: No.

15 CHAIRMAN McCORQUODALE: Are you aware that the
16 Governor's budget proposed for fiscal year '87-88 deleted the
17 federal funding for the Area Boards?

18 MS. HEAGNEY: I'm now keenly aware of that. I was not
19 on the Board, however, when they made --

20 CHAIRMAN McCORQUODALE: Are you familiar with the Area
21 Boards and their role?

22 MS. HEAGNEY: Yes, in fact, I've visited after my
23 appointment another day with Reese Burchell in Orange County and
24 the Orange Board. So yes, I've been to an Area Board.

25 CHAIRMAN McCORQUODALE: If you knew that there was an
26 action item for the PAI Board, and that PAI staff recommended to
27 take a position on a bill, a budget item, which was opposite to a
28

1 known position of Mr. Lewis', under which circumstances would you
2 vote to support the staff position rather than Assembly Member
3 Lewis' position?

4 MS. HEAGNEY: I would probably abstain because I work on
5 his legislative agenda, and it would probably be a conflict of
6 interest for me to vote on a matter that, you know, a bill that I
7 had helped to draft.

8 CHAIRMAN MCCORQUODALE: Okay.

9 MS. HEAGNEY: If they -- you know, I would abstain.

10 CHAIRMAN MCCORQUODALE: Let me take that a little
11 further, then, just like the other one.

12 Suppose not only the staff, but the Area Boards, the
13 parents' groups, a wide range of advocates were for the bill.
14 Would you still feel the need to abstain?

15 MS. HEAGNEY: I still think it would be a conflict of
16 interest because, as I said, I help draft legislation. So, it
17 would be --

18 CHAIRMAN MCCORQUODALE: Not one of his bills, but the
19 position he's taken on a bill.

20 MS. HEAGNEY: Oh, actually, we have taken contrary
21 positions. I'm sorry, I thought you were speaking of his
22 legislative agenda.

23 CHAIRMAN MCCORQUODALE: Even a bill that you might have
24 developed the rationale for him to oppose the bill?

25 MS. HEAGNEY: Actually, Mr. Lewis is a very independent
26 thinker. I help develop his legislation; however, the opinions
27 that he -- the positions that he takes we share. We have a very
28

1 similar view of what the proper scope of government should be.
2 However, you know, we have differed, and so we -- and we will in
3 the future.

4 SENATOR WATSON: If I may.

5 On "the scope of government," what do you mean by "what
6 the scope of government should be"?

7 We're talking about a federally funded program that has
8 requirements.

9 MS. HEAGNEY: But that was a general philosophical
10 statement, the size and scope of government. You're familiar
11 with different opinions about the proper role of government.

12 I believe in a limited role for government.

13 SENATOR WATSON: That really bothers me, because we're
14 holding this hearing because we're feeling that the Board is not
15 properly executing their charge, that people are letting too much
16 of their own personal philosophy.

17 I think it was a very cogent question that was raised to
18 you about abortion. You know, the courts have said it's legal,
19 but you have a position that might interfere with your provision
20 of services or decision for suit where those services should be
21 provided.

22 That's what I'm seeking with all the witnesses that we
23 have today, to try to identify if they're hidebound to their
24 philosophical position such that they can't really serve the
25 mission of PAI and the Council. And I'm becoming a little
26 disturbed with the more I hear, because all of you come from a
27 particular political bent, and most all of you are working on
28

1 campaigns, and I don't hear a whole lot of passion for the DDs.
2 I hear a very kind of autocratic and technocratic way of dealing
3 with it. I just haven't seen too many witnesses up here today
4 that I think really have that drive to be on the Board.

5 I'm listening very closely. You're running a campaign.
6 You belong to an organization, but you don't attend it. And I've
7 heard that from any number of witnesses, and I know from the
8 record -- you can correct this -- you got into this organization
9 just a few weeks before you were appointed, and Chris mentioned
10 this position, the opening, to you.

11 I just appears to me that there's a little clique
12 operating on PAI that's going to have it their philosophical way.
13 I heard Chris say that Connie Lapin was a disrupting factor. He
14 did not appoint her to the Executive Board because she was
15 disruptive.

16 And I'm saying, my goodness, how are we going to move
17 anything when all of you are just locked into position? I really
18 am concerned here. The more I hear, the more concerned I become.

19 SENATOR MARKS: Mr. Chairman.

20 CHAIRMAN MCCORQUODALE: Senator Marks.

21 SENATOR MARKS: What job do you presently have, right
22 now?

23 MS. HEAGNEY: I'm a campaign manager.

24 SENATOR MARKS: For whom?

25 MS. HEAGNEY: A candidate in San Bernardino.

26 SENATOR MARKS: That's fine, you're entitled to do that.
27 But are you able to carry on your responsibilities on PAI while
28

1 you're campaign manager? I'm just curious to know how you can do
2 both.

3 MS. HEAGNEY: Well, I think it's the same as you can
4 carry on your responsibilities as a Senator and also run for
5 office, for re-election.

6 SENATOR MARKS: But I'm here as a Senator; I'm here.

7 MS. HEAGNEY: Yes. And I'm here as a PAI Board member.

8 SENATOR MARKS: When is the next meeting?

9 MS. HEAGNEY: This next Saturday, and I will be there.

10 SENATOR MARKS: You're able to do all your work? I'm
11 sure you must have some work to do for PAI.

12 MS. HEAGNEY: Yes. I must admit, I've always had an
13 overwhelming workload as a minority consultant. We're often over
14 staffed -- or under staffed. We often face 17 majority
15 consultants to our one ability, and I'm used to -- they're used
16 to working into the late, wee hours.

17 SENATOR MARKS: You do very well in organizing the
18 caucus position on all the bills --

19 MS. HEAGNEY: Thank you.

20 SENATOR MARKS: -- so that if you get one Republican
21 opposed to a bill, then they're all opposed to it. I
22 congratulate you.

23 CHAIRMAN MCCORQUODALE: Let me ask you, going back to
24 the issue that I was on when we changed direction there --

25 ASSEMBLYMAN POLANCO: Let me ask one question before you
26 go back to that, Mr. Chairman.

27

28

1 First of all, I appreciate the frankness in which you've
2 answered many of the questions, unlike, maybe, prior individuals
3 prior to you who have come in here. I do have a question,
4 though.

5 The question is, you were given an oath of office;
6 correct?

7 MS. HEAGNEY: Yes, I have it with me.

8 ASSEMBLYMAN POLANCO: You do?

9 MS. HEAGNEY: Yes.

10 ASSEMBLYMAN POLANCO: Would you read it?

11 MS. HEAGNEY: Absolutely.

12 "I, Margaret J. Heagney, do solemnly
13 swear or affirm that I will support
14 and defend the Constitution of the
15 United States --"

16 ASSEMBLYMAN POLANCO: Fine, that's as far as you have to
17 go.

18 If the Constitution has ruled -- excuse me. If the
19 Supreme Court has ruled that it is constitutional on certain
20 issues, irrespective of what your belief is -- and I'm not going
21 to question or debate the issue on a given issue -- the fact is
22 that you have sworn to uphold that Constitution and the laws
23 thereof in California.

24 Do you find it difficult, will you find it difficult,
25 have you found it difficult to carry out those responsibilities
26 -- I guess my question is -- because of your philosophical
27 positions? Do they create a problem for you in carrying out what
28 you were sworn to do?

1 MS. HEAGNEY: No, my philosophy does not create a
2 problem for me. Thank you for your concern, though.

3 ASSEMBLYMAN POLANCO: Let me follow it up then.

4 Explain to me how you can take the oath of office and
5 come to a given issue and be diametrically opposed?

6 MS. HEAGNEY: As I -- well first, I do believe our
7 Constitution guarantees us the right to life, okay? But second I
8 believe --

9 ASSEMBLYMAN POLANCO: Let's not even deal with the right
10 to life. Let's say the Constitution guarantees the right,
11 whatever it is, and you have been sworn --

12 MS. HEAGNEY: Actually, it's very important to
13 understand what specific rights the Constitution guarantees.

14 ASSEMBLYMAN POLANCO: Do we pick and choose?

15 MS. HEAGNEY: No, actually we do not. Like, for
16 instance, we at PAI stress very strongly the right to have
17 counsel at public hearings, and you, Senator, have denied me the
18 right to counsel today. And the first time that our counsel
19 asked, you said no, we did not have the right to an attorney. He
20 had to ask, I think, a second or third time. You wanted him to
21 write a letter.

22 ~~Apparently, yes, there are selective rights; the rights~~
23 ~~that you believe in, you seem to be pushing for, and the ones~~
24 ~~that I disagree with for some reason you think that's wrong.~~

25 ASSEMBLYMAN POLANCO: I just find it --

26 MS. HEAGNEY: I have a hard time with today's hearing.
27 I have a hard time that you chose to hold your hearing the week
28

1 of the Republican National Convention, when your Vice Chair,
2 Senator Campbell, would not be here because he happens to be
3 leading the delegation for Bush. I happen to think that's, you
4 know, a little partisan, a little unfair. This is an unfair
5 hearing.

(Applause.)

6 CHAIRMAN MCCORQUODALE: Why didn't you --

7
8 SENATOR MARKS: Why don't we ask the people who've
9 applauded to stand up. We'd like to see you a moment. Thank
10 you.

11 CHAIRMAN MCCORQUODALE: You didn't have to come to this
12 meeting. You could have come to the other one. We did two.

13 You're right, we picked this week because if we were
14 going to do it in August, this is the only week that we're going
15 slow. Last week, I don't know whether you were aware --

16 MS. HEAGNEY: Was there any particular reason --

17 CHAIRMAN MCCORQUODALE: -- but we were meeting at night
18 all --

19 MS. HEAGNEY: -- that you had to do this in August?

20 CHAIRMAN MCCORQUODALE: Well, yes. We had to move the
21 thing. We started this so far back, that by the time September
22 got here -- this Committee has had numerous meetings of which

23 Senator Campbell has never come. I don't know how you feel that
24 he would have come to one that was held in August.

25 In August, I think, there are trips, many trips abroad;
26 people going on vacation. Of course then, if you get close to
27 the election, you know how difficult it is. We could have done
28

1 this on election day, or the day before the election, or the
2 Saturday before or something. But there's no right day.

3 But we did pick this day because we knew that things
4 would be slow, and we were right. The Senate only met a half day
5 today, so we only missed half a day.

6 But going back to the issue that I was on before, on the
7 issue of asking about how you would vote. I did that not to try
8 to embarrass Mr. Lewis or anyone, but it is an important one.
9 It's one that we got a lot of mail and a lot of people calling
10 about; how you can vote on issues at PAI when you may be the one
11 developing the staff position for a Member of the Ways and Means
12 Subcommittee Number 1 on Health and Welfare to review the budgets
13 of DDS.

14 MS. HEAGNEY: Actually, I do not develop his positions
15 for that subcommittee. Jeannie Kane does. That's how we work in
16 the Assembly. There are minority consultants who sit, you know,
17 on the committees, and she's the minority consultant for that
18 committee.

19 CHAIRMAN McCORQUODALE: So you wouldn't see --

20 MS. HEAGNEY: And I haven't even discussed those
21 positions with Assemblyman Lewis.

22 CHAIRMAN McCORQUODALE: So you wouldn't see any
23 conflict?

24 MS. HEAGNEY: No.

25 CHAIRMAN McCORQUODALE: What about if the administration
26 took a really strong position on an issue. Would you feel bound
27 by that?

1 MS. HEAGNEY: I would certainly listen to what they had
2 to say.

3 CHAIRMAN McCORQUODALE: Suppose Chris Jones took a
4 really strong position on an issue?

5 MS. HEAGNEY: I think those people that know Chris and I
6 well know that I often disagree with him, and in fact, have
7 disagreed with him at PAI Board meetings. I've actually voted
8 differently a few times.

9 CHAIRMAN McCORQUODALE: Give us some examples.

10 MS. HEAGNEY: Well, let me see. I did not vote for Bill
11 Turnis. That was a pretty vivid example, I believe.

12 Oh, and I also supported the addition to 13 members to
13 the Board.

14 CHAIRMAN McCORQUODALE: The addition to 13?

15 MS. HEAGNEY: Right. And I believe I've made lots of
16 motions that, you know, as you go through the minutes.

17 CHAIRMAN McCORQUODALE: What about the last Board
18 meeting, May 21st?

19 MS. HEAGNEY: I did not attend. I had a college reunion
20 that weekend, but I didn't attend that, either, because my sister
21 was giving birth. She had three days of labor. I must tell you,
22 it's rather dampened my enthusiasm for having children. She went
23 through quite a lot, and that's why I was not there.

24 CHAIRMAN McCORQUODALE: What about the May hearing of
25 this Committee? Was there a reason you weren't able to come?

26 MS. HEAGNEY: I don't recall.
27
28

1 CHAIRMAN McCORQUODALE: Did you feel that this Committee
2 has authority to take up this issue?

3 MS. HEAGNEY: Yes.

4 CHAIRMAN McCORQUODALE: Did you make any attempt to
5 avoid being served with a subpoena regarding your testimony at
6 the May hearing?

7 MS. HEAGNEY: Not that I can recollect.

8 CHAIRMAN McCORQUODALE: What about this hearing?

9 MS. HEAGNEY: Actually, for this hearing I drove an hour
10 and a half to go in and receive my subpoena from the Sergeants,
11 met me at my parents' home. And I called your office and told
12 them that I would attend, and I asked them who it was that was
13 calling on the State line and claiming to be my doctor, a
14 long-lost friend, a constituent interested in getting involved in
15 campaigns. John Lewis' district office had, I believe, six or
16 seven phone calls made inquiring about my whereabouts, all of
17 them on a State line, claiming to be various and sundry different
18 folks.

19 I have a real problem with the integrity of who ever did
20 that. Lying is not my forte. I hate to think it was yours or
21 your staff's.

22 SENATOR WATSON: Whew! That's heavy. "Lying is not my
23 forte; I don't think it's yours or the staff's."

24 MS. HEAGNEY: I hope it's not. Who ever made those
25 calls was lying. They were clearly on a State line. They came
26 in on our fourth line. They claimed to be my doctor; they
27 claimed to be a long-lost friend.
28

1 SENATOR WATSON: Was it somebody in the State?

2 MS. HEAGNEY: It must have been. It was on a State
3 line.

4 SENATOR WATSON: Do you think it was somebody in the
5 State who was an employee of the State?

6 MS. HEAGNEY: I have no idea who it was, but I think
7 it's very curious, very curious behavior, very curious.

8 CHAIRMAN MCCORQUODALE: But you don't have any
9 indication it was me or my staff doing it?

10 MS. HEAGNEY: You're the only folks that have been
11 trying to track me down. But of course, no, I have no
12 indication, and I'm not making the allegation. I just think it's
13 very curious.

14 SENATOR WATSON: Pretty strong language.

15 ASSEMBLYMAN BROWN: I'm sure it was purely coincidental.

16 MS. HEAGNEY: I really think it was. In fact, I know my
17 doctor has recently installed a State line.

18 ASSEMBLYMAN BROWN: Senator Watson is astounded.

19 SENATOR WATSON: Yes, I really am. I haven't heard that
20 expression.

21 ASSEMBLYMAN BROWN: Does that meet with your approval,
22 people using those tactics?

23 SENATOR WATSON: I am astounded by what she said.

24 ASSEMBLYMAN BROWN: Would you answer my question?

25 SENATOR WATSON: I don't have to answer anything you ask
26 me.

27

28

1 ASSEMBLYMAN BROWN: Okay, you refuse. I think that's
2 appropriate.

3 SENATOR WATSON: Mr. Brown, you've been so disruptive.
4 I want to use that word towards your behavior. You're not a part
5 of the Committee. You are here because we will you to be here,
6 and kept very quiet so you could get your little dig in, and I'm
7 talking to the witness.

8 I'm trying to stop her from going any further --

9 CHAIRMAN MCCORQUODALE: Assemblyman Brown, from the
10 standpoint --

11 ASSEMBLYMAN BROWN: I don't think she needs your
12 counsel.

13 SENATOR WATSON: I don't think you need to be here.

14 CHAIRMAN MCCORQUODALE: We're trying to understand the
15 role that people see themselves in, how they make decisions. I
16 think their response tells a lot to us in how they make
17 decisions, so I think that's an important response that we got
18 from her.

19 ASSEMBLYMAN BROWN: I think it's also appropriate to
20 note that you turn off people's mikes when you --

21 CHAIRMAN MCCORQUODALE: That's right.

22 ASSEMBLYMAN BROWN: -- don't like what they say.

23 CHAIRMAN MCCORQUODALE: That's right.

24 ASSEMBLYMAN BROWN: You don't want the people to hear
25 what they say.

26 SENATOR MARKS: May I point out that --

27 ASSEMBLYMAN BROWN: He'll turn yours on for you.
28

1 SENATOR MARKS: My microphone's off, too.

2 I might point out that Mr. Brown is a Republican. So
3 don't complain so much about Republicans not being here.

4 CHAIRMAN McCORQUODALE: A proposal was made at a PAI
5 meeting to have the Legislature appoint some Board members. What
6 was your response to that?

7 MS. HEAGNEY: Actually I -- hello, is that on?

8 CHAIRMAN McCORQUODALE: It's on.

9 MS. HEAGNEY: You know, I guess the first thing that
10 came to mind was -- well, my first thought, and it was one that
11 Annette and I were going to propose as a compromise solution, but
12 then would not have been accepted, was that four appointments be
13 made by the Legislature, two by -- well, actually one by
14 Assemblyman Brown, the other by Assemblyman Nolan, one by Senator
15 Roberti, and the other Senator Ken Maddy.

16 SENATOR WATSON: If I may, our appointments here on the
17 Senate side are made by the Rules Committee. So were you going
18 to change that precedent and ask that two individual Members make
19 appointments rather than the Rules Committee?

20 MS. HEAGNEY: Right.

21 SENATOR WATSON: That's not the way it works on the
22 Senate side.

23 MS. HEAGNEY: Right, but our Board constitutes -- our
24 bylaws dictate how appointments are made, and so that was my
25 compromise solution.

26 SENATOR WATSON: Yes, but I wanted to educate you --

27 MS. HEAGNEY: And that would have been perfectly --
28

1 SENATOR WATSON: -- on how it's done on this side.

2 MS. HEAGNEY: I appreciate that.

3 SENATOR WATSON: You see, over on that side, the Speaker
4 makes the appointments. Over on our side, the Rules Committee
5 makes the appointments. So that kind of proposal would be out of
6 step with the way things are done on this side. I was just
7 trying to educate you on that.

8 CHAIRMAN McCORQUODALE: All right, let's see if there
9 are any other questions.

10 Very good, thank you. We appreciate your being here.

11 MS. HEAGNEY: You're very welcome.

12 CHAIRMAN McCORQUODALE: We still aren't moving extremely
13 rapidly. We have Greg Sandin, Robin Brett, Caroline Michals,
14 Barbara Hooker, Jim Bellotti, Sandra Monagan.

15 Any of those who would agree to respond in writing if we
16 submit questions to them, if they would like to go, they would be
17 free to go. If you want to stay and give testimony tonight, you
18 can do so.

19 Is Merle Tracy here? Would you like to testify now?

20 All right.

21 MR. MILLER: Raise your right hand, sir.

22 (Thereupon the witness, MERLE TRACY,

23 was duly sworn to tell the truth, the

24 whole truth, and nothing but the truth.)

25 MR. TRACY: I do.

26 CHAIRMAN McCORQUODALE: Would you tell us your name.

27 MR. TRACY: Yes, I'm Merle Tracy from Newport Beach.

28

1 CHAIRMAN McCORQUODALE: What position do you hold on the
2 Board?

3 MR. TRACY: Well, I'm on no boards at the present time,
4 but in the past I've been Chairman for two years of Area Board
5 11, representing Orange County. I served on the Organization of
6 Area Boards. I was Chairman of that group for two years, and
7 then I served on the Council for part of two years as the
8 representative of the Organization of Area Boards.

9 CHAIRMAN McCORQUODALE: Do you have a family member --

10 MR. TRACY: Yes, I have a 42-year old son who has been
11 both in the mental health system and is in the DD system at the
12 present time. He's been a resident of Fairview. He's now in a
13 community placement and in a supportive work program.

14 CHAIRMAN McCORQUODALE: And how long have you been
15 involved in advocacy work?

16 MR. TRACY: Well, ever since the youngster was about
17 three or four years old and had encephalitis that did brain
18 damage, and trying to get services and an education for the
19 youngster.

20 CHAIRMAN McCORQUODALE: How do you feel when along come
21 new people who haven't had any real involvement, and who are new
22 to the system, and in various ways show that they depreciate the
23 work that you've done?

24 MR. TRACY: It's pretty appalling, particularly when it
25 appears that they're trying to destroy or curtail the services to
26 the clients that we've worked so hard for.

1 CHAIRMAN McCORQUODALE: Do you have some comments you'd
2 like to make?

3 MR. TRACY: Well, yes. I have -- there have been a
4 number of times when I've heard Gary Macomber state that he
5 controlled the appointments to the Area Boards, to the State
6 Council, and to the State Hospital Advisory Board. And I can
7 give you three dates that I had marked down in my date book.

8 One was on January 31st in the Governor's Council Room
9 at the State Capitol at a meeting called by Mr. Macomber,
10 ostensibly for orientating new Governor's appointees to the Area
11 Boards.

12 The second date that I have is on March 8th, 1986, which
13 I believe was a Saturday down at Lake San Marcos at a retreat for
14 the State Council on Developmental Disabilities, when he
15 reiterated that statement.

16 And then, on June 5th and 6th, there was another Council
17 retreat at the Clarion Hotel at the airport in Ontario, and that
18 also was repeated.

19 Another fact that -- experience I had with the control
20 of appointments is, my predecessors, as the chairman of the
21 Organization of Area Boards automatically, as far as I have been
22 able to determine, automatically, when they took office on
23 July 1st, were seated as full-fledged Council members with a vote
24 and their expenses paid.

25 I have to wait five months because we were notified that
26 until the Governor made my appointment, I could not be a member,
27 full-fledged, of the Council; I could not vote, nor could I have
28 my travel expenses reimbursed.

1 Approximately five months later, in November of 1985, I
2 had a phone call from Mr. Macomber at my home to inform me that
3 he personally had arranged my appointment by the Governor to the
4 Council. And he strongly intimated because he had made that
5 effort that I owed my allegiance to him. It wasn't said in
6 direct terms, but I knew what he was saying.

7 And I felt that by keeping me as a nonvoting Council
8 member for about five months, that it really appeared that this
9 was a ploy used by Mr. Macomber to control one more vote on the
10 Council.

11 The other thing I observed on the Council was meetings
12 -- whenever there was a crucial meeting where there was crucial
13 vote to be taken, that suddenly, all the Department
14 representatives who had votes appeared, where they had not
15 necessarily been to meetings before, and absolutely would vote in
16 a block with Mr. Macomber, and therefore, that would give them
17 the -- almost always would give them the majority vote on the
18 Council so they could swing things the way they wanted.

19 When I went out of office just a year ago, I was
20 replaced by Dick Robertson from one of the Area Boards. And it's
21 my understanding that it took him six months before he received
22 his appointment. And here again, the Organization of Area Boards
23 were not able to be represented with a vote on the State Council.

24 There is a young lady, and we had her declaration but
25 it's been lost, and we can get another copy of it and send it in
26 to the Senator's office. But Mary Black was being married and
27 was moving down to the Santa Barbara area. And she called Marvin
28

1 Baxter, who told here within, oh, the last year that he could not
2 help her; that only Gary Macomber made the appointments to the
3 Area Boards.

4 Another thing I'd like to mention, about a year and a
5 half or two years ago, about when the controversy started because
6 of the cancellation or the deletion from the budget of the Area
7 Boards, Debbie Beck from the Governor's placement office, made an
8 appointment, flew down and met me at the Area Board in Orange
9 County, and asked if I, as Chairman of the Area Boards, if we
10 would help the Governor's Office to recruit people that could be
11 appointed to the Area Boards because there were so many
12 vacancies. And I think most of the Area Boards would tell you
13 that they had very few Governor's appointments come through on
14 the Area Boards. And the Area Boards would have died had it not
15 been for the appointments that have come from the county
16 supervisors in the various counties.

17 So, I recruited the work of the Area Boards throughout
18 California, and we came up with quite a list of applicants and
19 submitted them to Debbie Beck. But very few of those people have
20 ever been appointed to my knowledge. I've been away from the
21 Area Boards, the Organization of Area Boards system this past
22 year, so I don't have direction information, but I know Debbie
23 Beck with the placement office.

24 I'd like just to make one comment. We've heard lots
25 about the lawsuit concerning the Area Boards. The process, as I
26 understood it, when the Area Boards were threatened, it was our
27 conception that this was an illegal switching of money from a
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1 federal project, federally funded project, into almost direct
2 service into the Department. And as the time came close and we
3 saw no relief, and it looked as if the Area Boards were going,
4 and we saw the organization, the staff organization, starting to
5 leave the Area Boards and getting other jobs, which we couldn't
6 blame them, we became very much alarmed the closer we came to
7 July 1st.

8 We, as part of the advocacy process in the Area Boards,
9 if we do have a situation where we need to ask for legal help, we
10 have to go to the Council, and our budget comes under the
11 Council, and get their permission to go on to the next step. And
12 the Council did vote to let us ask the Protection and Advocacy to
13 join us in an action. Now, this was not meant to be a punitive
14 action against the Governor -- we made that very clear -- but
15 only a test case so that we would know is this the legal use of
16 federal funds coming into the State. We were concerned that it
17 wasn't, and if this took place, that we might lose much of the
18 federal funding for the developmentally disabled and [inaudible].

19 I'd just like to make clear, it was not a punitive
20 action. And I think that was quite well understood, and I think
21 some of the people tried to -- very assiduously tried to
22 communicate that to the Governor so, hopefully, he would know.

23 Now, during all this process, I heard somebody say,
24 well, you know, as a representative on the -- appointed
25 representative on these organizations, it's your duty to let the
26 Governor know what's happening. Well, we tried. And we've tried
27 for years to get an appointment with the Governor, and we cannot
28 get to first base; we can't even talk to the man.

1 It isn't because we haven't tried. There were three of
2 us who received an appointment; we came all the way up to
3 Sacramento to see the Governor one day. When we got up here, the
4 only person we saw was the Governor's chief of staff and Gary
5 Macomber through this proposition. But that's our experience in
6 trying to communicate to the Governor and his appointed
7 representatives on the committee.

8 SENATOR WATSON: Mr. Chairman, if I may.

9 CHAIRMAN McCORQUODALE: Senator Watson.

10 SENATOR WATSON: I know of Merle's work with this
11 particular program, and I admire and commend you for your sincere
12 dedication of these years. I personally know what you have done.

13 And I feel that you are an expert in terms of the
14 structure that we try to put in place to serve the DDs. This has
15 been an ongoing struggle to provide the kind of services that our
16 clients deserve.

17 Can you describe for me what you see as the purpose of
18 the Area Board the way you know it?

19 MR. TRACY: Yes, Senator.

20 As I see it and understand it, and with experience from
21 my own personal experience, it's a grassroots representative of
22 the State to the consumers and clients in the communities where
23 they help. And it's the first step in trying to solve problems,
24 trying to identify and make needs assessments in cooperation with
25 the regional centers.

26 We don't duplicate the work, really, of PAI or any other
27 group, but at times when it becomes a systemic situation, we
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1 would appeal to PAI for help, and then they would carry on from
2 there.

3 But we're individualized as advocacy. The Area Board is
4 the one at the grassroots. And the Area Boards are the ones that
5 have the grassroots constituency and know the individual
6 communities very well.

7 SENATOR WATSON: Can you make it clear to the audience
8 and to the Members here what would happen if the Area Boards were
9 eliminated?

10 MR. TRACY: Well, it would be disastrous as far as the
11 clients and the families would be concerned. There just would
12 not be anybody directly available to turn to except the regional
13 centers, I suppose, or some private organization that would fill
14 the void.

15 But it would be a disaster. I think that's why there
16 was such a tremendous outpouring when the Area Boards were
17 threatened, because this was recognized by parents, even clients.
18 And they were really, really very much frightened about this.

19 SENATOR WATSON: As we have been in this hearing all
20 day, we have been attempted to ask questions of the witnesses.
21 You've been maligned, and I think in doing so, I just tried to
22 stop the last witness who was talking about liars and so on.

23 I would hate to see a time when the Area Boards'
24 structure was eliminated, because I do not think, from what I
25 have heard -- and if I'm wrong, I want you to tell me -- that the
26 members of the PAI, even the Council, have the kind of
27 sensitivity that you have, who are parents, who are grassroots,
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1 who everyday suffer through what we do or don't do here in the
2 Legislature or in the Executive Branch.

3 MR. TRACY: I think it's with fright and alarm, what's
4 going to happen to our people who need our help, and particularly
5 for myself. I'm getting along in years, and I'm not always going
6 to be around to look after my youngster, he's going to have to
7 depend on your system. And if he can't depend upon the system,
8 then I just shudder to think what's going to happen, and
9 [inaudible] throughout the state.

10 SENATOR WATSON: These are the same people that I think
11 would talk about local control, who were saying we don't need a
12 local Area Board, we need something else.

13 I appreciate your trying to get through to the Governor,
14 and I think you've got his attention. I don't know how long you
15 hold it, but we're concerned about the same things you are, and
16 we intend to probe until we can have the Boards and the structure
17 functioning to serve the clients.

18 MR. TRACY: There are hundreds of thousands of people
19 throughout California who are begging for your help and are very
20 appreciative of it. And they're waiting for you to give them a
21 little direction as to how you want them to help further.

22 CHAIRMAN McCORQUODALE: One of the issues, especially at
23 the beginning, the issue was raised that I was just concerned
24 about this because it was a partisan issue, that's the only
25 reason I had an interest in this.

26 So far it's been pretty clear, the registration of the
27 people who were testifying, but can you tell us whether you're a
28 Democrat or Republican?

1 MR. TRACY: I'm a Republican, and I've been a lifelong
2 Republican, and generous financial supporter of local and State
3 and national officers. And I think my Assemblyman and people who
4 know me can verify this to you.

5 But right now I have cut off full support to the
6 Republican Party because I'm ashamed of the Republican Party, who
7 would employ the people that I've seen here today and some of the
8 other people who make decisions that are really life-threatening
9 to our people. I'm ashamed of my party.

10 CHAIRMAN McCORQUODALE: Thank you. We appreciate you
11 coming today, and I'm sorry that we had to wait so long. It's
12 just an issue that we felt we had to really get a lot of
13 attention, and we had the subpoenas for those folks today, and we
14 would have lost it tomorrow, so I wanted to be sure we got
15 through that.

16 Is Rose Yates back?

17 Do you want to swear in Ms. Yates.

18 MR. MILLER: Please raise your right hand.

19 (Thereupon the witness, ROSE YATES,
20 was duly sworn to tell the truth,
21 the whole truth, and nothing but the
22 truth.)

23 MS. YATES: I do.

24 CHAIRMAN McCORQUODALE: For the record, would you tell
25 us your name and any positions that you hold. Maybe not all of
26 them; that might take too long.

27

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1 MS. YATES: I'm Rose Yates. I live in Long Beach. I
2 have a 32-year old developmentally disabled daughter who is still
3 living at home because I don't care for the snake pits around,
4 who's in a program that shouldn't happen to anybody, let alone a
5 DD, and so on.

6 When my daughter was born, and it was very good that I
7 didn't testify at your other meeting because that's where she was
8 born and brain damaged. It was a doctor's mistake and the
9 hospital's mistake.

10 What have we done is do the best we can as parents. I'm
11 one of these over-qualified, as Gary says, because I've given 30
12 years to full-time volunteer advocacy. I started as a parent
13 with county organizations, started some of their chapters. I
14 initiated Harbor Regional Center and was on its board. I was the
15 original member of the Long Beach Commission on Handicapped, and
16 finally came to the State Council. And interspersed with that, I
17 still deal with the mental health committees, any kind
18 conferences on handicapped. I organized a school; I chair a
19 foundation for the benefit of developmentally disabled. I was a
20 consultant for the Master Plan for Education. I'm an educator,
21 as you are, in my past.

22 I've been on recreational boards, planning groups, and
23 have the awards to attest to my track record. I have a track
24 record. I've learned the hard way.

25 I have come here to exercise a cancer that has invaded
26 our system and that is spreading. And I don't think chemotherapy
27 is acceptable anymore, but radical surgery.

28

1 I have -- I was appointed by the Governor four years ago
2 to the Council through his secretary, who called and asked if I'd
3 help with DD problems because he gave me my first awards. Coming
4 from Long Beach, he knew my track record. And I was delighted to
5 come on; I was to serve at his pleasure. Supposedly, I'm a
6 friend of Gloria and George.

7 The first time I came on Council, it was a marvelous
8 experience. There were so many people working real hard, doing
9 the job, knowledgeable, intelligent, dedicated people. And
10 slowly, one by one, I saw their positions eroded. They were not
11 reappointed. They resigned because they couldn't accept a lot of
12 things.

13 And my message today is that I don't feel that the
14 present Council or the PAI Board can protect and advocate the
15 legal and civil rights of my daughter and her peers, because it's
16 like saying, "Let's kill off all the doctors because we don't
17 need them." When you need brain surgery or an appendix out, call
18 your butcher. You don't need training or background or
19 experience or a track record.

20 My day and age, that's a rather odd type of thing. We
21 couldn't get jobs if we weren't qualified for them.

22 I feel that we have produced a lot of conflict of
23 interest. Unknowledgeable people -- the person that took my
24 place had been in Miami up until 1985. We learned the laws, the
25 rules, the regulations the hard way.

26 And the first time that I was appointed, Gary Macomber
27 -- George DeBell, Marvin Pierce and I were the first three
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1 appointments of the Governor. He called a meeting in Fairview,
2 where we got an indoctrination. It so seems he knew the other
3 two, but nobody knew who I was or where I came from on a State
4 level. And so, he said to me, aside, "Now, I think the Council
5 members should run the Council, not the staff. It should be in
6 our hands." But little did I realize what the plan was.

7 After I had come on, June 28th, or it was really August
8 before the first meeting was held of the 84, and by January we
9 had lost a very capable chairperson who had an obvious disability
10 that Gary questioned. And so, it surprises me that these
11 invisible ones today are not questioned. We have people that
12 have been brought on Council that say they have, for instance,
13 epilepsy, but the Epilepsy Society has never heard of them, and
14 they're not on any mailing list and have never done anything.

15 It seems if you care for a family person, that you get
16 involved in the advocacy because those programs aren't out there.
17 We've had a terrible transportation problem. Do you think we can
18 get anybody to straighten it out for us? The Constitution says
19 it; 504 says it; Civil Rights Bill says it, and yet we allow Long
20 Beach to discriminate against developmentally disabled.

21 In going through this saga, the next chairperson was
22 Jose. And Council got along pretty good. We lost our Executive
23 Director, and then we had to choose a new one. I was on the
24 committee to choose one. We put up -- we wanted to put up three
25 names; we put up four. The fourth was Jim Bellotti, who is now
26 Executive Director.

27
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1 Gary came to the meeting of the voting, and he talked
2 against the first two people to be on the ballot and was all for
3 it. I saw department heads there that I had never seen before or
4 since in four years who were all there for the vote.

5 So, things began to slowly change. When we had an
6 off-site in San Marcos two years ago, Gary bragged at one of the
7 meetings that he had control of all the appointments except one,
8 and it was obvious the one was me. And that he put his name on
9 the line for these types of appointments.

10 At the last meeting last year of the Planning Council, I
11 happened to be in the same committee that the DDS Department head
12 was at, and he felt that if Council didn't do more, the money for
13 the meetings and the travel should go into direct services into
14 the Department.

15 It's kind of funny, because we have put in people now
16 that absolutely do not know the laws, the rules, or know how to
17 deal with the situation almost to the point where they're voting
18 against themselves at meetings.

19 Gary had said that he felt that if this was the thing,
20 if we couldn't function, that we were -- had gotten the word that
21 Area Boards would go, Council would go, and regional centers if
22 they had to, and then there would be total control.

23 I saw the total control come on, and Gary couldn't do it
24 alone. He had a couple of Judases in the group which helped him.
25 The bylaws were changed last year. The standing committees were
26 deprived of some of their duties, such as MSR, which I chaired,
27 could no longer do investigations. A task force was formed which
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1 was not part of the process that had been voted on. Things were
2 dropped that were embarrassing to the Department.

3 It got to the point then that we asked Mr. Bellotti if
4 he would keep the staff we had and join us, since he was
5 selected. Oh, yes, yes, and first thing we went back, we started
6 to be missing staff. We had three staff members out at the same
7 time of sick leave, nervous breakdowns. Pretty soon, it got to
8 the point last year where I had no staff; therefore, I could not
9 function as a committee head.

10 There's a great deal of difference between members, the
11 way they are treated. Poor appointments to represent Council
12 have occurred, not in the best interests of the clients, and not
13 in the best interests of the Council at all. So that Council got
14 such a bad reputation last year that people almost didn't want to
15 come.

16 I worked with Bella Meese and hopefully -- and wrote a
17 letter to the Governor in regard to appointments to see if we
18 could strengthen Council. Little did I know that I was doing the
19 wrong thing and committing political suicide.

20 There were many, many people who had great track
21 records, who were willing to serve, and who have served very
22 well, that absolutely were [inaudible]. I had talked originally
23 and worked on Area Boards with Debra, and then Gaddi Vasquez came
24 into the picture, and he didn't stay very long; I don't think
25 enough to warm the seat of his desk. And then Bella Meese took
26 over. And somewhere, when we were thinking that the appointments
27 were coming, because if you don't fill in appointments for
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1 consumers, then the Department heads are the majority vote, and
2 they do have that vote.

3 CHAIRMAN McCORQUODALE: Let me interrupt and ask you a
4 question.

5 One of the issues that we had raised before was the
6 Deputy Director, and you talked about the staff to the Council,
7 and whether Mr. Bellotti wrote a letter indicating whether he was
8 for or against Ms. Monagan as staff to the Council?

9 MS. YATES: Since the Deputy coming on, it would have
10 been the Deputy, and I was the chairman. Mr. Bellotti had
11 properly interviewed people and picked three, the last names
12 being: Sharn, Diaz, and Kaplan. And he wouldn't tell me, and
13 figured it was none of my business, even though I would have to
14 work with this person, so he put the three names up and sent them
15 to the Governor's Office. And we waited with bated breath that
16 one of them would be.

17 My position was, two of the people had absolutely no
18 background in developmental disabilities. The only person was
19 from Michigan, and we heard that they would not interview her.

20 Then Gary came over one day, and he said, "Guess what?
21 They got another person that the administration is putting up by
22 the name of Mrs. Monagan." And he showed me her vita.

23 And it's interesting how these vitas keep changing.
24 Every time we ask questions, they keep changing. I just add to
25 mine; it doesn't change the past.

26 And he showed me a -- and he said, "No, this just isn't
27 going to do." He showed me a letter he'd written, and I have it
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1 in my files which I will still get to you, saying that she just
2 wasn't acceptable because she didn't have the minimal
3 requirement. She had absolutely no background that was feasible
4 to have that type of a position.

5 So, there is a letter like that.

6 Now, two other people have seen it. One is in the
7 audience here. Mr. Tracy, who preceded me, has also seen this
8 letter, which was seen by some of the other Council members.

9 It's just funny, too, that when she did come on, she
10 never had time to talk to me, the chairman. So, I guess I was
11 one of the bad girls that wanted bills to be favorable to our
12 disabled population to get a good residential bill in, and try
13 and get the CCS bill through, and so on.

14 CHAIRMAN McCORQUODALE: Are you aware of whether there
15 was ever any discussion of her background in education and
16 related experience in any public discussion? Or was there not
17 ever any discussion of her?

18 MS. YATES: No, there wasn't. As I remember now, I
19 think it was just a discussion that Mr. Bellotti had with me, and
20 I don't know what other people. In other words, showing me, you
21 know, this is the letter I've written. And I do have a copy also
22 of her original vida, and I understand it has changed somewhat
23 since.

24 All of them have changed.

25 CHAIRMAN McCORQUODALE: Some of them are hard to get,
26 too.

27 MS. YATES: They keep changing them.
28

1 But investigations have been killed, and they just --
2 it's been, no doubt whatsoever, that Gary controls the
3 appointments. Bella said, I asked her, and I said, "Well, the
4 community says that Gary has a lot to say because he bragged
5 about the fact that he has controlled every one except one." And
6 she said, "Oh, no more than anyone else."

7 And yet, we were told that the last appointment, the
8 gentleman that was appointed, which we questioned whether he's a
9 DD, that he was the only one. And yet I personally signed and
10 advocated, and know the Legislators, and know the best friends of
11 the Governor who put in letters of recommendation for these
12 people -- consumers who are capable of thinking, knew the laws,
13 knew the regulations, knew what was going on in the community.

14 And we don't have any community people there. I was
15 probably one person that knew what happened to everybody that
16 walked in the streets DD labeled, and the majority of whom are
17 not regional center clients.

18 Now, I was suspected of something, Senator. When -- I
19 called Bella several times, and the last time she said, "Rosie, I
20 don't think you're very happy on the Council. Why don't you take
21 the newly constituted group that the Governor now has, the
22 Governor's Committee for Employment of the Handicapped?" I said,
23 "I'd be more frustrated there because they don't do much for DDs,
24 if anything." A lot of the local chapters don't. It's kind of a
25 more of a physically handicapped, and they discuss those issues
26 more than ours.

27
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1 So, I suppose I should have been suspicious, but I said,
2 "No, I do not want to."

3 Now, the interesting part of it is, being a Republican,
4 being a friend of the Governor, and I did not have a term. I was
5 to serve at his pleasure. I strongly suspect he doesn't know
6 I've been politically assassinated, and I strongly suspect that
7 he doesn't treat his friends this way when he knows about it.

8 So, the Republicans often will complain about how
9 Mr. Lungren got treated, and I happen to know him real well, they
10 do the same thing to their own people who are supportive.

11 CHAIRMAN MCCORQUODALE: If they do that to their
12 friends, you can imagine what they --

13 MS. YATES: -- do to their enemies, yes. They cut your
14 throat, and really for no good reason other than the fact that, I
15 guess, I couldn't go along with the Department in everything. I
16 have a deep concern for the consumers. I know my daughter and
17 her friends need [inaudible] the problems in the community. And
18 you can hardly do these things if you don't know about it.

19 But I think Council has gone like from here down to
20 here. And the only hope for it is to settle it and to write new
21 rules and regulations that make sense.

22 SENATOR WATSON: Mr. Chairman, I just would like to say
23 to Ms. Yates that we appreciate her candor. It's not easy for
24 you to come up here and make these remarks. I respect all that
25 you've said, because I know that it is painful for you to do
26 that.

27

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1 SENATOR WATSON: It's just really clear. And I know
2 that they're trying to destroy. And the best way to destroy, you
3 know, is to put people in who are going to prolong, postpone,
4 adjourn, cancel, walk out, insult, attack, call names, and so on.
5 You don't get anything done.

6 We've experienced this on the Commission on the Status
7 of Women. We can experience this on the Family Planning Board.
8 We're experiencing it on PAI, the Council, and it's a plan; it's
9 a strategy.

10 And I do hope that Mr. Brown is listening. I'm not
11 talking behind his back. I wish he'd trot back in this room.

12 MS. YATES: He's my Assemblyman. I can't --

13 SENATOR WATSON: All right. And every time I hit the
14 point, he'd attack. That's the whole strategy.

15 So, we understand what's happening. I'm glad that you
16 have been there, and you know, because it's not something that
17 we're fabricating up here in the ivy tower.

18 MS. YATES: That's right.

19 SENATOR WATSON: You're coming from the grassroots, and
20 you are telling it like it is. Thank you, I appreciate that.

21 MS. YATES: You can tell the reality of what has
22 happened, and what is happening to human lives. It's horrendous.

23 SENATOR WATSON: Well, we're not going to sit by and
24 watch it happen. That's what this hearing is all about.

25 MS. YATES: I certainly dedicate myself --

26 SENATOR WATSON: People playing games with us --

27 MS. YATES: -- and you straighten it out, and --
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1 SENATOR WATSON: They didn't know that the meeting was
2 compulsory, or they were too busy to accept the subpoena.

3 MS. YATES: I've been to the PAI meetings recent times,
4 and you forgot to talk about the fisticuffs.

5 SENATOR WATSON: Oh, yes.

6 MS. YATES: There's been some real interesting sessions.

7 SENATOR WATSON: Yes, and they're under oath, and they
8 tell us things that are not really true.

9 I mean, I've had my intelligence insulted for the last
10 eight hours. We sit here, and they do it to us all the time.

11 MS. YATES: We've watched and we know.

12 SENATOR WATSON: Give us a little more credit, thank
13 you, wherever you are.

14 MS. YATES: We'll give you lots of credit. We shall be
15 forever dedicated. It was worth my personal funds to come hear
16 you try and help.

17 SENATOR WATSON: Thank you so much.

18 MS. YATES: I owe it to the so-called --

19 SENATOR WATSON: We do; we owe it to the children.

20 CHAIRMAN McCORQUODALE: Let me get in the "Superior
21 Officer of the Board", George DeBell.

22 Do you want to swear in Mr. DeBell.

23 MR. DeBELL: Senator Watson, I hope I can [inaudible.]

24 CHAIRMAN McCORQUODALE: Identify yourself for the
25 record.

26 MR. DeBELL: George DeBell. I'm Board member.
27
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1 CHAIRMAN McCORQUODALE: Go ahead and have a seat. We're
2 not going to swear you in. You've been here too many times, been
3 around too long, for us to need to do that.

4 MR. DeBELL: I didn't take umbrage at being called a
5 "Superior Officer of the Board", because I've also called
6 Mr. Jones the greatest thing that's happened since Attila the
7 Hun. And I normally call a cow "a cow". I'm very plainspoken,
8 and I'm probably on the Board now, the PAI Board, for a very
9 short time.

10 I think Mr. Jones has already indicated I'm dead meat in
11 September; however, I have submitted a letter to the appointments
12 secretary requesting reappointment. I want to read this; I'd
13 like to leave a copy with you. I've indicated my experience, my
14 commitment, my credibility with the constituency, the challenge I
15 see in the Protection and Advocacy function, my management
16 experience and leadership experience, and last but not least, my
17 political affiliations, which bothers me a lot.

18 I'd like to read that little paragraph:

19 "As a constant Republican for the
20 past 48 years, I am able to balance
21 the political realities with my
22 primary concern, that is the welfare
23 of the developmentally disabled."

24 I'm concerned as a Republican that the word is passed
25 through this constituency, which probably represents over a
26 million and a half votes, that Republicans are at the basis of
27 doing something wrong to the mentally ill constituency and the
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1 developmental disability constituency. I think you referred to
2 that a little while ago, are Republicans concerned about this
3 image.

4 I also don't feel that Governor Deukmejian knows that
5 this is going on. And his isolation has caused him to be
6 shielded from the public pressure.

7 Senator Watson, you asked what the issue was. Why were
8 all those confrontations going on in the Board? Why were people
9 yelling at each other and calling each other names?

10 I think there's no easy answer to that question, but I
11 think it has to do with the strategy that's being employed to
12 neutralize advocacy voices throughout the state that are raised
13 on issues that may be embarrassing to the administration. The
14 strategy, I believe, that's being employed is to neutralize these
15 boards.

16 The first occasion was the issue of the Area Boards.
17 The Area Boards have constantly held public hearings, and at
18 these public hearings, documentation has, in many cases, been
19 negative about the services being provided within the State.
20 Some of them I don't agree with, some of the negative comments.
21 I feel that people get up and sometimes they're very emotional,
22 and they amplify problems in the system that are not that bad.
23 But they do come out in print, and they come out in the
24 newspapers, and they come out in the television, and it's an
25 embarrassment to the administration.

26 And so, I've never been able to figure out who advised
27 the Governor to limit these funds for the Area Boards, but it
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1 probably was: well, if we -- it's like they used to say in the
2 Navy, if we could just get rid of the ships, we'd get rid of our
3 problems. And if we'd just get rid of the Area Boards, we could
4 get rid of the problem of this unfavorable publicity. And so the
5 way to get rid of the Area Boards was a quick fix in the budget
6 to eliminate their funds.

7 Now, Mr. Macomber made a point that he felt that the
8 action of the Council in requesting PAI litigation services, and
9 the action of Protection and Advocacy to provide those services,
10 was premature because we should have waited until something else
11 happened.

12 What had happened already was, the Area Boards had been
13 advised through the budget action that there was not going to be
14 any funds beyond July, and many of them had issued letters to
15 their employees saying, "On this date, you had better start
16 looking for another job." And many of the Area Board employees
17 did start looking for other jobs. And it looked like the whole
18 Area Board thing would crumble.

19 So, action had been taken and initiated sufficient
20 enough to warrant litigation. The purpose of litigation, when so
21 many people see an issue in one light, and the administration
22 sees it in another light, in this country I believe the way you
23 solve that problem is, you ask the Court for advice and
24 direction, which is what we were asking.

25 Now, because of these actions, and because of the type
26 and caliber of personnel being assigned to the Boards, all of
27 whom are good, honest people, but they don't have what Rose Yates
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1 calls the track record, the sensitivity, the feeling for the
2 problem, and they have not displayed it yet.

3 And this has outraged the constituency. And our PAI
4 Board meetings, which generally, prior to about five months ago,
5 were attended by four to five public people present at a meeting,
6 have now turned into meetings of 150-200 angry, insulted
7 constituents who are difficult to control in a meeting. That is
8 one of the pressures being brought on these members who felt that
9 they couldn't stand and take it.

10 Insulting the constituency by calling them the "peanut
11 gallery" didn't help.

12 There's a lack of experience by Mr. Jones in conducting
13 the meetings. He doesn't have the foggiest idea of basic
14 Robert's Rules of Procedures in conducting meetings. And this
15 annoys him, and this was the reason he used those pejorative
16 terms to me, was because I had initiated a motion which he didn't
17 understand or agree to, and rather than -- he said I tried to
18 disenfranchise one of the members. No way I could do that.
19 Whatever I would do would require a vote of the Board. He was
20 not willing to accept the vote of the Board, and so he lost his
21 control.

22 Now, to implement that strategy to control the
23 membership, you delay action; you go into crisis management; you
24 minimize the terms to which you appoint people. You then get a
25 result of lost confidence of the Board and Council. You get a
26 tremendous loss of experience by not appointing people who have
27 served up to three years, and who should serve an additional
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1 three years to preserve the continuity of the operation. And you
2 have a political backlash, is what you're experiencing now.

3 I would say that the basic requirement to serve at the
4 State level on any board or council is to have grown up some way
5 through the system, to have put in time in advocacy groups,
6 parent groups, and Area Boards, a regional center board. You
7 don't suddenly become a lawyer and get appointed to the Supreme
8 Court. And I view the Council and PAI as the two highest
9 legislatively authorized bodies in this State.

10 And to appoint people who have absolutely no background,
11 who join organizations one week just to qualify for appointment,
12 is certainly not within the spirit of any law or intention of the
13 law. The apprenticeship must be served in order to adequately
14 service this population at the State level. It's a complicated
15 system, as you all well know.

16 And also, there should be some check on the bona fide
17 credentials of people who apply. Are they really disabled? Are
18 they really [inaudible]. Do they have credentials which validate
19 this? Are they a primary consumer? Are they a client of a
20 regional center?

21 There are hundreds and hundreds of people out there
22 working all the time who would make excellent members. Now, I've
23 heard a lot of people talking about how you get on one of these
24 boards. I've heard about applications; filling out an
25 application.

26 I've been appointed by the Governor to three boards:
27 The Lanterman Advisory Board for the Lanterman Developmental
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1 Center; the Protection and Advocacy Board; and the State Council.
2 I have never filled out an application. I have never been
3 interviewed. I have always received an appointment scroll from
4 the Governor, this big. I've always received a letter. The
5 Council, and Protection and Advocacy, and the Advisory Board at
6 Lanterman have all received a letter from the Governor validating
7 that I am duly appointed.

8 I was sworn in to both the Advisory Board and the
9 Council, but I was never sworn in to Protection and Advocacy.
10 Half of the people in Protection and Advocacy have never been
11 sworn in.

12 There's been a unclear understanding of the process for
13 getting on the board, an unclear definition of how boards are
14 notified that they have bona fide members.

15 Now, a phone call from somebody who purports to be at
16 the Governor's Office to the office of Protection and Advocacy
17 that somebody is a member is a Protection and Advocacy, in my
18 opinion as the President at that time of Protection and Advocacy,
19 is not sufficient notice to qualify those individuals to vote.
20 And that is where I tried to disenfranchise an individual,
21 because we had not been duly notified of the appointment.

22 Chris Jones was recommended by Protection and Advocacy
23 to the Council to be their representative at the State Council.
24 Chris Jones was an alternate. The first choice was Linda
25 Kowalka. Linda Kowalka was nominated and endorsed by the
26 Council; Linda Kowalka was present at three or four Council
27 meetings and was never confirmed, and suddenly, she was removed
28 and Mr. Jones was placed on the Council.

1 With respect to Mr. Macomber's story about somebody
2 calling him and saying -- or Gary calling and saying, "What the
3 hell's going on over at PAI?" I received that phone call. Gary
4 called me up, and he said, "What the hell is going on with PAI?
5 Will you look into it?" I said, "What do you mean?" He said,
6 "They're suing everybody." I said, "Certainly, I'll be glad to
7 look into it."

8 I contacted Mr. Zonca. Mr. Zonca said that yes, they
9 were suing; they were suing the Riverside Regional Center. And
10 the reason they were suing them was because Riverside had adopted
11 the policy of depriving services to the people who had an I.Q. of
12 over 75. At that time there were five cases, of which four had
13 already been won and one was in litigation.

14 So, I called Mr. Macomber and I said, "Yeah, the reason
15 there's a lot of activity and suits is, one of the regional
16 centers is depriving somebody of services, and this is what we're
17 in business for." And he said, "Yes, I understand that. That's
18 fine. Thank you very much."

19 I've had a very frank and open relationship with
20 Mr. Macomber. And when I'm disturbed about something, I
21 generally go to his office. He has always seen me immediately.
22 We have a little discussion, and I've always felt very
23 comfortable in dealing with Gary.

24 I think that's about all I'll say.

25 CHAIRMAN McCORQUODALE: All right. We thank you for
26 coming. We understand the difficulty and the concern that you
27 have in this regard. We do appreciate your continued concern and
28 being there to address the issues.

1 MR. DeBELL: Thank you.

2 CHAIRMAN McCORQUODALE: I'm going to ask everyone else
3 that has any testimony to feel free to write it in, but I do want
4 to very briefly allow two people whose names were used a lot
5 today to comment if they would like to, and they both could come
6 up at the same time to expedite it: Linda Kowalka and Connie
7 Lapin.

8 You don't have to rebut everything. Anything that was
9 said good about you, you can just accept that.

10 Before we do that, let me just take care of some
11 business. If you recall, Mr. Macomber had been served a
12 subpoena. He failed to show up at the hearing in Los Angeles.
13 We notified the agency that he was in contempt of the Committee,
14 and had indicated that if he would be at this meeting and would
15 testify, and would spend the day with us, that I would then
16 recommend that that contempt be lifted.

17 I need a motion to do that.

18 There's a motion, a second. Any discussion? We'll show
19 that all Members present voted "aye" on that, and we'll advise
20 him of that.

21 All right, here's the two troublemakers here.

22 MS. KOWALKA: Thank you, Senator.

23 First of all, I'd like to comment on testimony that was
24 given regarding the O&D Committee process.

25 Chris Jones called my house on June 28th at 9:45 in the
26 morning. My daughter took the message that he called. She
27 turned around and called me at work, which was taken by the
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1 secretary at 9:50. I returned his call that afternoon at 3:15,
2 leaving a message with his secretary, saying that he had called;
3 I was returning his call, and that I would be at home and
4 available for him to return my call after 8:00 o'clock that
5 evening. By his own admission, on Friday night, July 1st, he
6 admitted that he called my home again, knowing full well I would
7 be at work and not be able to answer the phone.

8 I'd also like to clarify that I do not own an answering
9 machine.

10 The meeting -- I found out about it --

11 CHAIRMAN MCCORQUODALE: Your daughter has a squeaky
12 voice, or what was it?

13 MS. KOWALKA: Not that I know of.

14 Anyway, I found out about the O&D Committee meeting by
15 calling the office, and it was mentioned to me in a conversation
16 with Al Zonca.

17 That's the first time I have ever not been notified in
18 writing in advance, at least 10 days, of a PAI Board meeting or
19 committee meeting. There was no written material provided to me
20 as a committee member. The meeting took place from approximately
21 6-9 o'clock that evening.

22 I also want to clarify that Lori Roos made
23 recommendations to myself, as the only other committee member
24 present, that the federal Senators make appointments to the PAI
25 Board. She said that she would pursue looking into that with
26 both Senator Wilson and Senator Cranston's office, and that she
27 would get back to all committee members within two weeks from
28 July 1.

1 Three weeks after the committee meeting, I started
2 calling her home and her place of work, trying to get ahold of
3 her to find out the status of the committee meeting. I got ahold
4 of her roommate and left a message. It was never returned. I
5 finally got ahold of Lori at work last Monday morning. She
6 informed me that she had been in Oregon; she had had surgery, et
7 cetera, et cetera, and that was her reason for not pursuing the
8 recommendation of having federal Senator appoint. She had not
9 basically done anything or gotten back to any of us.

10 I tried calling her again last Thursday, left a message.
11 She has not returned my call. I finally called Chris Jones at
12 work, and he informed me that we would probably be having an
13 Organization and Development meeting Friday night before our
14 Board meeting. We have no written material to review. To my
15 knowledge, the first time Lori knew that there was anything --
16 any response from either federal Senators was through her
17 contacts with Carolyn Schneider, one of the staff people with
18 PAI.

19 The second thing I'd like to clarify is, I do not
20 consider myself a liberal. I don't feel because I disagree with
21 people that that automatically makes me a liberal. And I'm sure
22 people who know me very well would disagree with that, although I
23 am very outspoken; I speak my mind when I feel it's appropriate.

24 And I would also like to say that after sitting through
25 this, and having watched PAI grow from a concept to a physical
26 entity that has provided quality services to people for ten
27 years, and to watch it be slowly dismantled, and to watch the
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1 arrogance and rudeness which people here today have shown to
2 Legislators -- and whether I would agree with you or not, whether
3 you're Republican or Democrat, I feel you have a right to be
4 respected because of your position -- I would ask at this point
5 in time that these Committees petition the federal government to
6 do an investigation, and that the current Board of Directors for
7 PAI be disbanded, turned completely over to the constituency and
8 reorganize.

9 I don't believe, after watching this thing and
10 participating in it, and trying to reach some settlement so that
11 people will continue to be served, I feel that it's gone beyond
12 any reasonable level. And I would like to see it remain
13 independent.

14 Thank you very much.

15 MS. LAPIN: Just briefly, I feel sorry for you. You
16 must be as starving and tired as I am.

17 Just a few points. Number one, I was told that I am not
18 constructive in my thinking, and I'm disruptive.

19 I have never left a meeting. I stayed on at the
20 meeting, and I tried to propose compromises. And those
21 compromises that I've been involved in deal with the bylaws. I
22 was chair of the Nominating Committee. I knew Chris wanted to be
23 President. I supported, and I think you have the information, a
24 nominating slate that would be a compromise. In fact, I took
25 myself off, and I wanted to serve as Executive Secretary --
26 excuse me, Secretary. And I took myself off because I felt that
27 Chris wanted me off, and I proposed a compromise slate.

1 Another compromise that I helped support was that I'm so
2 upset about not bringing on the mental health community that I
3 said let's bring them on in an interim basis, until we get this
4 appointment process figured out.

5 Every one of those compromises, except for a 13-member
6 Board, pretty much was by the block of five rejected.

7 The second thing I would like to say is that Chris did
8 speak to me on the phone. He said that he might reconsider
9 putting me on the Executive Committee, but he didn't want to do
10 it in front of the Board because Hale Zukas was still there, and
11 that he would have left John Kellogg as Treasurer, and that he
12 would let me be on the Executive Committee as the Secretary. He
13 thought that as a peace offering, I might want to make a motion
14 at the next Board meeting to affirm all of his appointments on
15 the Executive Committee. So, he did say that directly to me on
16 the phone.

17 The other thing I want to say is that I view my role as
18 the critic advocate critical, just like your role, to be able to
19 look at our society and be able to criticize it. I believe it's
20 a constitutional right. I believe we live in a democracy.

21 And if you go or attend any of our Board meetings, you
22 will see that there is a block vote, and there is a deliberate
23 attempt to not let business be done. And I would beg you to ask
24 me at the end of our next week's -- after we have our Board
25 meeting, the 20th, what in fact will happen.

26 I believe that one of the plans is for the O&D Committee
27 not to meet. And they were supposed to meet in March; they
28 haven't. You've heard the whole history.

1 What will probably happen at the Board meeting is that
2 Lori Roos as chair will say, "Well, I don't have enough
3 information. We need to wait." And what are we waiting for?
4 We're waiting for November, when two of the Board members are --
5 I didn't realize Annette was off also -- two of the Board members
6 that are critical in terms of disagreeing with Chris will be off.

7 And I would hope that you would look at that very
8 carefully, because it's very hard to sit at these Board meetings
9 with the public out there -- and they're pretty unanimous in how
10 they feel -- and watch the O&D Committee not deal with what they
11 were, not mandated, what they were directed to deal with since
12 March. That's five months.

13 We're meeting in Orange County. Chris Jones and, I
14 think, John Kellogg chose Orange County, August 20th, as their
15 Board meeting at the Registry Hotel from 9:30-5.

16 He also said that we didn't need to meet in July. I
17 believe we did.

18 SENATOR WATSON: I intend to send my staff person down
19 for the --

20 MS. LAPIN: Please.

21 SENATOR WATSON: -- for the duration of that meeting
22 just to find out what goes on.

23 MS. LAPIN: Please. I would -- I mean, this isn't the
24 end, and I know that. I want to thank you again.

25 CHAIRMAN McCORQUODALE: Thank you. We appreciate you
26 coming and maintaining your sense of humor in the process, too,
27 and still being able to smile at this late a time.

1 It has been a long hearing. It's been much longer than
2 we ever thought. I don't know of any committee hearing that I've
3 ever had that lasted two days this length of time. We've put in
4 almost 20 hours of effort and hearing time on this issue, plus
5 all the staff time and everything else that's involved.

6 So, it's good that you're still with us.

7 For those of us who have broader responsibilities than
8 just looking at the developmentally disabled or mentally ill
9 areas, you can see a much broader pattern than this. What
10 happened with OSHA, of course, is as important to working people
11 as this board is to advocates for developmentally disabled. We
12 saw a report last week which indicates a 53 percent increase in
13 the number of people who have died in the workplace since OSHA
14 was disbanded.

15 We're seeing the same type of thing happen with the
16 Coastal Commission, as we keep seeing efforts to close the
17 offices of the Coastal Commission, which has the responsibility
18 to preserve and protect the resources, one of the major resources
19 of the State, the same as this board has the responsibility to
20 the developmentally disabled.

21 So, it's not an isolated incident. We see it over and
22 over in many ways, and it bothers us that things people have
23 worked so hard for over the years.

24 And it's not that we're just standing still. There are
25 times when we have to stand still because of resources, or
26 technology, or knowledge, or will, or a whole number of things.
27 But as we lose, when we lose things that we've gained, then
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1 that's not just that we're not going forward, but we really are
2 losing and not doing right by the people who have the need for
3 the services.

4 So, we don't intend for this to die. I've asked the
5 Leg. Counsel to prepare a resolution which doesn't do a lot, but
6 it is an expression of our concern, which I'll ask the Senate to
7 adopt. It's basically, after all the "whereases", quotes the
8 Lanterman Act that says that:

9 "Resolve that the Legislature
10 encourage the Governor and other
11 statutorily designated appointment
12 entities to ensure that appointments
13 made to the State Council on Develop-
14 mental Disabilities and to Protection
15 and Advocacy, Incorporated, reflect
16 persons with knowledge and understanding
17 about and commitment to the issues and
18 statutorily expressed rights affecting
19 persons with developmental disabilities."

20 We do intend to follow up with further discussions with
21 the federal people to see what concerns they may have and what
22 additional information we might be able to provide them there.

23 I think that because there are so many pressing issues
24 that the Legislature deals with, it's hard for people who don't
25 have a committee responsibility, or some ongoing relationship
26 with developmentally disabled, to see the importance of this
27 issue.

1 So to the extent that you continue to communicate with
2 your elected officials, that will be helpful, because obviously,
3 from what we've heard today, my sequestering of the members in
4 the Sergeant's office is not going to go unnoticed. And when it
5 comes up, people who aren't associated with it will think, well,
6 why should this have happened. It was important that we hear the
7 individual response of people, especially since so many of the
8 claims and so many of the concerns that have been raised is that
9 one person controls five people, and that we needed to hear the
10 individual response from people separately.

11 So, we will continue to raise this issue and to work on
12 this issue, and look forward to working with all of you as time
13 goes by.

14 MS. KOWALKA: Senator, you might entertain the idea of
15 having a video camera at our next Board meeting. It would be
16 very obvious what you're dealing with.

17 CHAIRMAN McCORQUODALE: I wonder if I could ask Mr.
18 Zonca, is there any reason that you can't put us, by my request,
19 put all four of these Committees on the mailing list for the
20 notices of the meetings?

21 MS. LAPIN: You might want to receive the minutes also,
22 since I'm still Secretary.

23 CHAIRMAN McCORQUODALE: Yes, notice of the meetings,
24 agenda, and the minutes.

25 All right, very good. I thank Leg. Counsel for sticking
26 with me and Senator Watson for staying with us. Thank you.

27

28

1 SENATOR WATSON: I just want you to hang on in here with
2 us. We appreciate that.

3 I'm sorry the others that we had up here didn't stay to
4 the end. I can understand them leaving. I guess a lot of people
5 would leave if they had the opportunity. But I do appreciate you
6 staying. I appreciate your concern and your commitment to the
7 DDs.

8 We're with you all the way.

9 (Thereupon this hearing on the Appoint-
10 ment Process for Advocacy Boards Serving
11 Persons with Developmental Disabilities
12 and Mental Illness was adjourned at
13 approximately 8:30 P.M.)

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CERTIFICATE OF SHORTHAND REPORTER


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I, EVELYN MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing Joint Hearing on the subject of "Oversight on the Appointment Process for Advocacy Boards Serving Persons with Developmental Disabilities and Mental Illness, held by the Subcommittee on Mental Health, Developmental Disabilities and Genetic Diseases and the Senate Select Committee on Citizen Participation in Government and the Assembly Subcommittee on Mental Health and Developmental Disabilities and the Senate Subcommittee on the Rights of the Disabled, was reported verbatim in shorthand by me, Evelyn Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 7th day of September, 1988.


EVELYN MIZAK
Shorthand Reporter

