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May 26, 1995
(Date)

For: The Honorable Abner J. Mikva, Counsel to the President

The White House

1600 Pennsylvania Avenue, Washington, D.C.

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I certify that the corrections made by me reflect the changes I wish to make in my oral testimony.

Abner J. Mikva
(Signature)

1164 STATEMENT OF ABNER J. MIKVA, COUNSEL TO THE PRESIDENT, THE
1165 WHITE HOUSE; ACCOMPANIED BY JAMIE GORELICK, DEPUTY ATTORNEY
1166 GENERAL, UNITED STATES DEPARTMENT OF JUSTICE, AND JOHN
1167 CAREY, GENERAL COUNSEL, FEDERAL EMERGENCY MANAGEMENT AGENCY

1168

1169 STATEMENT OF ABNER J. MIKVA

1170 Mr. MIKVA. It's a real privilege to be here. I've had
1171 the privilege of participating in other gatherings over
1172 which the chairman has presided in other places, Andrews Air
1173 Force Base and the basement of the Rayburn Building, but
1174 never in this august room with those two distinguished

✓ 1175 Chairs, ^{EMMANUEL}~~Manly~~ Seller and Peter Rodino, gazing down at us. I
✓ 1176 ~~may~~ feel a great honor that you allow me to testify.

1177 I am here, Mr. Chairman, as a "'used- ter'"--I used to be a
1178 lawyer with many clients rather than just the one client I
✓ 1179 have now; I used to be a Congressman, and I used to be A
1180 judge. And in all those roles, I became aware of what
1181 support for legal representation for indigent people means
1182 to our society and to the rule of law, and that's why I'm
✓ 1183 here with great enthusiasm. I hope to make my statement
1184 very brief.

1185 You're going to hear today from Deputy Attorney General
1186 Gorelick the view of the Justice Department that the LSC
1187 serves an invaluable function and that it should be
✓ 1188 reauthorized in its current form as a separate ~~Government~~

1189 corporation, and you will hear from John Carey, General
1190 Counsel of FEMA, who will describe to you the essential work
1191 that LSC attorneys do when disasters strike, requiring many
1192 poor and middle class people to seek legal assistance. And
1193 you'll hear from LSC officers precisely what it is that the
1194 LSC does and the key impact that it has in providing legal
1195 services.

✓ 1196 ~~and~~ **I**'s not my intent to take up your time with more
1197 statistics and the like to justify the existence of the LSC.
1198 Rather, I'm here to testify as one who's seen the
1199 litigation system work up close, very close.

1200 I take it as a given that there's general agreement,
✓ 1201 certainly ^{BY} ~~the~~ the members of the ~~Judiciary Committee, the~~
1202 subcommittee of the Judiciary Committee, that the poor
1203 deserve proper legal representation, even if they can't
1204 afford it. They need lawyers for private situations, but
1205 they also need them in dealing with local and State and
1206 Federal governments, as well as housing authorities. I've
1207 been a part of government for four decades, and I readily
1208 admit that the government institutions are not always
1209 perfect and that every day they take actions that involve
1210 poor people and sometimes deprive them of their rights. And
1211 sometimes the only way that those situations can be
1212 rectified is with the help of a lawyer.

1213 I am not sure that the members of this committee would

1214 always agree with the late Judge David Bazelon, who was
1215 Chief Judge of my court for many years, but I think there
1216 can be little disagreement with something he said very
✓1217 eloquently some years ago; ~~and~~ I quote:

1218 "The opportunity to enter a court of law and seek redress
1219 is perhaps the most powerful statement we can make to the
1220 poor, that notwithstanding their plight, they have a stake
✓1221 in our society. ~~in~~

✓1222 "Legal assistance for the poor embodies our commitment to
1223 the rule of law. It displays our confidence in the fairness
1224 of our social institutions by permitting all of our citizens
1225 to subject them to scrutiny. Most important, it gives
1226 meaning to our social contract. If the essential
1227 responsibility of citizenship is to obey the law, surely the
1228 most important right of citizenship is access to the legal
✓1229 system." I think we need that access, and we need to provide
1230 for it.

1231 And if access is to include court litigation, I can tell
1232 you plainly as a former judge it's vastly better for society
1233 and for the court system to have an individual represented
✓1234 by an LSC lawyer than for the case to proceed pro se or even
1235 to proceed with a volunteer lawyer who's not schooled in
✓1236 poor people's problems. Pro se cases are often a judge's
✓1237 worst nightmares. The judges themselves ^{AND} their clerks, have
1238 to ^{PORE} ~~pour~~ over barely comprehensible filings in order to find

1239 out when a grievance is legitimate. Frequently, they end up
1240 taking an enormous amount of time, only to find out that
1241 there isn't anything there. Sometimes important questions
1242 are swept under the rug simply because they aren't properly
1243 presented.

✓ 1244 No one here I think is old enough to remember a law that's
✓ 1245 still on the books called the ^{DYER} ~~Dyer~~ Act, which ~~used to~~
✓ 1246 prohibits the interstate transportation of ~~vehicles~~, motor
1247 vehicles. It preceded the carjacking law. And in the days
1248 when I was practicing law, woe betide you if you came into
✓ 1249 Federal court a few minutes early because that's when the
✓ 1250 judge would hear the ^{DYER} ~~Dyer~~ Act call, and these were all these
1251 kids who had grabbed a car in Chicago and took a joy ride
✓ 1252 over to Gary, ^{WHEN CAUGHT} ~~and~~ they were hauled up before the Federal
✓ 1253 judge on ^{DYER} ~~Dyer~~ Act charges.

✓ 1254 ^{DEFENDANTS} ~~Well~~ I was before the Gideon case and they ^{SAY} had no
✓ 1255 lawyers, and the judge would look over the room and, "You,
1256 represent this kid." And standing on one foot, you would
1257 have to look over the record and whatever rapsheet the kid
✓ 1258 had, ~~if anything~~, and try to counsel that person as to
✓ 1259 whether to plead guilty or whether to ask for a ^{TRIAL} ~~defense~~. Of
✓ 1260 course, you knew if you asked for a ^{TRIAL} ~~defense~~ that you were
1261 going to have to defend that person, and I hate to think of
1262 the number of times that pleas were obtained simply because
1263 the lawyer didn't have the time to wisely counsel the person

1264 who was up on charges. That's what happened³ when you try to
1265 deal with important questions with lawyers who simply aren't
1266 schooled in the task.

1267 I can assure you that all the years I was on the bench I
1268 don't remember a single instance when an LSC lawyer was
1269 dis-serving the public by bringing a case that shouldn't have
1270 been brought or litigating it in a prolonged or wasteful
1271 way. Sometimes, I'm sure, they, like every other attorney,
1272 end up engaging in excesses, but most of the time that I
1273 dealt with LSC lawyers they were hard-working; they were
1274 skilled members of the profession. They helped not only
1275 their clients, but they helped the courts through expertise,
1276 professionalism, and experience. Indeed, some LSC lawyers
1277 have gone on to become Assistant Attorneys General, U.S.
1278 Trade Representatives, very high offices, indeed.

1279 I have to tell you, Mr. Chairman, I'm here involved in a
1280 conflict of interest. I have a daughter^{WHO IS A} lawyer^{and} who works
1281 for legal aid in Illinois, the Land of Lincoln Legal Aid
1282 Society. I feel comfortable about the conflict because she
1283 advertises herself as the only lawyer who's ever earned less
1284 money every time she's taken a job since she ^{GRADUATED} ~~graduated~~ from
1285 NYU Law School; ~~and~~ if the Legal Aid Society were abolished,
1286 my son-in-law and my grandchildren would be much better off
1287 financially if she went out and worked in the private
1288 sector.

1289 But she told me of a case last summer that brought tears
1290 to my eyes, and I think ^{IT} is the essence of what legal aid is
1291 all about and why Legal Services Corporation is so
1292 necessary. ~~and~~ ^{CONGRESSMAN} It echoes what Ron Wyden was talking about,
1293 that ~~this~~ ^{IT} isn't always dramatic cases. ^{THAT GO TO} the point of the
1294 law; ~~this~~ ^{IT} is sometimes dealing with people ^{ABOUT} their most
1295 essential rights.

1296 ^{CASE ABOUT} This ~~was~~ ^{AND} an elderly citizen who had had a stroke who
1297 wheeled himself in his wheelchair seven miles to get to the
1298 Legal Aid Office. He didn't even know that Champagne,
1299 Illinois provided public transportation for people who were
1300 disabled. ~~that~~ ^A He had had ~~this~~ stroke. He could barely
1301 talk. It took her over an hour to get the story out of him
1302 ^{AS TO} ~~of~~ what his problem was between trying to talk and ^{READ HIS} writing.
1303 He could barely write ^{ABOUT} ~~what~~ his problem. ~~was~~

1304 The problem was that he was about to be evicted from his
1305 public housing apartment, which was the only place he had to
1306 live. He had no support system of any kind. And the reason
1307 he was being evicted was because somehow the public housing
1308 authority in Champagne found he was a nuisance because he
1309 had this wheelchair and was so disabled, and they got him to
1310 sign or put an "X" mark on a form on which he agreed to
1311 vacate the premises. And notwithstanding her phone calls to
1312 the public housing authority, she finally had to go to court
1313 to get this client of hers to be allowed to stay in public

1314 housing.

1315 Those are the kinds of things that Legal Services provide
1316 for the people of our country. We need to continue our
1317 commitment to the social contract that we have with all the
1318 people in our society.

1319 The last phrase of the Pledge of Allegiance is "'liberty
1320 and justice for all.'" And if we're going to have justice
1321 for all, we've got to have Legal Services. I hope you will
1322 reauthorize the Corporation.

1323 Thank you.

1324 [The statement of Mr. Mikva follows:]

1325

1326 ***** INSERT *****