1 LEGAL SERVICES CORPORATION

2 MEETING OF THE SPECIAL COMMITEE ON GRANTS

3 AND CONTRACTS PROCEDURES

4 DECEMBER 4, 1982

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7 Conference Room at 733 Fifteenth Street, N.W.,

8 Washington, D.C., at 9:00 a.m., Clarence McKee,

9 Committee Chairman, presiding.

10 PRESENT:

11 CLARENCE V. MCKEE, Committee Chairman

12 WILLIAM OLSON, Member

13 ANNE SLAUGHTER, Member

14 FRANK DONATELLI, Member

15 DAN RATHBUN, Member

16 ALSO PRESENT:

17 WILLIAM F. HARVEY, Chairman of the Board

18 CLINT LYONS, Acting President, Legal
Services Corporation

19

20 HOWARD DE MOSS, Chairman, Audit and
Appropriations Committee

21 HOWARD DANA, JR., Member, Board of
Directors

22

23 JOHN DAVIS, Legal Services Corporation

24 MARY WEISEMAN, General Counsel, Legal
Services Corporation

25 BUCKEY ASKEW, Acting Director of Field
Services, Legal Services

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1 (Appearances, continued)

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3 JOHN DAVIS, Legal Services Corporation

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1 P R O C E E D I N G S

2 COMMITTEE CHAIRMAN MCKEE: Good morning, ladies

3 and gentlemen.

4 This is a meeting of the Special Committee on

5 Grants and Procedures. We are here today to receive

6 the recommendations of the staff on a variety of

7 matters involving our grants, contracting, and funding

8 process.

9 Those of you who were at one of our Presidential

10 Search Committee meetings, or Appropriations Committee

11 meetings will remember that we had to use the speaker

12 phone to bring in, I think it was Andy Slaughter

13 and Bob Scott who were unable to make it. So what

14 we are doing today is, the Chairman of the Board,

15 who is an ex officio member of all committees, and

16 since this is a rather important meeting, what we've

17 done is have him hooked up from his house in Indiana,

18 and he is on the other end of the phone. So he will

19 ask questions and we will deliberate back and forth

20 through the process of the meeting.

21 Bill Harvey? Now can you hear us?

22 MR. HARVEY: I can hear you very well.

23 COMMITTEE CHAIRMAN MCKEE: Let me outline briefly,

24 the procedures today. We will hear the staff recommenda-

25 tions. We pretty much would like to have the staff

1 go through the booklet and many of you have copies
2 of that, between this hour and approximately the
3 noon hour, or however long it takes. The Committee
4 will ask questions of the staff on a variety of issues,
5 and at that point we will have comments from the
6 public for a maximum period of time of two minutes
7 per person.
8 What I would like you to do is identify yourselves
9 and organization, and then set forth in approximately
10 two minutes just your general views and comments
11 on the staff recommendations, and any questions you
12 have to us generally on any matter that we're going
13 to be considering.
14 After that period is over, we will go to a long
15 lunch, and then possibly return, I guess-- what time
16 does it say? around 2:30--and at that time the
17 Committee will discuss the staff recommendations
18 and discuss our views, and eventually make recommendations
19 for the Committee to make, both the Committee on
20 Audit and Appropriations, and the Board of Directors.
21 The Committee on Audit and Appropriations meets
22 Monday here, and the Board of Directors meetings
23 the 16th and the 17th.
24 With us today, on my far left, is the distinguished
25 Chairman of the Committee on Appropriations and Audits,

1 Harold De Moss. Next to him, a member of the Committee,
2 Frank Donatelli. To my left, Clint Lyons, our president.
3 To my far right, Dan Rathbun, and to my far, far
4 right, Mr. Howard Dana.
5 The members of the Committee who vote will be
6 Mrs. Slaughter, Mr. Olson, Mr. Rathbun, Mr. Donatelli,
7 and myself.
8 It's very important that we have the input of
9 both Mr. Dana and Mr. De Moss because they're members
10 of the Appropriations and Audit Committee, as is
11 Mr. Olson and as is Mr. Donatelli.
12 The procedures will be, first of all, we want
13 to adopt our agenda, which you'll see on page one.
14 If I can have a motion to move for adoption of the
15 agenda from either Mr. Donatelli or Mr. Rathbun.
16 MR. DONATELLI: So move.
17 COMMITTEE CHAIRMAN MCKEE: And a second?
18 MR. RATHBUN: Second.
19 COMMITTEE CHAIRMAN MCKEE: All in favor, aye.
20 MR. DANA: Aye.
21 MR. RATHBUN: Aye
22 MR. DONATELLI: Aye.
23 MS. SLAUGHTER: Aye.
24 COMMITTEE CHAIRMAN MCKEE: What I would like
25 Clint to do, and any staff persons, and perhaps as

1 we go through this, we'll be asking questions in
2 detail about the staff report, and about the implications
3 of it. Any staff persons who Mr. Lyons feels should
4 come up front, we'll have sit up there. We want to
5 ask them questions.
6 So Clint, you can now proceed giving us the
7 basic assumptions in the book and the rationale therefore,
8 in terms of your recommendations.
9 MR. LYONS: Thank you, Mr. Chairman.
10 I think that the briefing material prepared
11 and developed by the staff are fairly straightforward.
12 What I would like to do is to just put those recommenda-
13 tions in some context, and then have available to
14 you, members of the staff who worked on and developed
15 these background materials, and the recommendations,
16 subsequently, that you will be dealing with.
17 And to have them available to answer any questions
18 that you may have. I will just briefly go through
19 areas that you will be considering, that are set
20 forth in the briefing book, but I think the most
21 important thing that I can do is just try to put
22 this whole thing in come context.
23 Beginning with the administration of President
24 Kaplan, the staff embarked on an effort to accomplish
25 a number of things, moving toward decision-making

1 by the Board of Directors around our programmtic
2 directions, and decision-making on budget allocations
3 for 1983.
4 (1). We are embarked on a process of developing
5 background materials for the board, and for the committee,
6 so that the decision-making and the issues they would
7 be addressing could be done against a background
8 of total context, and information about the national
9 program.
10 Secondly, we embarked on an effort to structure
11 a decision-making framework in which the board could
12 consider all of the issues, in totality, and against
13 the requirements, and in totality of the requirements
14 of the Legal Services Corporation Act.
15 We attempted to spell out to the board the handles
16 that they would have available to them in making
17 changes in decisions regarding the national program,
18 and it is in that context that this board vote was
19 developed.
20 As you see in part one, we set out a framework
21 for board decision-making, and in the end, our
22 recommendations are premised upon the issues of the
23 requirements of the Legal Services Corporation Act,
24 the requirements and needs of the national program,
25 and, what we have learned from the board as to its

1 vision about what the national program ought to look
2 like under the administration of this board. We have,
3 during the course of the committee meeting, provided
4 options to the various committees, received their
5 input, and their directions on those options, and
6 have refinsed our thinking and our recommendations
7 based on that direction received from the committees.
8 And also, based on the hearing processes that
9 this committee and other committees conducted throughout
10 the country over the past several months.
11 I think it's important to emphasize, that these
12 recommendations were developed by your staff, by
13 the staff of this corporation, by your president,
14 and I would at this point simply like to add one
15 thing.
16 I think in the end, the basic directive that
17 drove the staff in coming up with these recommendations
18 were basically two things. One, that the indications
19 we had gotten from this board, was that this board
20 intended to pursue some changes in this national
21 program, and, based on that indication, we proceeded
22 to try to set out some new directions that would
23 give the board an opportunity, over time, to puts
24 its stamp, and its vision, on this national program.
25 Secondly, we believe very strongly, that over

1 the past two years, this program has been mired in
2 uncertainty and instability. Many of the experienced
3 people, because of the uncertainty, have left the
4 program. That over recent months, the caseloads of
5 the national program are swelling because we have
6 unemployed and underemployed people coming into the
7 offices.
8 We have changes in the laws at the Federal and
9 state level, and we would believe very strongly,
10 that in addition to making change in a national
11 program, that change should be pursued without disruption,
12 and with as much continuity to the past as possible,
13 and I think, over time, as we build in the stability,
14 as people understand the changes that are coming
15 up, I think we can build in the stability, and go
16 on about the business of devlivering quality legal
17 services in the national program, with the changes
18 that this board sees as its mandate.
19 So with that background in mind, I would just
20 basically touch on some of the areas where we have
21 made significant recommendations.
22 With respect to the provision of legal assistance,
23 the staff considered what we have heard from the
24 board and its various committees, issues relating
25 to the inflation erosion in the national basic program,

1 and the need, perhaps, for some additional inflation
2 adjustment in 1983.
3 We went through the budget, and against the
4 total background that I have just discussed, found
5 that there was really no way, in the absence of additional
6 money from the Congress, or additional resources,
7 to squeeze out enough money to give a meaningful
8 inflation adjustment to thefield program, without
9 cutting out a significant portion of the components
10 of the national program, which we believe all play
11 an important role in maintaining the efficiency and
12 quality in the program.
13 So consequently, we have not made any recommenda-
14 tions to give an inflation adjustment to the field
15 program in 1983.
16 The next area where we made some significant
17 recommendations is in the area of national and state
18 support. It is my belief, and based on my years of
19 experience, and experiences that the staff have had,
20 and based on what we've learned in the testimony
21 that was presented before the various committees,
22 we believe that the total requirements of the Legal
23 Services Corporation Act, in terms of quality and
24 efficiency, lends itself to the desirability of having
25 support functions that are designed to, (1), increase

1 the competence of lawyers in the field, and (2),
2 to provide continuing legal education mechanisms
3 and support for those attorneys in the field. So
4 consequently, we have recommended, and we believe
5 that state and national support are important support
6 functions in this national program, in the context
7 of the quality and effective delivery of legal services
8 provisions of the Legal Services Corporation Act.
9 At the same time, we believe that because of
10 some of the restrictions that are apparently going
11 to be applied to the activities of Legal Services
12 programs, and, the need to generate some funds to
13 start some new directions, particularly with respect
14 to involvement of the private bar, and leveraging
15 the resources of the private bar, to increase the
16 productivity in this national program, we have recommend-
17 ed that this board approve, this committee approve,
18 a ten percent across-the-board reduction, pursuant
19 to applicable law and regulations in the support
20 categories of the Legal Services Corporation budget.
21 And we do that because we think that the cuts
22 can be absorbed by virtue of eliminating some activities
23 that will no longer be permitted.
24 Now that money could very easily be reprogrammed
25 and not eliminated from the budgets of those entities,

1 but again, I stress the fact that we do have limited
2 resources, I believe there is a need, and it is within
3 the policy prerogatives of this board, to set out
4 in some new directions, and, where we could, based
5 on those assessments, generate some funds to test
6 out some new directions, we have so recommended.
7 There's another issue with respect to the support
8 functions that have been developed in the national
9 program, and the issue is whether or not those support
10 functions really need to be reexamined in light of
11 any possibly changes that have taken place in the
12 basic field components of the national program, where
13 the basic services are delivered.
14 It was my judgment, and the judgment of the
15 staff, that while it is important, and it is desirable
16 to examine the support functions, indeed, all categories
17 of our activities, to see whether or not we are current,
18 whether or not there are any needed changes in terms
19 of efficiency, looking at overlap kinds of situations,
20 and those kinds of things.
21 We believe that given the fact, that we do have
22 a new administration coming on board, we do have
23 a new president on board as of the thirteenth, we
24 will have major changes in the administration as
25 he moves to fill vacancies at the senior staff levels,

1 we believe that now is not the time to make major
2 redesigned changes in the functions and components
3 of the budget.
4 We think that those changes have to be made
5 against some very careful analysis, and assessments
6 and testing of new approaches against a requirement
7 of the Act, and the regulations. So consequently,
8 we have recommended an across-the-board ten percent
9 cut in those categories.
10 In the area of Clearinghouse, we are --
11 COMMITTEE CHAIRMAN MCKEE: (Interrupting) Does
12 anyone have any questions on national or state support
13 on the committee?
14 Mr. De Moss or Mr. Dana?
15 MR. DANA: No.
16 COMMITTEE CHAIRMAN MCKEE: Why don't you go through
17 the test of those, and then what we'll do is come
18 back to each one of these separately.
19 MR. LYONS: Fine. The Clearinghouse has been
20 the main professional journal for the Legal Services
21 Community over a number of years. It is comparable
22 to scholarly journals that the private sector uses
23 in the legal community there. That function has been
24 funded in the past year and a half at a substantial
25 level above what we are recommending now. We are

1 simply recommending that that function be continued
2 on an annualized basis, at a significantly reduced
3 level. We believe that the reduced level can accomodate
4 the needs that it has in fulfilling its communication
5 links and scholarly information dissemination to
6 the field program.
7 In the area of special programs, we are recommend-
8 ing, reluctantly, some cuts, in the Client's Council
9 component, the Client's Council budget, and in the
10 Reginald Smith Fellowship Program.
11 With respect to Client's Council, we are not
12 recommending cuts in the basic components of the
13 budget. We are recommending that the $225,000 that
14 was allocated for client advocacy be reprogrammed
15 in to some new directions, which I will talk about
16 later.
17 And we do that, because again, we believe very
18 strongly, 1), that a strong client voice in the area
19 of delivery of legal services for poor people is
20 essential.
21 We think that the Client Council meets that
22 role. We are aware, that there are a number of concerns
23 among this board about some of the activities, not
24 only of Client Council but of the entire national
25 program, in the area of lobbying and other activity.

1 We believe that this board, and this corporation
2 has a multifacted approach to dealing with carrying
3 out its accountability responsibilities. We believe
4 the enactment of the lobbying regulation, and the
5 administrative procedures that we are recommending
6 to be implemented, can deal with some of the perceived
7 abuses with respect to any lobbying activity.
8 We also believe that the Office of Inspector
9 General, over the next year as it is implemented
10 and staffed, can begin to document more carefully,
11 where in fact the abuses or irregulatries in this
12 national program occur.
13 It is very interesting to me, that over the
14 past six months, I have sort of informally been review-
15 ing the Congressional correspondence with respect
16 to constituency complaints about the activities of
17 our grantee, and the interesting thing about that
18 is, that in the area of national and state support,
19 there have been virtually no Congressional complaints
20 about those areas.
21 Most of the complaints have come with respect
22 to the basic programs, and are around areas like
23 client eligibility, whether or not lawyers are represent-
24 ing their clients in areas that they should not be
25 representing them, and, the complaints normally are

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22 to the basic programs, and are around areas like
23 client eligibility, whether or not lawyers are represent-
24 ing their clients in areas that they should not be
25 representing them, and, the complaints normally are

1 coming from adversarial counsel on some of these
2 issues. A great deal of complaints are coming from
3 the clients, who go to the program, and because of
4 one thing or another, are complaining that the program
5 did not do their cases aggressively enough. So that's
6 an interesting side effect.
7 So we are, in making these recommendations,
8 aware of the complaints, and some of the irregularities
9 that we've experienced over the recent past in our
10 program, but we believe that there are other ways
11 to deal with those, other than making a total redesign
12 and withdrawal of funding from some of these programs.
13 In the Reginald H. Smith Fellowship Program,
14 we strongly and firmly believe, that this program
15 represents this corporation's committment to providing
16 the opportunity for women, and minorities, to come
17 in to this program. It creates a pool of persons
18 who come from the various communities across this
19 country, and who are women and minorities, and I
20 think, because of this program, in large measure,
21 this is one of the communities that has a high percen-
22 tage of minority and women attorneys, and paralegals
23 and others, in the work force.
24 We believe strongly, that this program should
25 be continued. We believe that everything can be done

1 more efficiently, so therefore, we are recommending,
2 again because of the competition for funds, and the
3 need to explore new and different ways of doing things,
4 that this program can afford to take some cut, and
5 consequently, we are recommending a ten percent cut
6 in this program.
7 In the area of summer intern, which is a very
8 small program, but it leverages some other resources,
9 we think that it is important to attract students
10 during the summer into the legal services program,
11 for two reasons.
12 No. 1: students are a resource, and, under the
13 proper supervision of licensed attorneys, an experienced
14 paralegal can do limited legal work in the area of
15 research, and some support activities to attorneys.
16 So they are a resource.
17 Secondly, we believe that the use of students,
18 and getting their interest in the program, enhances
19 our ability to recruit people who have prior knowledge
20 of legal srvices, as they graduate from law school.
21 They really know what they are getting into by going
22 in to Legal Services.
23 So I would recommend that this component of
24 the program be continued.
25 Now, all of these other areas that are set out

1 in the book are basically audit and appropriations
2 issues. So I would like to skip to the action on
3 re-funding applications, and the basic rationale behind
4 the recommendation is set out on page 59 of the briefing
5 book. I think the recommendation is fairly straightfor-
6 ward, and it's designed to accomplish a number of
7 things.
8 1), to make sure that this Board can make its
9 grant decisions with all the flexibility it needs
10 to implement the will of Congress, and to implement
11 its policy changes that it wants to make.
12 But at the same time, I strongly believe, and
13 the staff strongly believes, that this country, not
14 only the legal services program, needs a bit of stability,
15 and in terms of what this program has gone through
16 over the last two years, in terms of the uncertainty,
17 it is critically important, I think, that this Board
18 gives this program a level of certainty, and stability,
19 while at the same time preserving its options to
20 make the changes that it feels that it is mandated
21 to make, and I think the recommendation that we have
22 presented you with affords the Board that opportunity.
23 The ironic thing about the uncertainty and instability
24 in the program is, that as I have traveled throughout
25 this country, and talked to managers and lawyers

1 in the program, I was out in California a few months
2 ago, and was fairly startled to learn, that in the
3 State of California, where there are approximately
4 seventeen, eighteen, twenty programs, that a full
5 two-thirds of the directors in that state, of legal
6 services programs, had turned over in the last year
7 and a half.
8 Part of the abuses and irregularties in this
9 national program, in my judgment, are based on the
10 lack of firm judgment by young, inexperienced attorneys.
11 What is happening, in terms of the instability
12 and uncertainty in this program is, that we are causing
13 to leave, those experienced people who have been
14 in the programs for ten, twelve years, who have families,
15 and simply cannot afford to stay any more because
16 they have to feed their families.
17 These are the people who bring the judgment,
18 the maturity, and the mannership to younger attorneys,
19 so that they don't make the mistakes in judgment,
20 so that they don't go out, filing a law suit before
21 picking up the telephone and calling somebody and
22 saying, "We've got a problem. Let's talk about it
23 before we trigger all the legal mechanisms that
24 lead to the adversarial system."
25 So basically, the recommendation I think meets

1 the need of the Board in maintaining its flexibility,
2 and sends a message and a committment of stability,
3 and security, in the national program.
4 Now that's the basic overview of --
5 COMMITTEE CHAIRMAN MCKEE: (Interrupting) Could
6 you outline exactly what that would be, in terms
7 of the timeframe that you mentioned on page 59.
8 You're saying make grants for the remainder
9 of --
10 MR. LYONS: O.K. What I'm saying is, is that
11 the Board, if you adopt these recommendations, and
12 the Board adopts your recommendations, the Board
13 would be making two sets of decisions at its meeting
14 later on this month.
15 One decision would be to extend the current
16 grants for two months in to the new calendar year.
17 The second decision would be to make a preliminary
18 determination by the Board, to be adopted by
19 February 15th.
20 COMMITTEE CHAIRMAN MCKEE: Mr. Harvey, do you
21 have any comments or questions out there?
22 BOARD CHAIRMAN HARVEY: Would you ask Clint to
23 go back to the recommendation on page 59 one more
24 time, please, for the benefit of Bill, and I take
25 it he just arrived. I'd like to have an interpretation

1 of the meaning of that grant recommendation, if you'd
2 give it, please.
3 MR. LYONS: What we are basically recommending
4 is that the Board ensure a continuation of grants
5 for a full year, and we are doing it basically in
6 two parts. One is to extend the current grant through
7 February 28th, 1983. The basic reason for that is
8 to allow the Board the flexibility to make fund grant
9 decisions pursuant to the new regulations that are
10 now being considered by the Board, once they become
11 final, and we would condition grants, to ensure that
12 that would happen.
13 The second thing that the Board would do, would
14 be to make, a decision to make a separate set of
15 grants beginning March 1st, for the remaining ten
16 months, but under the condition that those grants,
17 that re-funding decision would not become final until
18 after February 15, and, during that interim period,
19 the Board could decide--or the staff could decide
20 to, pursuant to regulations, to deny re-funding to
21 a grantee, a class of grantee, based on the new regu-
22 lations. So a final decision on re-funding for the
23 remaining ten months would not become effective unless
24 the Board, or the staff, failed to take action on
25 those grants prior to February 15th.

1 COMMITTEE CHAIRMAN MCKEE: So it would not become
2 final -- Would you repeat that again.
3 MR. LYONS: That the grants would become final
4 after February 15th, unless the Board took action
5 with respect to a denial of re-funding, prior to
6 February 15, and the purpose of that is to give time
7 for the new regulations to become effective, and
8 for the staff to be able to proceed, based on those
9 new regulations, against the grantee, if it had cause
10 to, prior to the final re-funding decision.
11 COMMITTEE CHAIRMAN MCKEE: My question, we raised
12 this in, I guess in Albuquerque and Houston. In terms
13 of the uncertainty that you were mentioning, which
14 keeps coming up, let's assume--and everybody knows
15 about -- the greatest uncertainty is probably with
16 the Board, as opposed to whether we're going to be
17 here in a few months.
18 Now, if you assume, in terms of uncertainty
19 of the program, that contracts are let out until
20 February 15, and then they are then extended, what
21 if there is no Board to extend those contracts?
22 Wouldn't that create another situation of uncertainty
23 greater than we had before?
24 MR. LYONS: Well, No. 1, I think that --
25 COMMITTEE CHAIRMAN MCKEE: (Interrupting) Or,

1 would this action carry through?

2 MR. LYONS: What I'm asking you to do, what I'm
3 asking this Board to do, is to guard against that
4 possibility, by making a longterm committment, but
5 making it in such a way as to give it all of the
6 flexibility it needs to guard against those eventualities.

7 I think the President of the United States has
8 the statutory responsibility to see that this corpora-
9 tion has some form of a Board, whether it's confirmed
10 or unconfirmed.

11 But be that as it may, even if we do have the
12 new Board, one of the factors that was considered
13 in there, it has taken you, this Board, a number
14 of months of very hard, intense work, to learn about
15 this program and arrive at a point where it can make
16 the decision.

17 If we have an entirely new Board, I would assume
18 that, in all honesty, they would not be prepared
19 to make the qualitative decisions, and you can guard
20 against the disruption and uncertainty in the program
21 by making the decision now, while at the same time
22 not only preserving your flexibility, but the new
23 Board's flexibility, in finalizing grants, should
24 they choose to.

25 COMMITTEE CHAIRMAN MCKEE: My only question,

1 then, before we go to the others, is that this Board,
2 for example, had seen the actions of prior Boards,
3 and this Board determined that we should take a look
4 at the program, review its history, and get all points
5 of view in terms of the Act, and the statute, and
6 changing circumstances.
7 Now, what if a new Board comes in, and someone
8 says, "Well, that was another Board. We want to take
9 a look at the options they recommended. We don't
10 want to just do what they did." And then one year
11 from today, the same thing is going on, and you have
12 your same uncertainty for another year.
13 Because my concern in that longterm extension
14 is of tying the hands, and creating more chaos and
15 confusion down the line, assuming that there was
16 someone else here. If they would not want to jump
17 and assume what we did was correct, they might want
18 to do what they want to do, based upon their reasoned
19 impressions, and it seems initially, that if you
20 let out grant contracts for that whole period, or
21 in two segments, that assuming there was a new Board,
22 you have really put them in a position that this
23 Board was in when it came on board, to take a look
24 and reexamine.
25 And the uncertainty that you had in the programs

1 would continue, even moreso.

2 MR. LYONS: I think there are two points to be

3 made in response to that. No. 1: If you read the

4 recommendation carefully, and assuming this Board

5 went out of office at the conclusion of this Congress,

6 which was December 17th, 18th, whenever it goes home,

7 and a new Board was immediately recessed, that Board,

8 that new Board, under this recommendation, could

9 in the interim, between the time they were appointed

10 and February 15th, make the final decisions about

11 these grants, or they could choose to let the grants

12 go forward and spend the next six months learning

13 about the program, and the grant application process

14 begins again in August, in its normal cycle.

15 So I think that this recommendation is responsive

16 to the concern that you articulated, and it does

17 give flexibility, but at the same time, it makes

18 a measure of committment, that says to the field

19 programs, "You will be re-funded, unless, in the

20 interim, we find, based on our policy directions,

21 based on your performance, or whatever, that we don't

22 want to finalize your re-funding," and that option

23 is available to you, as well as the new Board that

24 is coming on board.

25 COMMITTEE CHAIRMAN MCKEE: Any questions from

1 those present?

2 MR. OLSON: Clint, I got from you folks, I guess

3 in the last couple of days, a copy of the latest

4 application for re-funding which was sent out to

5 the field, and had made some effort to compare it

6 with the prior year's application for re-funding.

7 Am I correct in assuming that there are no changes

8 in the grant conditions that are expressed in the

9 two documents?

10 MR. LYONS: Sure.

11 MR. OLSON: Yeah. It would seem to me, that if

12 we follow this particular recommendation, to simply

13 extend the current grants for three months, and then

14 continue them for the rest of the year, that we would

15 have made--two months, and then continue them for

16 the rest of the year, we would have made no changes

17 in the grant conditions.

18 I really think that there are a number of areas

19 that we have to nail down by way of express grant

20 conditions, partially to implement the continuing

21 resolution, and partly to implement changes in policy

22 by this Board.

23 And I think, if we folllowed this recommendation,

24 we would preclude ourselves from implementing those

25 policy changes which we're prepared to make at this

1 time.

2 MR. LYONS: I don't understand that interpretation.
3 I mean, clearly, what I'm suggesting to you--not
4 only suggesting but saying--that the reason for not
5 finalizing the grants would be to give the staff
6 and the board the opportunity to finally condition
7 or whatever, prior to February 15th, the grants that
8 were being let for the remaining ten months.

9 So let's take a hypothetical. The restrictions,
10 if adopted by the Board of Directors, say, on the
11 16th of December, would become final on the 16th,
12 17th of January.

13 Whatever conditions that the Board, policy directors
14 or whatever, the Board wants to finally put on grants,
15 could begin--that work could begin tomorrow, or Monday
16 or Tuesday.

17 Then between January 16th or 17th, and February
18 15th, the staff could move to condition one, two,
19 all grants, whichever way it wants to finalize those
20 grants, because what I'm indicating to you here,
21 is that the grants don't become final, on this ten
22 month grant. It only becomes final if the Board,
23 or the staff, fails to take action with respect to
24 those grants, prior to February 15th.

25 MR. OLSON: The problem is that, first of all,

during this period of an extension of the current grant, the current grant conditions are in effect. In other words, no new grant conditions that we might choose to impose would be part of the agreement between us and the local delivery units. That's the first problem.

And the second problem is, that all of a sudden we begin to set something off with a life of its own. I, for one, don't think that any of the local delivery units need have worry with respect to what is happening in their funding. I think their funding can only go up under this Board.

There may be some others who might have some apprehension, if they are not essential to the delivery of local legal assistance for the poor, and are not the most effective and efficient means to accomplish that. Then they might have some cause for concern. But I would think that no local programs anywhere should be apprehensive, as you say, Clint, even if we don't go forward with your recommendation with respect to doing it all right now, setting something in motion, and then having to have people run around to the other side of the snowball, and hold it back next March, if even small changes are intended.

MR. LYONS: I would like to believe that that's

1 true. That people are not apprehensive. But the fact
2 of the matter is they are. I've been out there. I've
3 been traveling. You know. People want to know whether
4 or not they have a grant. They don't want to know
5 what this Board is going to do two months from now.
6 They want some kind of preliminary signal, that this
7 national program, at the local level, where they
8 work and where they serve poor people, that there
9 is a level of security, that they will receive a
10 grant.
11 And I'm only suggesting to you, not that you
12 guarantee a grant to every program in this country,
13 I'm saying that you make some measure of committment
14 that says to them, unless, you know, your activities
15 are not consistent with our policies, or, unless
16 we find something wrong in the interim period, we
17 believe that you're doing the kind of work you are
18 supposed to do, and we're going to make a preliminary
19 committment to you, and unless we move prior to the
20 fifteenth, you can be assured that you're going to
21 have a grant for the remainder of the year.
22 MR. DANA: May I ask a question. Is there any
23 requirement that this two month, ten month, extension
24 in ten months, conditional, be consistent among all
25 grantees and recipients? Is there any legal requirement

1 that that be the case, and, the thrust of my question
2 obviously is, could we adopt one set of decisions
3 relative to the field program, and another set of
4 decisions relative to other grantees and contracts?
5 MR. LYONS: Mary.
6 MS. WEISEMAN: I don't think there would be any
7 problem with that. The reason we made it across the
8 board, suggested that it be across the board, is
9 to preserve flexibility for the Board, for all programs,
10 up until the time that the regulations for denial
11 of re-funding come into effect.
12 Now, if the Board were to take action now on
13 the denial of re-funding, for instance, and make
14 that decision, the old regulations are still in effect,
15 and that's why we need the time period, and felt
16 we needed it for all the programs, to give the flexi-
17 bility to the Board to utilize the new regulations
18 in denial of re-funding.
19 MR. DANA: It would be possible there, from a
20 legal standpoint, for this Board to end up issuing
21 full year contracts and grants to the field programs,
22 unconditioned, and issuing two month and ten month
23 conditional contracts to support centers, and other
24 entities that are grantee and contractors.
25 MS. WEISEMAN: Yes. It has been -- the legal

1 opinion before, and now, is that a continuation of
2 a grant is not a denial of re-funding, or a grant
3 for a shorter period of time is not a denial of re-
4 funding, if it's at the same annualized level.
5 COMMITTEE CHAIRMAN MCKEE: Frank?
6 MR. DONATELLI: Can I ask a question to Mary.
7 Whether we adopt Clint's recommendation, or whether
8 we just go with short-term contracts, it seems to
9 me, that either under, under either of the two proposals
10 on the re-funding issue that are being discussed
11 now, that whether we adopt Clint's suggestion, or
12 whether we go with just a short-term contract, that
13 the corporation, whether it be the staff or the Board,
14 would still have to affirmatively take some sort
15 of finding, in order to deny a re-funding.
16 Am I not correct? Don't we maybe have a distinction
17 without a difference issue here?
18 MS. WEISEMAN: Well, the difference is that--
19 and this is, obviously, Clint's more capable of talking
20 about it than I -- is the question that it's presumed,
21 that the denial of re-funding will not apply across
22 the board. That to preserve -- that there can be
23 a preliminary decision with respect to the programs,
24 if the Board determines not to re-fund for whatever
25 reason, and that time is there, within the two months,

1 to make that decision, after the new regulations
2 are in effect, but for the other programs, either
3 the Board will not have time, or not the inclination,
4 to look at every particular program, that the programs
5 will continue and the funds will be available to
6 continue.
7 And therefore, it takes the onus off the Board
8 of looking at each particular program, or --
9 MR. DONATELLI: Or the staff.
10 MS. WEISEMAN: Of the staff. That's true.
11 MR. DONATELLI: I just couldn't imagine the new
12 staff automatically re-funding a program without
13 serious investigation of abuses, or for whatever
14 reason.
15 MR. LYONS: Well, there's some history, Frank,
16 that I want to discuss with you some time. But as
17 to your question about a distinction without a difference,
18 in a very technical sense, I suppose that's correct.
19 What I've learned during my tenure in public
20 service is, that when we have the kind of responsibility
21 we have here, it is very important, on a psychological
22 leve, in terms of ensuring the stability, continuity,
23 and the fact that people will continue to just do
24 work without a level of anxiety, that we do whatever
25 we can to make sure that we can make people as secure

1 as we possibly can. So we're just not dealing with
2 technical distinctions. We're dealing with real live
3 people who are out their working, who are working
4 on their trauma of uncertainty, and knowing whether
5 or not they're going to get paid the next week, or
6 whether or not they're going to be open, which office
7 is going to be closed. Those kind of things.
8 And I can tell you, Frank, you're new to this,
9 that that has been devastating to this national program
10 over the last couple of years.
11 BOARD CHAIRMAN HARVEY: Could I say something.
12 COMMITTEE CHAIRMAN MCKEE: One second. Do you
13 want to finish up, Bill.
14 MR. OLSON: Let me just follow up on that. I
15 find the logic in the memo not persuasive in this
16 respect, and perhaps contradictory.
17 What I'm afraid that we would do, if we adopted
18 this staff recommendation, is turn us from a position
19 where we were, if we wanted to make a decision to
20 deny re-funding to a particular grantee or contractor,
21 that if we adopt this resolution at this time, that
22 all of a sudden we would be in a position where we
23 would be compelled to follow the procedures for termina-
24 tion of funding of an existing contract or grant.
25 In other words, it's inconceivable to me, that

1 we could pass something that would say that we were
2 making new grants for the remainder of 1983, period.
3 The purpose is to reassure the field. The purpose
4 is so that the new grants are in effect for the rest
5 of the year.
6 Without any doubt, unless the Board acts, and
7 if the Board acts, that would have to be a termination
8 of a funding that had already been made, and that's
9 what my problem is, and I think that even if counsel
10 might think there's some way around that, that most
11 Federal District judges would think to the contrary,
12 and I would be very reluctant to get us in a position
13 where we expressedly opted out of what the Congress
14 has just done with respect to simplifying the provisions
15 or denial of re-funding, by transferring all of those
16 proceedings into termination proceedings.
17 COMMITTEE CHAIRMAN MCKEE: Mary?
18 MS. WEISEMAN: Well, that's clearly a problem
19 that was faced in determining how to proceed, or
20 what recommendation to make. The question of whether
21 we could extend grants for two months, give a new
22 grant for two months or three months, and what the--
23 whether we could make any provision after that for
24 making the grant, it was our decision, based on the
25 research that we did, that clearly we could extend

1 the grant for two months. That's not re-funding and
2 it has not been determined to be a re-funding in
3 the past. So we're extending a grant for two months.
4 That's what the two month period is, an extension,
5 not a new grant.
6 And the re-funding will take place March 1st,
7 and that would be the time when re-funding, unless
8 the Board, prior to Feburary 15th, notifies the programs
9 in accordance with the regulations then in effect
10 that there was going to be a denial of re-funding.
11 And that that period of time, the Board has
12 that period of time to give the notice, the re-funding
13 does not take place until March 1st, and --
14 MR. OLSON: Well, I can't help but again disagree
15 with you on a legal matter. I try not to be my own
16 lawyer, but I have to, I guess, in some cases. If
17 we adopt something that says that the Board now makes
18 new grants for the remainder of 1983, then I think
19 any action subsequently by the Board, to stop that
20 funding, would be a termination of funding. That's
21 just my view.
22 COMMITTEE CHAIRMAN MCKEE: Anne and then Bill.
23 MS. SLAUGHTER: O.K. I'm sorry I was late. I
24 was trying to find out the rationale for the two
25 months. What would be the rationale for just the

1 two months? I would feel that the programs would
2 feel very insecure. I would myself, if for two months--
3 I don't know where, the third month, the funding
4 was going to come from, I would feel very insecure
5 in that manner.
6 MS. WEISEMAN: The two months was recommended
7 because the new regulations presumably, for denial
8 of re-funding, will be effective some time the week
9 of the 20th of January. We will publish them finally,
10 presumably after the Board meeting of the 16th and
11 17th. It's thirty days after that they're effective.
12 So the new regulations under which any denial
13 of re-funding could take place, can't be in effect
14 until about the 20th of January, or a little thereafter.
15 And if the Board were at this point to determine
16 to deny re-funding of any program, the only regulations
17 that, or the only hearing procedures in effect currently,
18 are the ones under 1606, the current regulations
19 which provide for the adversarial hearing.
20 So that was the reason for extending the grants
21 for two months, in order to preserve for the Board,
22 the right to apply the new regulations to the decisions
23 on re-funding. The new hearing procedures.
24 COMMITTEE CHAIRMAN MCKEE: Bill?
25 BOARD CHAIRMAN HARVEY: Bill Harvey? Which Bill

1 are you calling on?

2 COMMITTEE CHAIRMAN MCKEE: The Chairman. You.

3 BOARD CHAIRMAN HARVEY: Thank you. Can you hear

4 meall right?

5 COMMITTEE CHAIRMAN MCKEE: Yes; all set.

6 BOARD CHAIRMAN HARVEY: O.K. I share Bill

7 Olson's apprehensions about this recommendation.

8 It seems to me that this is a very hardball recommenda-

9 tion, facing, in essence, a new administration.

10 Now what this recommendation says to me is,

11 that a new administration would have the certainly

12 less than cheerful prospect of facing the entire

13 program, and saying, in 45 days, that is to say,

14 January and half of February, you must make the decision

15 to defund programs or not. Otherwise, you really

16 have no choice available to you during the year of

17 1983.

18 Therefore, I think that the second part of that

19 recommendation certainly ought to be shelved, and

20 a substantial time period built into the first part

21 of the recommendation to give some program stability,

22 which I think is a legitimate concern, and that's

23 the second thing I want to say.

24 The context of this discussion has been against

25 the background of Clint's statements, which are correct,

1 about the program and project director, and staff
2 attorney apprehensions. However, that is not unique
3 with this Board, or with us, or at this time.
4 This corporation has a substantial history of
5 great apprehensions about staff attorney security
6 and project director turnover. This was plainly stated
7 in March of 1979 by a House of Representatives report.
8 It's been stated in a number of other reports, and
9 I don't think it comes, uniquely, at this particular
10 time.
11 I have contended, that that apprehension is
12 a part of, it's indigenous to the staff attorney
13 mode of delivery system. I think myself, that there
14 is a superior delivery system which this Board should
15 greatly expand upon, if possible, in a number of
16 the concerns, and I'm principally concerned with
17 the client who does not have access, as Clint said
18 a moment ago in his report, has shown letters to
19 the Congress, access to attorneys, I'm very concerned
20 about that, and I think that we can more greatly
21 expand the delivery system than what the present
22 rigidity permits. It does not permit the flexibility
23 which we ought to have, and at the same time, it
24 does generate the apprehensions in the staff which
25 Clint identified, but that is due to the nature and

1 the structure of the program itself. It's like a
2 law firm that finds itself in one year with suddenly
3 half the dollar availability which it had in the
4 preceding year, which has occurred in American law
5 firms recently. This is a similar pattern of phenomena.
6 So those are the comments I want to make about this
7 recommendation, Mr. Chairman.
8 COMMITTEE CHAIRMAN MCKEE: I want to ask you
9 one question. I'm not clear on -- you made a comment
10 about the first segment of the recommendation, the
11 two months, and then you stated, I believe, that
12 that should be a longer period, without the second,
13 or --
14 BOARD CHAIRMAN HARVEY: Yes. That's exactly what
15 I mean. I think that I would, just sort of off the
16 wall, suggest maybe three months, and stop at that
17 point in so far as re-funding is concerned, to give
18 the new administration some time to function. But
19 I don't think the second package ought to be adopted
20 by our Board.
21 COMMITTEE CHAIRMAN MCKEE: Clint?
22 MR. LYONS: Let me just clarify my remarks for
23 the Chairman. Staff attorneys, program directors,
24 are resources. The purpose of the programs, and the
25 intent of my remark, was to communicate, that where

1 you have a disruption in the resources, you don't
2 have delivery of services to clients.
3 Secondly, I think that there is ample evidence
4 to indicate--and I can provide the data--that we
5 have had significant office closings in this national
6 program over the past couple of years; that we have
7 had signifcant loss in personne; and it is attributable
8 not to the indigenous nature of people who work in
9 this program, but, because of the withdrawal of resources
10 from the national program, and the disruption that's
11 being handled.
12 So I just wanted to be clear, that my focus
13 was that the bottom line on the delivery of services,
14 and on the client, the old poor and the new poor,
15 those unemployed people who are coming to the program
16 about benefits now, and we don't have the resources
17 to continue the services for them.
18 COMMITTEE CHAIRMAN MCKEE: Before I turn to --
19 BOARD CHAIRMAN HARVEY: Can I just make a comment
20 before you go --
21 COMMITTEE CHAIRMAN MCKEE: Yes.
22 BOARD CHAIRMAN HARVEY: Some lawyers think we
23 always share the same ultimate objective, but we
24 take very different courses, I guess, in getting
25 there. My comment to you was, so you'll understand

1 what I'm talking about now, and I think that the
2 concerns which are found in those programs are inherent
3 or indigenous in the structure of the delivery system,
4 not the people, and I think that if the delivery
5 system had been changed, or was a different delivery
6 system, you would not find those concerns.
7 MR. LYONS: Mr. Chairman, could you be clear
8 about the delivery system you're talking about, that
9 we should change to.
10 BOARD CHAIRMAN HARVEY: I sure can. I'm talking
11 about a judicare system rather than a staff attorney
12 system.
13 MR. LYONS: Oh, I see.
14 BOARD CHAIRMAN HARVEY: The phenomenon would
15 occur in that system.
16 COMMITTEE CHAIRMAN MCKEE: Before I go to Dan
17 or Howard, there are two points I want to raise about
18 this. In the last nine months, we've been going back
19 and forth, and I think that it's pretty clear, if
20 this hasn't been on the record, it's stated before
21 the Senate or our meetings. In terms of, I think,
22 the Board of Directors and known to this committee
23 When you talk about three hundred twenty-five,
24 twenty-six local programs, the uncertainty that was
25 created because of the Congress's cutbacks, twenty-

1 five percent across the board, and the offices were
2 closed then, which I can understand, I don't think
3 that there's anybody on the Board of Directors at
4 this moment, who, at any time, is willing, or wants
5 to cut back dollars from individual legal services
6 programs around the country.
7 And in terms of the issue of this two, three,
8 X number of months, if we did not do anything, et
9 cetera, this Board will have spent, and this committee
10 will have spent, about nine months hearing problems
11 and concerns of people, and then saying, "We will
12 extend this for such and such amount, and then we'll
13 see what happens in March."
14 My view basically has been that we have an obligation.
15 We took our oath to serve on this Board. If we see
16 concerns and problems, and the opportunity is ripe
17 to do something to assist in the implementation of
18 the Act, in terms of client involvement and participation,
19 or affirmative action, and we should not go through
20 what I have considered to be, over the last eight
21 months, a kind of a pssing the buck on and on and
22 on, either to the next group, et cetera, et cetera,
23 et cetera.
24 We have an obligation, and a mandate, and we
25 should not have looking over our shoulder, "Well,

1 number of persons for the same number of dollars,
2 and that's what I'm coming from. It doesn't cause
3 a shrinkage of any of the programs presently viable
4 in and among the states of the United States. But
5 it certainly does cause, and it would cause, a substan-
6 tial reduction in the national support centers. And
7 so that part of your recommendation I of course totally
8 disagree with.
9 COMMITTEE CHAIRMAN MCKEE: Howard? Dan?
10 Howard?
11 MR. DONATELLI: O.K. Mary, I want to focus, or
12 ask you to focus on the difference between an extension
13 in the two month contract, as it relates to the
14 effectiveness of the regulations that we are in the
15 process of coming up with.
16 My understanding is that some of these regulations
17 are required by Congress to follow the monies that
18 would be expended in early January. If we extend
19 contracts, can we, in the context of an extension,
20 impose regulations which have not yet become effective
21 on the grantees.
22 MS. WEISEMAN: Well, one of the -- I'm sure one
23 of the grant conditions--I can't tell you what it
24 is--they have to comply with the Act, they have to
25 comply with the law, and that's the grant condition

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23 of the grant conditions--I can't tell you what it
24 is--they have to comply with the Act, they have to
25 comply with the law, and that's the grant condition

1 be careful of this and be careful of that." That
2 we've uncovered and people have told us, and we've
3 seen, major concerns, in terms of various operations
4 within the Legal Services Program, and I think we
5 have an obligation, in terms of making recommendations
6 to anybody, that based upon our concerns, to make
7 sure that when grants go out, that we make an effort
8 to rectify under the system and improve the program.
9 And the comment on page 61, I was going to mention
10 to Clint, the last line here is, "Unfortunately,
11 however, confidence in the future of Legal Services
12 is tenuous, and any decision to provide only two
13 months funding, whatever the actual justification,
14 is bound to be seen by the field and by the Congress
15 as a signal that the wholesale defunding of Legal
16 Services' programs is in the offing."
17 Now, I understand that point of view, but my
18 concern with that point of view is: If you're going
19 to be, I guess a so-called regulator, or whatever we're
20 in the business of, administrators, and you have
21 an obligation, there are always going to be situations
22 and time when people will say, "Well, if you do this,
23 it's going to give one signal; if you do this, or
24 something else, it's going to give another signal."
25 And if you keep submitting to that, you go on

1 for eight, nine months, and nothing gets done, and
2 the people who have been telling us different things,
3 or telling any group anything that's a problem, are
4 going to have to repeat the whole process over, and
5 that's basically my point.
6 MR. LYONS: Clarence, just one point. I think
7 that that statement in this briefing book, has just
8 been supported by the Chairman of this Board. He
9 has just gone on record as saying that he favors
10 judicare programs, which means necessarily a wholesale
11 defunding of the staff attorney programs in this
12 program. So the fear is not just on the part of the
13 imagination of people.
14 COMMITTEE CHAIRMAN MCKEE: Go ahead.
15 BOARD CHAIRMAN HARVEY: Thanks very much. Yes,
16 I do favor, Clint, a great expansion of the judicare
17 program, but I don't think that that needs to be
18 at the expense of any defunding. As I see it at the
19 present time, those grantee programs, such as the
20 Fordham and Indiana, which are actually delivering
21 legal services. I won't pully any punches with you
22 or anybody else. I very strongly favor diverting
23 substantial funds away from the national support
24 centers and opening judicare programs, because I
25 think we'll get amuch better delivery for a larger

1 that applies to last year's as well as this year's.
2 When the law changes, the requirements of the program
3 change with the change in the law, and I think part
4 of this recommendation is, that the continuing resolution,
5 in so far as it changes the eligibility of clients,
6 or the ability to perform certain functions, for
7 instance, lobbying, that goes, because it is the
8 law, it applies to the money they're using, the 1983
9 money.
10 Where not the regulations become final, the
11 statute or the continuing resolution, as the will
12 of Congress, is applicable to the grantees on an
13 extension, or, a new grant.
14 MR. DANA: But is it your view, that if we extended
15 existing contracts, we could not impose, as grant
16 extension conditions, the existing but not yet effective
17 regulations that Congress has asked us to attach
18 to the expenditure of some of this money?
19 MS. WEISEMAN: Well, in connection with -- there's
20 the provision on aliens, which we haven't proposed
21 a regulation for, it's our view that that would be
22 part of the responsibility of the programs. They
23 must make those eligibility determinations, whether
24 it's a new grant, or whether it's an extension.
25 The other one is lobbying. What we did in our

1 proposed regulations merely -- maybe I shouldn't
2 say merely -- but we parroted the language of the
3 rider, to say, "You may not do this", and we just
4 set it out in the regulation. That language is in
5 the rider as well as in the regulation. I think again,
6 that applies.
7 With respect to the re-funding regulations,
8 they don't apply until they become effective, and
9 that doesn't have really anything to do with the
10 programs in so far as the extension goes. That's
11 the ability of the corporation to do something. And
12 then --
13 MR. DANA: Class action.
14 MS. WEISEMAN: Class actions. That's the one.
15 Yes, that's right; yes. The class actions. I think
16 the class action regulations currently in effect
17 would be effective for an extension of the grant,
18 and, in fact, I don't believe, even if we, by grant
19 condition, we could impose those kind of procedures
20 on the programs, until we go through the regulation
21 process, just as we talked about before, the re-
22 funding.
23 MR. DANA: Yes. I think we got a different view
24 at the last meeting. The impression I got when we
25 discussed this issue last month, and when we put

1 the regulations out for comment, was that we would
2 have no problem attaching whatever it was that we
3 decided this month, as grant conditions, and imposed
4 that upon our grantees, so as to make sure that we
5 complied with Congress's directive for the first
6 fifteen days of January.
7 This may not seem like a big deal, but I think
8 this Board is quite anxious to comply with theletter,
9 and the spirit of Congress's directives.
10 Are you now saying, that it is your view, that
11 we are not able to impose on--to live up to all aspects
12 of the continuing resolution during the first fifteen
13 days of January?
14 MS. WEISEMAN: Well, in so far as the class action,
15 I don't think it applies--and it does apply to class
16 actions, which is correct. We don't -- we wouldn't
17 have any final regulations, and, the continuing resolution
18 talks about "may not bring class actions except in
19 accordance with procedures and policies of the Board
20 of Directors.
21 MR. DANA: Could we not impose, could we not
22 come up with a grant condition which said, "When
23 you spend this money, thou shalt not bring class
24 actions except in accordance with the regulation
25 that has been promulgated by the Board on the sixteenth,

1 and will become effective--whenever?

2 MR. LYONS: I think that -- Two things. 1) One
3 cannot do by grant condition, design to implement
4 the policy direction of a regulation. I don't think
5 you can do that.

6 Secondly, a construction is, that in the interim,
7 between January 1st and January 15th, the Board does
8 have a policy with respect to class actions, and
9 that is, it's up to, you know, the local boards,
10 and what we are talking about is, Congress gave us
11 some restriction, told us to implement them, and
12 we are implementing them as quickly as we possibly
13 can.

14 And what we've said is, is that we are not going
15 to be in violation of the law in implementing those
16 restrictions. I don't think, that an approach that
17 is pursuing the regulatory process, in implementing
18 those restrictions, and in a short interim period,
19 having as the, as what could be conceived as a policy,
20 what exists now, I don't think that's exactly a violation.

21 MR. DANA: O.K. Would it be fair to say, Mary,
22 that what Clint is proposing, which is to extend
23 the existing contracts for two months, is a variation
24 on the theme that was set by this Board last December
25 31st, when it proposed to extend the contracts for

1 one month?

2 MS. WEISEMAN: I'm not aware that the Board did

3 that last year, but it's the same idea. By extending,

4 there's no re-funding. There's no decision on re-

5 funding, and there is the power to make grants, or

6 to extend grants, and also, to make them for shorter

7 periods of time.

8 The idea of extension rather than new grants

9 is, that no re-funding decisions have to be made,

10 and you extend what you have, subject to the law,

11 as it is then in effect.

12 MR. DANA: As of this time, we only have, Congress

13 has only given us money for approximately two months

14 and seventeen days. Is that your understanding?

15 MS. WEISEMAN: Yes. Well, we get -- the interpreta-

16 tion has been, of the corporation, that we get the

17 $241 million, in the continued resolution is appropriated

18 to us, but of course, unless we get another continuing

19 resolution, we won't be able to draw down on that

20 money. It doesn't start to be paid until January

21 1st to the program, so the continuing resolution

22 only applies to the money that is either extended

23 in a grant, or made in the new period after January

24 1st to the program.

25 COMMITTEE CHAIRMAN MCKEE: I'm going to clarify

1 this point myself. I don't know which one of these
2 cities we discussed this, every one of them probably,
3 but the question was asked, "Can we give out grants
4 or extend grants subject to any activities of the
5 Congress, et cetera, et cetera." Isn't that basically
6 what we can do generally, in terms of the continuing
7 resolution, that we have been asking about?
8 Was that your question? Extending grants, et
9 cetera, subject to any conditions imposed to the
10 continuing resolution, et cetera, that we've been
11 going over at different times. It was supposed to
12 be a very simple process just to extend subject to
13 action by the Congress, or, on a regulation pursuant
14 to Congress.
15 MR. DANA: I guess what I'm -- that's what I'm
16 hearing from Mary, is that we have a hard time, or
17 she is advising us that we have a hard time doing
18 that, in that -- I think I'm hearing, that we cannot
19 extend a contract subject to regulations, whether
20 it be class actions or the fund balance regulation,
21 until it becomes effective under our regulations.
22 And my impression was, that when we discussed
23 this matter last, whenever it was,when we decided
24 to put the matter out for comment, that we were
25 not going to be placed in this position, whereby

1 we would be uncovered for any time, and I guess I'm
2 wondering about the fund balance regulation, and its
3 effectiveness for this year end, and I mean, I don't--
4 I guess I don't know.
5 MS. WEISEMAN: That's been published, and will have
6 been published for thirty days by the time the grants
7 go out January 1st. So I think the only problem--and
8 it's not only--the problem is the class actions,
9 because we do have proposed regulations which will not
10 become final.
11 The question of whether we can preempt the
12 regulatory process and make that a grant condition is
13 a problem.
14 But we do have regulations which, currently in
15 effect, which do circumscribe the brining of all
16 class actions. So there is a regulation in effect
17 currently, that provides for procedures in determining
18 when class actions generally may be brought
19 That's in effect, and the new regulations will
20 amend that section. So there is a regulation in
21 effect in that sense. When the new regulation becomes
22 final, whatever that may be, the new regulation,
23 then that will of course apply to the grants at that
24 time. I think the regulation becoming final would
25 not. The grantees on an extension would have to

1 comply with those regulations once they're final.
2 We wouldn't have an interim basis where they say it
3 was an extension of grant, we don't have to comply
4 with your regulations.
5 COMMITTEE CHAIRMAN MCKEE: And as a lawyer,
6 you're telling us we would be in compliance
7 with the continuing resolution, with respect
8 to the class actions?
9 MS. WEISEMAN: Yes. It would be for a very
10 short period of time, we're talking about. As
11 I say, as soon as they become final, whether
12 it's an extenion of a new grant, the regulations
13 are applicable to the money used.
14 BOARD CHAIRMAN HARVEY: May I ask a question.
15 COMMITTEE CHAIRMAN MCKEE: Go ahead.
16 BOARD CHAIRMAN HARVEY: Mary, I was trying
17 to follow your discussion with Howard, which
18 I thought was very good. You made a statement
19 though, which causes me to raise with you a
20 question of statutory construction.
21 I think you said that we have a set of
22 class action regulations in place, pending the
23 adoption of a new set of regulations. My question
24 is, fundamentally, is that correct, or is the
25 H.R. 3480, and the continued resolution, should

1 it be read as saying that the superior authority,
2 that is to say, the statute itself, struck class
3 actions until, or except and until the Board promulgates
4 new regulations permitting them.
5 If no new regulations are permitted, then
6 I'm suggesting to you that perhaps the Congress
7 has said that the regulations we had on the books,
8 on class actions, are overturned by the superior
9 authority, namely, the statute itself.
10 Do you have a comment on that, or, if not
11 now, would you contemplate that and give me your
12 comment at a later time?
13 COMMITTEE CHAIRMAN MCKEE: Could we contemplate
14 it and give you an answer later on?
15 BOARD CHAIRMAN HARVEY: Yes.
16 COMM. CHAIR: Mary, in the draft the staff
17 submitted on the contract, the basic contract,
18 I guess the support centers and others, I'd asked
19 to be revised. The language that you have put into
20 this, in paragraph three, has new language. It
21 says -- Well, this is in context with Howard's
22 question. This is on page 87. "This contract,
23 the expenditures of the contract sum, and the conduct
24 of all of the contractor's activities, to the extent
25 the Act so requires, are subject to the Act and

1 the rules, regulations, new language from the staff,
2 including any new regulations, interpretations,
3 rules or guidelines, which may be adopted by the
4 Corporation to implement such changes as may be
5 amended by the Congress", et cetera.
6 Now isn't that what he was talking about
7 in terms of -- isn't that the same as you, that
8 you're just discussing in terms of the basic grants?
9 MS. WEISEMAN: Yes.
10 COMM. CHAIR: Isn't that the kind of language
11 that we're talking about on giving out grants?
12 If we just improve that language as the grant condition,
13 as you did in the contract language.
14 COMMITTEE CHAIRMAN MCKEE: Does that answer
15 that, Howard, or not? Go ahead.
16 MR. DE MOSS: But what I heard you to say
17 is, even including that new language in the new
18 contracts, there will be a period of sixteen days
19 in January, in which because the regulations have
20 not become final, the old regulations would still
21 be applicable.
22 MS. WEISEMAN: Yes, that's right, with respect
23 to class actions, and not with respect to any of
24 the other riders.
25 MR. DE MOSS: Because they've all matured

1 prior to January 1.

2 MS. WEISEMAN: With respect to the alien

3 eligibility, we proposed no regulations because

4 it seems that's self-explanatory, in determining

5 that it didn't need further -- at least at this

6 point, with everything else having to be published,

7 that was not one that had to be interpreted by the

8 Corporation and it's effective January 1st. The same

9 thing with the lobbying, because we did state in our

10 regulations the language of the rider, so the rider

11 is in effect now, and doesn't need a regulation, although

12 we put it in the regulation to be consistent.

13 So the only issue, the only area we're talking

14 about, is the class action area.

15 MR. DE MOSS: Now let me ask you: in the case

16 of contracts that would be extended only, would the

17 same time frame be applicable to them? Is there language

18 in existing contracts that bring into applicability,

19 from the effective date thereof, such new regulations

20 as the Board implements?

21 MS. WEISEMAN: Yes. I'm not as familiar with

22 the contracts as Buckey is, but I believe all of our

23 contracts and regulations are changed throughout the

24 year, at no particular time. They become effective,

25 under our statute, thirty days after final publication.

1 That is the law, and every grantee, contractor, is
2 required to comply with the law.
3 MR. DE MOSS: So even on an extension of a
4 current contract, any recipient, they too would become
5 obligated to abound by class action regulations effective
6 January 16th?
7 MS. WEISEMAN: That's right.
8 COMMITTEE CHAIRMAN MCKEE: I don't -- we're
9 talking about sixteen days and only one issue, class
10 action. I certainly don't think that even a sixteen
11 day period, that that is going to be a major problem
12 of concern at all.
13 Are there any more questions on the granting
14 and extension area?
15 If not, I would like to go back through the
16 book and pick up again on national support, and the
17 special items of the Funding and Compliance Council,
18 and pretty much, I would like to go into the backup
19 papers, or the support papers, on each one of those
20 issues, because there was a lot of substantive information
21 in those backup papers, and if I could have the staff
22 discuss the rationale for it.
23 I don't know. I can start off. But if anyone
24 has any questions generally on the issues of national
25 support, let's take them one by one. You say -- Do

1 you have the backup paper on support?

2 MR. DE MOSS: I didn't bring the backup paper.

3 COMMITTEE CHAIRMAN MCKEE: Do you have it? Does

4 anybody have a backup paper?

5 BOARD CHAIRMAN HARVEY: I've got one.

6 COMMITTEE CHAIRMAN MCKEE: Well, you can't give

7 it to him.

8 BOARD CHAIRMAN HARVEY: I have a question to

9 ask you while you have a break there. How are we going

10 to handle this luncheon situation?

11 COMMITTEE CHAIRMAN MCKEE: Well, do you want

12 to come here and eat? How do you mean? We'll get on

13 about twelve --

14 BOARD CHAIRMAN HARVEY: You're the chairman.

15 You've got to provide for it.

16 COMMITTEE CHAIRMAN MCKEE: It's about 12:15.

17 I would think maybe about 1:00 o'clock.

18 BOARD CHAIRMAN HARVEY: No, I didn't mean time.

19 I meant food.

20 COMMITTEE CHAIRMAN MCKEE: Oh, your food is

21 your problem. We have sandwiches coming.

22 Let's take the background paper on National

23 Support Centers.

24 I think the primary statement, if I can tell

25 everybody. I've noticed, and we've all noticed in the

1 last year, we're talking about $241 million, $230 million
2 in terms of Federal funds. Backup spending or national
3 support constitutes approximately -- national is $5
4 million and state support approximately $6 million,
5 and this is where a lot of the concerns have been coming
6 as to what you're going to do about backup centers.
7 It has been stated, if I remember, to the committee,
8 and as well as myself and other people, that people
9 have tended to equate asking questions about a structure
10 and a function with wanting to get rid of the entire
11 purpose of this concept.
12 For example, backup centers and the issue of
13 backup support, to me, and as you read the history
14 of the statute and of staff papers, no one has ever
15 disagreed or argued that you do not need some form
16 or concept of specialized expertise for local lawyers.
17 Now, I think sometimes this whole argument
18 and discussion has gotten a bit out of control, because
19 I've noted that the REGGE program for example gets
20 four million dollars, I think it is, isn't it, which
21 is one million dollars less than national support.
22 And all of these letters that we've been getting,
23 and phone calls -- in fact today was the second letter
24 in the last seven, eight months, that said anything
25 about the REGGE program, and most of the letters have

1 been directed towards support, and sometimes, I think
2 what has happened over this whole issue is, that there's
3 been a misconception of what the whole purpose of the
4 process is.
5 As we look back at the originations of national
6 support, starting from OEO, and our programs picking
7 up support, and it expanding, and then state support
8 becoming involved in various questions and issues,
9 you see an evolving, or evoluation of a process, and
10 I must say one thing that, in all fairness, to people
11 who are working at backup centers and state support.
12 You are people, generally, who get money from an entity
13 called the Legal Service Corporation.
14 Therefore, when the Legal Services Corporation
15 almost hits you over the head, as the national support
16 center, and says, "You'd better go out and try to set
17 up certain kinds of offices or legislative lobbying,
18 or a national representation", and, "if you don't do
19 that, we're going to cut off your money", or that's
20 the implication, you as a support center in the last
21 seven, eight years, would respond to that.
22 And what has happened down the line, there's
23 been kind a slow change in direction, I think from
24 the Congress, and a concern about that. So the process
25 now is, where should the concept of support, national

1 and state, go to? Stay the way it is? Should there
2 be a change in it? And I think my concern has been
3 that no one has seemed to be willing to discuss, how
4 do we take the concept of support, make it even more
5 meaningful, and direct it to assistance to clients,
6 or combine it with something else?
7 I think too many people have gotten very paranoic
8 in the process and forgotten about some of the other
9 components of the program.
10 Now on September 17th I gave Clint this memo,
11 and what we wanted to have done in September, was to
12 have the staff give the committee a listing of recommendations
13 and options as to what they think we should do in terms
14 of national support, should it be coordination of certain
15 support centers, does the oval office support centers,
16 are there legal issues in terms of substantive areas?
17 Can they be merged or coordinated? In general, have
18 the staff outline that process.
19 Now, what we have in the backup paper is kind
20 of a general overview of the issue, without any specific
21 recommendation. What concerned me about this paper
22 was the fact that it tells us to take another look
23 and analyze again, and as I read eight years of the
24 history of the support problems, it seems that's all
25 that's been going on. And I think what we have to do

1 now is make some effort to say, support structures
2 are needed and are necessary, but what is the best
3 way to do it? Do we need ten, fifteen, twenty, twenty-
4 five, thirty, or, should we just have everyone reorganized
5 and give us suggestions as to how to do it?
6 Now, the footnote on page 27, footnote no.
7 8. "The task of the centers is formally defined to
8 include four activities. Support to Legal Services
9 Program staff, including individual service work. Developing
10 and maintaining library and resource materials, and
11 training, et cetera. Two: Litigation. Three: National
12 policy representation. Four: Development strategy and
13 communications networks, and coordination of representation."
14 Now my question, Buckey, is: The concept of
15 national policy representation, since '76, seven, eight
16 and nine--I think there was a memo you wrote--I think
17 the field record's somewhere in here, I can't find
18 it. But national policy representation, what is that
19 exactly? And then how does it relate to a client in
20 Washington or New York, et cetera, the concept of national
21 policy representation.
22 MR. LYONS: Well, let me answer that, and let
23 me clarify what these documents are. The background
24 papers are not intended to be recommendations. You
25 have your recommendations in the briefing room. So

1 the background papers are designed to analyze, based
2 on your concerns, and based on the committee hearings
3 that you've conducted, the issues surrounding national
4 support.
5 We responded to that by recommending that the
#2 6 money that was previously allocated in those areas
7 be place someplace else. Now with respect to national
8 policy representation, it is in effect, administrative
9 and legislative representation around issues of Federal
10 law, and changes in Federal law, and how that relates
11 to support to the staff attorney in the field program.
12 If you read the background papers, and all the materials
13 on support, the national support centers put out manuals
14 that speak to changes in the law in these areas.
15 There are systems whereby they advise programs
16 of changes in administrative and other areas of Federal
17 regulation and Federal law development, and they provide
18 support through co-counseling and advice to field programs
19 in those particular areas.
20 So that is how the term, national policy represen-
21 tation, which is, in my judgment, an unfortunate one.
22 It's sort of like a Sachs paper. You know, general
23 counsel to the poor is sort of a lightening rod for
24 a number of things. But be that as it may, that's the
25 basic answer. Buckey.

1 MR. ASKEW: Clarence, if you look on page 88
2 of the draft contract for 1983, you'll see that, from
3 the contract we used in '82, we deleted the term "national
4 policy representation", under the functions of the
5 support centers for '83. Page 88 of the draft contract,
6 under Section 4, lists the activities funded, pursuant
7 to the contract. They include, and then, in the '82
8 contract, national policy representation was one of
9 the functions listed, that we deleted that, mainly
10 based on what Clint said, and we, a little bit more
11 specific about the functions, in terms of -- added
12 the term "consistent with the Act and regulations",
13 anticipating a change in the legislative regulations.
14 MS. SLAUGHTER: I wanted to ask Buckey this.
15 If you cut the support centers across the board, would
16 that not just about wipe out some of them, that's getting
17 a small amount of funding right now?
18 MR. ASKEW: The cut we're recommending is ten
19 percent or twenty thousand dollars. There are a few
20 support centers, and I don't have the list in front
21 of me, who are funded in a fairly low level, between
22 a hundred and thirty or fifty thousand dollars, so
23 that obviously will be a substantial cut. But I don't
24 think that it would devastate any of them to the extent
25 of forcing them to go out of business, or not be able

1 to continue performing their functions in the future.

2 MS. SLAUGHTER: They wouldn't be as effective.

3 MR. ASKEW: That's true.

4 COMMITTEE CHAIRMAN MCKEE: That's an interesting

5 point. Can we have, between now and the Board meeting,

6 the big question that comes up: I know that the Ford

7 Foundation is providing, or is going to provide approximately

8 a million dollar over a two year period to a few support

9 centers. If the staff could give to the Board, about

10 two weeks before the Board meeting, a listing of the

11 support centers where, the Corporation funds are the

12 sole source of its money, No. 1, you know, and then

13 lists the other sources of funding for the support

14 centers, because I think that might be very helpful

15 and kind of respond to Danny's material, or question.

16 For example, I think that in terms of this

17 concept of support, when you look at one support center

18 and you say, "Well, we get Corporation money", and

19 you say, "Do you get anything else?" "Well, seven million

20 dollars from somebody." The other one says, "That's

21 the only money we get."

22 And I think, in making a decision on anything,

23 that is very important information to know.

24 MR. LYONS: I think though, Clarence, at the

25 same time, we have to understand the history of this

1 Corporation in terms of funding decisions. This Corporation
2 has elected to make funding decisions based on factors
3 other than other sources of funding, based on per capita
4 so we have to, you know, see where we are going, in
5 applying a policy that considers other sources of fund-
6 ing in our funding decisions, because if that policy
7 is to be applied across the board, then it is a signifi-
8 cant, more complex issue.
9 So I think that, you know, that may be the
10 second part of what you're asking us to do, to revisit
11 this, and examine that issue.
12 COMMITTEE CHAIRMAN MCKEE: I probably think
13 that we just may, that we should have a policy of taking
14 a look at other sources of funding, especially like,
15 for example, last year, there was a twenty-five percent
16 cut, and it was done across the board to everybody,
17 regardless of who was getting money from other places,
18 as opposed to a civil source here, and I think that
19 other sources of financing are very, very important.
20 For example, they tell us in Albuquerque, that
21 United Way is thinking of not giving any money because
22 they're worried about the future of this program, which
23 is very serious, because that is another source of
24 funding.
25 And I think that should be a very important

1 criteria in any funding decision instrument, when you're
2 looking at different grantees, and recipients, who's
3 getting what from where else, in terms of where our
4 money's gone.
5 MR. LYONS: That may be true, Clarence, but
6 I'm simply trying to alert you to the fact, that we've
7 always gone to Congress, and asked for money on the
8 basis of factors other than other sources of funding.
9 So, if we are going to change that policy,
10 we have to anticipate how that may impact on our requests
11 for funding from the Congress, and I'm not making a
12 judgment one way or the other. I'm just alerting to
13 a problem.
14 COMMITTEE CHAIRMAN MCKEE: That's probably very
15 helpful to the Congress, the fact that when we ask
16 for money from the Congress, we're saying we will take
17 in to consideration other sources, and we want to see--
18 because the money's so tight, that there are folks
19 who really could use a bit more, if someone else is
20 getting a massive grant from someone else.
21 Another group, or effort, could be a system
22 in Hudson. Dan?
23 MR. RATHBUN: In the light of Anne's question
24 on this ten percent reduction in funding, and its
25 impact on support center effectiveness, has the staff

1 considered, instead of a ten percent reduction, the
2 coordination or consolidation of support center activities
3 and expertise?
4 MR. LYONS: We have looked in that issue, Dan,
5 based on what we have heard from the committee. The
6 question has been raised by Clarence and other committee
7 members, and indeed, by the Board, and, what we are
8 saying is, that it is a legitimate issue to look into,
9 but it should be done over time, and this staff has
10 not had the time to look at it, fairly, at this point
11 in time, but it is a legitimate issue for exploration.
12 MR. RATHBUN: How much time do you think it
13 would take?
14 MR. LYONS: More than I have, apparently.
15 COMMITTEE CHAIRMAN MCKEE: In terms of information,
16 you know, the February 1981, characteristics of field
17 programs, could be all put out by the Corporation.
18 Now I have a question in terms of: You get -- and it's
19 just a general question.
20 You get people who are from X support center,
21 you know, and this lists here, in terms of a breakdown--
22 and I don't know how accurate this is--of closed cases
23 and problems by percentage for--this came out in '82.
24 I guess it's rated then. Do you have that? The breakdown.
25 MR. LYONS: It's the fat book.

1 COMMITTEE CHAIRMAN MCKEE: Now, if you take
2 a hundred percent of cases and problems, this
3 lists family law, or just family. Total family
4 was 29. 5 percent of the total. That included
5 the family adoption, custody, visitation, divorce,
6 separations, name change, spouse abuse, support,
7 et cetera.
8 The next largest area, in terms of problems,
9 was in the area of income maintenance, 18 percent.
10 AFDC, welfare, food stamps, social security, SSI,
11 unemployment, veteran's and workmen's comp.
12 The next largest area was housing, 17.8 percent.
13 Of that 17.8 percent, 11.4 percent, the largest
14 of it, was in landlord-tenant. Other public housing
15 is .9 percent, other housing is 1.8 percent.
16 The next largest area was total consumers,
17 13.7 percent.
18 And then they break down the consumer area.
19 The next largest area, and this is where -- beyond this
20 is the big drop, is in the miscellaneous areas. Indian
21 tribal off .2 percent out of 11.6. Welfare from the
22 states, et cetera.
23 From then on down it kind of drops. You have
24 a total employment with 2.9 percent. Total individual
25 rights, 2.8 percent. That's immigration, mental health,

1 prisoner's rights, physically disabled. Total health
2 was 2 percent, Medicaid .9, and Medicare .3. The total
3 juvenile was 1.1 percent of the cases, delinquent
4 .2 percent, and neglected and abused .6.
5 The last area is education, .5 percent. Now,
6 does that reflect -- Now, there's somewhere in this
7 document, I don't know where it was, talks about a
8 report of problems. A survey listing fifty-four problems
9 somewhere. What I'm asking is, is that an accurate
10 breakdown of the closed cases that they had in 1981?
11 If that's an accurate breakdown, what I have
12 asked different people now -- we have seventeen different
13 centers doing different things, and I know, on an
14 insulated, isolated basis, that for example -- in
15 fact the document says that the housing center had
16 eight thousand requests. Well, this kind of figure
17 supports that, you see.
18 Our other problem is though: Doesn't that suggest
19 that maybe, when this was all set up several years
20 ago, that it was on a perceived conception of what
21 the problem is, as opposed to what the facts would
22 show.
23 Footnote 9 on page 27. "The National Housing
24 Law Project, for example, estimates it received and
25 answered as many as eight thousand requests for assistance

1 last year, and spent more than one-third of its staff
2 in handling those requests. Other estimates are less.
3 Three centers estimate more than two thousand for
4 assistance were handled last year. Another I notice
5 handled between a hundred and five hundred.
6 Footnote 10. "An examination of information
7 contained in the 79 evaluation reports of 12 centers,
8 indicated that nine were sole counsel in less than
9 ten percent of the cases, four were sole counsel
10 in any cases, and three were sole counsel in only
11 a single case."
12 And when we go back to the old breakdown again.
13 Let me turn the page. I'm tired of reading charts,
14 really.
15 Closed cases, how they were handled, okay?
16 These are the closed cases, and how they were, how
17 the disposition went.
18 The largest, 31.7 percent were advice. And
19 I'm assuming that this will take a local program and
20 say, "How did you handle all of the problems that
21 came up?" Is that the way it works, when you put this
22 together?
23 Thirty one point seven percent were advice.
24 Fourteen point four percent went to brief services,
25 which adds up to 46 percent so far. Negotiated

1 settlement, without litigation, was 6.6 percent, which
2 brings it up to 52 percent. Referrals, 7.7 percent.
3 Court decisions, 10.9 percent. Negotiated settle-
4 ments with litigation was 4.1 percent. Administrative
5 agency decision was 5.8 percent.
6 Now, if this is correct, and I assume it is,
7 it shows that, when you talk about litigation and support
8 centers, correct, that that would constitute, in terms
9 of the cases, for the last two years, that the court
10 decision cases are only 10.9 percent, theoretically,
11 and, now, you can't make any hasty judgments.
12 In 1978, in one of these pieces of paper here,
13 it's stated that fifteen percent were litigations.
14 Then for last year it's dropped down to ten percent.
15 Is there a trend, that litigation is going down, in
16 terms of the support center activity?
17 MR. ASKEW: The figures you're citing there
18 are for all field programs, aren't they, as opposed
19 to support centers?
20 COMMITTEE CHAIRMAN MCKEE: That right. No, this
21 is just all field programs. But litigation is 10.9
22 percent.
23 Does that include litigation which would have
24 been initiated, or supported, or worked with, or,
25 co-counsel with a support center, or, do you know?

1 MR. ASKEW: I think it would. Those figures
2 we take from what's called the Case Service Reports,
3 which are filed quarterly by programs, your statistical
4 reports on cases closed.
5 COMMITTEE CHAIRMAN MCKEE: Now I keep going
6 back to the footnote there. This just seems to have
7 shown, that a large percentage of the cases that are
8 closed, are handled, deal with things that most people
9 think that the support centers are going to be doing.
10 The advice is 31.7 percent. That would be the
11 requests. The majority, litigation, including admini-
12 strative things, are very, very small scale, in terms
13 of actual cases that were handled. Doesn't that reflect
14 this, you think?
15 Why then, in terms of some of the areas and
16 issues, that support centers, in terms of the other
17 footnote, into what they're involved in, hasn't there
18 been a change in what was perceived as the original
19 function and assistance given by support centers,
20 from 1976, seven and eight, as to what it is today,
21 just based upon what we find out here?
22 MR. LYONS: I didn't get that at all, Clarence.
23 I don't understand the question.
24 COMMITTEE CHAIRMAN MCKEE: Oh, okay.
25 MS. SLAUGHTER: I kind of get what you were

1 getting to.

2 COMMITTEE CHAIRMAN MCKEE: Thirty-one percent

3 of the cases -- No. Fifty-two percent, or, fifty percent

4 of the cases handled by Legal Services writers, theoreti-

5 cally, in the United States in 1981, were composed

6 of giving advice, a brief service, a referral, or,

7 clients withdrew. A very small percentage, from these

8 figures, were in litigation, on in settlement with

9 litigation. That's my only point.

10 Now, given that structure is the support, the

11 support services, as conceived in '76, '77 and '78,

12 still viable, based upon what is actually going on

13 and what the lawyers are doing.

14 MR. LYONS: Well, part of your question would

15 be -- Are you drawing a conclusion that because --

16 COMMITTEE CHAIRMAN MCKEE: (Interrupting) No.

17 No. I'm just asking a question.

18 MR. LYONS: Well, what is the question?

19 MR. ASKEW: Are you making an assumption that

20 the programs would not use support centers for advice

21 on their cases, or for --

22 COMMITTEE CHAIRMAN MCKEE: (Interrupting) No;

23 no. O.K. They could use support centers for advice,

24 in terms of many thousands of requests for one center;

25 brief services; most all the major things. I'm talking

1 about--to go back to this footnote where you listed
2 the purposes of support centers as: one was litigation;
3 then there was national policy representation generally,
4 but that's been taken out. O.K.? And some other services.
5 MR. ASKEW: Well, the first function listed
6 is Support to Legal Services Program staff, including
7 individual service work developed to maintain library
8 and resource material for training. So, the answer
9 to your question is yes, the need is still there.
10 COMMITTEE CHAIRMAN MCKEE: That kind of a need,
11 yes.
12 MR. ASKEW: Right. I assume, and the Housing
13 Law Center director can speak for himself--but I assume
14 that a lot of the eight thousand requests for assistance
15 are not always requests for assistance with litigation
16 on co-counsel cases. It's requests for information,
17 guidance, provision of materials, a whole range of
18 items.
19 COMMITTEE CHAIRMAN MCKEE: The advice, the advice
20 concept of 31.7 percent, kind of a question.
21 MR. ASKEW: Right. And I think the 37.1 percent
22 that's referred to in that document is advice to clients,
23 not advice received from support centers.
24 COMMITTEE CHAIRMAN MCKEE: Oh, I agree, but
25 advice to clients constituted 31.7 of how they were

1 handled, see. Thirty-one percent of the cases that
2 were handled included advice, lawyer to client.
3 MR. LYONS: I think, Clarence, what those figures
4 do indicate clearly is that, the level of involvement
5 in Legal Services programs, in litigation, is very
6 low.
7 Secondly, the high effort, the high level of
8 advice and referral kinds of things, may indicate
9 that because Legal Services programs are able to make
10 qualitative judgments about whether or not there's
11 a legal issue involved, or not, and some of that comes
12 from the fact, that we do have the kind of qualitative
13 support that we have.
14 When I practiced as a Legal Services lawyer,
15 too long ago, you know, very often I will call up --
16 I would think I would have a legal issue. I would
17 call up the Consumer Law Center, or something like
18 that, on a truth-in-lending claim, and say, "You don't
19 have a claim here, there's no point in pursuing it."
20 So I don't know, I'm not sure what point you're trying
21 to make.
22 COMMITTEE CHAIRMAN MCKEE: No, that point, making
23 that phone call is on point. The last point, and I'll
24 turn it over to someone else, we'll just go down the
25 line. I'm just trying to get our client character--

1 the cases closed and the cases handled, and kind of
2 relate it to what the history of support services
3 have said that they were designed to do. That's all.
4 Age. Client characteristics.
5 Two point one percent of the clients were under
6 age eighteen. Twelve point nine percent were sixty
7 and over.
8 Eighty-five percent were from 18 to 59. Now
9 my question probably would be:when you get to an
10 issue like the elderly, which is a very important
11 and pressing need, and then we find, as you look at
12 our chart, as to the client characteristics, that
13 theoretically, only 12.9 percent of those clients
14 were above sixty, then you ask the question: Well,
15 how does our center on elderly do? You know, what
16 is that function?
17 If you're dealing with juveniles, and only
18 2.1 percent of the clients at that time were under
19 18, what is the universe of that particular center,
20 in terms of money?
21 Native Americans, which I'm very concerned
22 about generally, in terms of their assistance, were
23 2.1 percent in terms of the ethnic breakdown. Blacks
24 were 25.9 percent, and whites were 57.4 percent.
25 I'm trying to see how our figures balance in

1 terms of the basic support functions of different
2 centers. See my point? And we have so many--not so
3 many centers--that are designed in this area, that
4 area, B, C, D, that it seems maybe--I just ask this
5 question--that maybe there should be some kind of
6 a grouping in terms to reflect, so these things can
7 be put together, and I don't know under what structure.
8 I'm tired of talking. Mr. Olson.
9 MR. OLSON: Well, I'd like to go back for a
10 second and just take an overview of what we're talking
11 about, first of all, and this may not seem to be on
12 point, but if we take a look at the budget of the
13 corporation, we realize that it's divided into two
14 categories.
15 One, the provision of legal assistance, and,
16 two, the support for the provisions of legal assistance.
17 And as long as I've been looking at that budget, I've
18 been perplexed as to why national and state support
19 are considered the provisional legal assistance, espe-
20 cially in view of reading the backup document today,
21 and, in view of reading the functions that are to
22 be served.
23 I personally can't see how that can be defended.
24 I think support--to say that support centers--if you
25

1 have two boxes, one is provision of legal assistance,
2 and the other is the support for the provision of
3 legal assistance, how you can clip the support centers
4 in to the provision of legal assistance box is beyond
5 me.
6 Therefore, as I approach this decision-making,
7 my own guiding light is that provision of legal assistance
8 should get the maximum possible assistance, and that
9 all other pleaders for funds should have to bear a
10 very high burden, very heavy burden, in order to show
11 that their funding is necessary, so that we should
12 divert funds away from the provision of legal assistance
13 to the poor directly. That's my own view.
14 Now, with respect to support centers therefore,
15 I think that heavy burden should have to do that as
16 well.
17 If you take the functions of the support centers,
18 and take a look at them in terms of what they are,
19 I think with respect to many of them, you can find
20 that the functions that they serve are either now
21 precluded by statute, or, are increasingly better
22 performed at other levels within the Legal Services
23 community.
24 There may be one or two functions that do not
25 fall into that category, but I think the bulk of the

1 functions they serve are best performed elsewhere.
2 Let's start with -- and I just want to discuss one
3 or two of these, and then perhaps they'll come up
4 in other questions.
5 One of the functions that they have served
6 is to serve as a library, to serve as a library for
7 briefs, specialized publications, regulations of
8 governmental agencies, advisory opinions, et cetera.
9 One of the -- I, for one, would like to see
10 those kinds of functions reevaluated. Having a library
11 function for the support centers, in my view, is somewhat
12 antiquated. It somewhat antedates the availability
13 of computerized legal research. Today, there are many,
14 many resources available to lawyers in the field,
15 that weren't available when these programs were established.
16 And in those areas which are specialized, and
17 are not computerized right now, I think the Clearinghouse,
18 from what I've read, has done a terrific job in forming
19 ing a brief bank, and, being able to computerize their
20 brief bank, and their resources.
21 So my first question is, is it not possible,
22 would it not be in fact better, to have the Clearinghouse
23 serve for a library function for what is currently
24 being done by all of the national support centers?
25 MR. ASKEW: Other people who are more expert

1 in this probably should speak to this, than me, but
2 I would think it would not work that well, for a couple
3 of reasons.
4 One is, as I understand it, the libraries and
5 the support centers have been accumulated over many
6 years, and are now pretty much in place, and the
7 activity that goes on in the support centers now,
8 supplementing and adding to those libraries, and we
9 are requiring, as you will note, in the contract for
10 next year, the support centers do a functional budget
11 for us, which would break out by functions, how they
12 allocate their funds.
13 I would hazard a guess that a very small amount
14 of their funds go into library support each year,
15 although I would stand corrected by some of them,
16 if that's not the case.
17 MR. OLSON: What document are you referencing
18 about this?
19 MR. ASKEW: The draft contract for 1983, which
20 is the very last thing in the briefing book, requires
21 a functional budget from the support centers.
22 Hopefully, from that, we'll be able to tell
23 exactly how much money they put into their library
24 support every year. And I would guess that it's a
25 very small amount of their funding.

1 Secondly, because there are seventeen centers,
2 I would assume it would require a huge library, and
3 quite a bit of staffing at the Clearinghouse to be
4 able to make that library function adequately for
5 all programs in the country.
6 I assume the purpose of the library is multifold,
7 is, 1), for the staff of the support center itself,
8 in terms of their research and what they do, but also,
9 to be available to programs around the country who
10 have technical requests, or needs for information,
11 and that the support center has to be able to respond
12 to those requests quite quickly to be helpful.
13 To put all of the libraries, all of the support
14 centers, in one location under one roof, it seems
15 to me would be -- I know the Welfare Center library,
16 for instance, is quite, is huge, voluminous. It's
17 supposedly the best library on those sorts of materials
18 in the country.
19 If other support centers have the same type
20 of operation, it would be a very substantial library,
21 and, at the Clearinghouse.
22 There'd have to be some analysis done of the
23 pros and cons of doing that, but, as a matter of money,
24 in reducing the amounts of funding to the support
25 centers, based on the amount of funds they put into

1 their libraries, I imagine that we would find it's
2 a fairly small amount of annual grant from us, that
3 goes into library maintenance.
4 MS. SLAUGHTER: Would you not have to have the
5 same amount of staff to answer the requests for the
6 different programs, if you put it all in one basket?
7 MR. ASKEW: I would assume. I don't know. I
8 mean, that's something that we've never really looked
9 in to doing, and so it would require some analysis.
10 But I don't think it would be, really, a cost saving
11 move to do this, either in terms of reducing funding
12 to the support centers, or saving funds overall, either
13 at the Clearinghouse, or in some other way, that that
14 would not be the motivation for doing it.
15 MR. OLSON: Well, to the extent that there is
16 overlap and duplication amongst support centers,
17 it would clearly be a cost saving. I, for one, go
18 back to the days when research was considered an in-
19 house function, and look at that, and frankly, do
20 not understand why those days cannot be, we cannot
21 return to those days.
22 In that way, there is, I think, better control,
23 better ability to ensure quality product is produced,
24 and I look at several of these functions that they
25 serve, or partly service, is being better served

1 elsewhere. One of them, of course, is the provision
2 of legal assistance to eligible clients. I frankly
3 don't understand why support centers should be dealing
4 directly with eligible clients, as opposed to through
5 local field programs.
6 Is there any rationale that would require that?
7 MR. ASKEW: Your earlier point of why the support
8 centers are listed in the provisions section--this
9 is a historical budget breakdown that the Corporation
10 has used, and I assume one reason they are in the
11 provisions section is because they do provide
12 legal assistance to clients.
13 None of the activities listed under support
14 in our budget do provide legal services to clients.
15 So I assume that's why they were put in that category.
16 MR. OLSON: But I think if we do the same kind
17 of functional breakdown of the budget, as you were
18 talking about at the end of the contract, we'd find
19 that it's a very small percentage of the total amount
20 of dollars, that are given to the state and national
21 support centers, that go to the representation of
22 individual clients. Don't you agree?
23 MR. ASKEW: I have no idea.
24 MR. OLSON: Well, just based on the background
25 paper--I think it's footnote eleven that says, that

1 in one support center it's fifty, that's the high
2 water mark, and, the rest are twenty-three, seventeen,
3 and some of them have none, have no pending cases
4 with respect to -- and certainly those do not appropriate-
5 ly go under the provision, direct provision category.
6 Right?
7 MR. LYONS: I think, Bill, that --
8 MR. OLSON: Clint always comes in at a critical
9 moment.
10 MR. LYONS: Well, that's part of my job.
11 I think that all the questions you raise are legitimate
12 ones, and, what I've been trying to suggest, in the
13 recommendations that I've made, is one problem you
14 raise.
15 You raise definitional problems as to what
16 constitutes support. Now presumably, in your definition
17 of delivery of legal services, you aren't talking
18 about those things that support the lawyer, to ensure
19 the quality of the legal services. You aren't talking
20 about the qualitative research that goes into producing
21 a very complex breed, and, you're suggesting further,
22 that it should be done in-house.
23 Well, every legal services program doesn't
24 have that capability, and, it would be duplicative
25 and wasteful, for three hundred and twenty grantees,

1 to have that capability.

2 MR. OLSON: Clint, let me just say, when I said

3 in-house, let me just define in-house. In-house, I

4 meant within the Legal Services Corporation, as opposed

5 to the way you meant it, which is within 330 local

6 programs.

7 MR. LYONS: Well, that's an option. What I'm

8 suggesting to you is that these issues are so complex,

9 that we should not retreat from them. All I've said

10 is that we should make sure that we have the kind

11 of in-depth analysis of these issues, so that we don't

12 displace something prematurely, at a time, when, in

13 my judgment, I don't think we can afford the disruption.

14 You know. I have no qualms, and I think it's

15 perfectly within the prerogatives of this Board, to

16 make the changes in support of whatever function,

17 but I think the mandate of the Act, in terms of quality

18 and effectiveness, requires the kind of professional

19 analysis that is not made based on a conclusion or

20 desire to retreat back to a time in the past.

21 I think that we have to just take the time,

22 and do the kind of analysis, and if the data and the

23 evidence supports the conclusion that we should go

24 back, then, fine.

25 MR. OLSON: To return to a mechanism which

1 happened to have been placed at a prior time can hardly
2 always be called a retreat. The term retreat has certain
3 other connotations. It may be a return to something
4 that was better than what's in place currently, and,
5 indeed, that's what I think the case is.
6 Training is another function, just to hit briefly,
7 and then I'll let someone else address this. Training,
8 again I think -- I've read over all the documents
9 we've been provided on this, and it's something I've
10 raised at every single meeting we've had around the
11 country.
12 I frankly don't understand the wisdom, disagree
13 with the wisdom of the decentralized approach we've
14 now adopted. I don't understand, or disagree, with
15 the fact that we've so scattered the responsibility
16 for training, that we run the risk of not ensuring
17 that we have well trained advocates in court on behalf
18 of eligible clients.
19 And I tend to think, that if you give every
20 national support center a responsibility, every state
21 support center a responsibility with training, give
22 the client's counsel some training and responsibility,
23 have the corporation in-house have some training
24 responsibility, have all the regional offices have
25 some coordinating responsibility, in some cases staff,

1 with respect to training, and have local programs
2 have training responsibility, it's almost a system
3 designed to -- there's no way to know whether it's
4 working.
5 And I for one think that should be a high priority
6 of ours, which may require more money. But to spread
7 the functions in this way, I don't particularly think
8 is the best way.
9 If you have any comment on that, fine; otherwise,
10 I'll let somebody else talk.
11 MR. ASKEW: I'll just say two brief things.
12 One: we had four years' experience with a national
13 training program, and that's one of the things that
14 drove our decision to decentralize training. Secondly,
15 we have believed all along, that it's the responsibility
16 of each Legal Services program to provide, develop
17 and provide their own training for staff, and we felt
18 that decentralization would further that, and it's
19 new, obviously, the decentralization move, and it
20 needs to be looked at. But we did it based on experience
21 of the first four years of the Corporation, and secondly,
22 on a real desire, in agreement with you, that training
23 is extremely important, and every program should take
24 on its own responsibility for training its staff,
25 and that's what we're attempting to do through

1 decentralization.

2 COMMITTEE CHAIRMAN MCKEE: Perfect timing.

3 BOARD CHAIRMAN HARVEY: Where are you, Clarence?

4 COMMITTEE CHAIRMAN MCKEE: Oh, there you are.

5 We're going to eat at 1:00 o'clock, by the way. Anne?

6 Bill, you haven't said anything in twenty minutes,

7 so after Anne we'll go to you, and then to --

8 BOARD CHAIRMAN HARVEY: After Anne, I have a

9 comment. Thank you.

10 COMMITTEE CHAIRMAN MCKEE: Go ahead.

11 MS. SLAUGHTER: He can have his first.

12 COMMITTEE CHAIRMAN MCKEE: You can have yours

13 first.

14 BOARD CHAIRMAN HARVEY: All right. A moment

15 ago--I think it was Buckey who was speaking--did you

16 say that -- I'm not sure what you said in response

17 to Bill concerning actual client representation, et

18 cetera. Could you make a comment on that, Buckey.

19 COMMITTEE CHAIRMAN MCKEE: Make a comment on

20 what?

21 BOARD CHAIRMAN HARVEY: Actual client representa-

22 tion in the support center. I thought he said that

23 the data do not show that. Am I --

24 COMMITTEE CHAIRMAN MCKEE: He said -- You heard

25 him wrong.

1 MR. ASKEW: Mr. Olson said that, I believe,
2 quoting footnote 11 of the backup center paper.
3 BOARD CHAIRMAN HARVEY: O.K. Concerning the
4 data, or the library, it seems to me that Clint is
5 correct in his direction or orientation. I don't think
6 we should go back either.
7 I would suggest that maybe we should go forward,
8 and if it is a case, that support centers have very
9 valuable collections of briefs and analyses in their
10 records, and my guess is they do, or certainly they
11 should, then perhaps it'd be much more accessible
12 to all members in the country, if those materials
13 were placed on a Lexis like system, or a Wessler like
14 system, or a Wang system, and made therefore much
15 more accessible to the three hundred and twenty-five
16 delivery system programs than they are today.
17 So I agree with what the president is saying.
18 I think we ought to go forward and perhaps --
19 COMMITTEE CHAIRMAN MCKEE: That's a landmark.
20 BOARD CHAIRMAN HARVEY: A comment I want to
21 make. If I might refresh members of the Board's recollec-
22 tion. On page 38 of this book, you see here --
23 COMMITTEE CHAIRMAN MCKEE: Is this the Board
24 book?
25 BOARD CHAIRMAN HARVEY: It us. Under the provision

1 what Bill has said.

2 COMMITTEE CHAIRMAN MCKEE: Mrs. Slaughter.

3 MS. SLAUGHTER: I don't have anything to add.

4 COMMITTEE CHAIRMAN MCKEE: Dan? Frank?

5 MR. DONATELLI: Nothing.

6 COMMITTEE CHAIRMAN MCKEE: Howard? Oh, Dan.

7 MR. RATHBUN: Buckey mentioned his experience

8 with the centralized support, first four years of

9 the Corporation.

10 What kind of difficulties, or inadequacies,

11 was centralized support confronted with, which would

12 lead to, led you to promote decentralization? If there

13 was an attempt to centralize again, do you think these

14 same problems or inadequacies exist now, given the

15 increase in technology, et cetera?

16 MR. LYONS: We have a background paper on training,

17 the centralized support training function that we

18 had in the Corporation. One of the problems that we

19 had with it, and a major one, was the fact that, 1),

20 we were not able to train as many attorneys as the

21 amount of money that we allocated for those training

22 efforts. What we found was, that we had to go to national

23 and regional training events, that drew people from

24 all over the country, or attempted to deliver the

25 training to attorneys all over the country.

1 So consequently, a large proportion of those
2 budgets were going toward travel costs, trainer costs,
3 and all of those kinds of things.
4 Secondly, as Buckey indicated before, we did
5 not, we were not able, with that approach, to really
6 push the attitude that local programs do have a responsi-
7 bility for training at the local leve. So we thought,
8 and, it may have been a mistake, that if we moved
9 toward a more decentralized concept of training, that
10 we could continue to provide the quality and support
11 for training, but make it closer to the local level,
12 and have the local programs play more of an active
13 role in their own training delivery.
14 And what we were attempting to do by the decen-
15 tralization was to provide the modules, to provide
16 the training approaches, and concepts, and have the
17 delivery given at the local level.
18 One of the things in our new directions, that
19 we're recommending expiration of, is whether or not
20 utilizing what we have now, in a decentralized mode,
21 is whether or not we can further tap in to the continu-
22 ing legal education efforts of the private bar, that
23 is being given at the local level. But where we have
24 the expertise, through our support in national support
25 efforts, through our regional training in those areas,

1 whether or not they can tap into the training delivery
2 of those private bar systems, as trainers, by way
3 of our materials, to further leverage resources, both
4 from the Corporation perspective, and from the perspec-
5 tive of the private bar.
6 MR. ASKEW: And I would add, if training is
7 recentralized, there will be some of the same problems,
8 1) cost effectiveness and efficiency. It is very expen-
9 sive to do. Secondly, how you keep that training most
10 responsive, not only to local needs. What are the
11 needs of individual programs for training, and how
12 do you address that nationally?
13 But secondly, local situations, state laws,
14 local rules of practice, that sort of thing. It varies
15 from program to program, state to state. So that a
16 national event--there's no way a national event will
17 address fifty different state laws, or rules of practice
18 in a particular state or jurisdiction.
19 COMMITTEE CHAIRMAN MCKEE: Following up. Remember
20 the May meeting, May 10th?
21 MR. ASKEW: Yes.
T2-S2 22 COMMITTEE CHAIRMAN MCKEE: I'd like to bring
23 up our discussion during the meeting, where we juggled
24 contracts, in the area of training, $30,000 to $40,000
25 for between two and a half to four day training programs.

1 We talked about one for $40,000 for a two day training
2 program for attorneys, and we juggled training programs
3 for the handicapped.
4 Now, in that instance, the people submitted
5 an application for a contract allowing them to do
6 the training, they got paid, and I think they did
7 the training. Other than that, I know there's a training
8 manual. There's more training that has gone on than
9 just what we're talking about here. So it's not just
10 the centralization in terms of a major change, but
11 it's the other kinds of training, that goes on by
12 different groups who ask for a contract to do this
13 and that.
14 So I think that is some of the concerns we
15 have.
16 MR. OLSON: You know, we almost -- let me just,
17 with one sentence. We almost have a situation where
18 there is centralized training in the Washington Office,
19 where it's all run by a staff here. There's decentralized,
20 I guess where it could go to local programs, but we've
21 done it, we've given everyone training responsibility
22 that we can thing of. Like REGGE has training responsi-
23 bility. We've given training responsibility by contract,
24 as Clarence says, and I can't help but believe that
25 there can't be some way to accomodate local differences

1 in laws and procedures, the specialties that have
2 to be learned, and yet not use it as, in essence,
3 a justification of funding every single thing before
4 the Board, because everything that we wind up asking
5 to fund, by golly, training is one of the things
6 that they do.
7 MS. SLAUGHTER: How else are they going to learn
8 about what's going on? How else are they going to
9 keep up with the different changes in the law except by
10 training and having meetings? Is there a better way
11 to communicate with them, the changes, the different
12 changes?
13 MR. OLSON: No. I want to put a higher priority on
14 it, and do a better job of it. I don't like the way
15 they do it now, which is to say that no one is respon-
16 sible. Everyone is responsible and therefore, no one
17 is responsible. I don't think that's the effective
18 way to do it.
19 COMMITTEE CHAIRMAN MCKEE: I've committed a
20 grievous error to the man who controls the money,
21 Mr. De Moss, by not hearing him. Harold.
22 MR. DE MOSS: Buckey, are there any statistics
23 available, which would permit us to quantify, in any
24 way, what the frequency of utilization by field
25 programs, of national support centers is? In any of

1 the reports that they file, is there anything that
2 has been calling upon them to express, or quantify in
3 any way, the frequency, or the occasions, or the
4 times in which the local programs have utilized the
5 national or state support centers, either one?
6 MR. ASKEW: National support centers do report to
7 us, and provide us with that information. What we
8 don't have is the reverse, which is local programs
9 reporting to us on how they utilize national support
10 services. That's not a part of their reporting to us,
11 but we do get that information from the support
12 centers in their semiannual reports to us, in their
13 refunding application, and in other formats. So yes, we
14 do have that information.
15 MR. DE MOSS: You have it only as it comes from a
16 quantification of the national support centers, as to
17 what they've been doing, but not from the reverse
18 direction, as to what the field programs look upon as
19 being the frequency with which they have --
20 MR. ASKEW: That's right.
21 MR. DE MOSS: I ask this question because, in my
22 visits to some of the programs in Texas--and I will
23 admit that they are metropolitan area programs--it
24 seems to me that these major metropolitan area programs
25 at least, are developing a considerable in-house

1 capability to deal with a lot of these technical
2 issues, which the national support centers deal with.
3 Do you have any comment on that?
4 MR. ASKEW: I believe that's true. They are
5 developing a great deal of expertise, although the
6 problem as pointed out earlier, is still a very real
7 one, which is turnover of experienced staff, and
8 that expertise tends to leave with people who leave
9 the program.
10 However, I don't believe that argues for abolish-
11 ing or cutting back on the support centers, because
12 they're, out of the three hundred programs that we
13 fund, I would imagine there are a very small percen-
14 tage of programs who would tell you, or tell us, that
15 they have no need for national support centers, to
16 ever take advantage of the services offered by the
17 national support.
18 So I think the support centers, in a way, are like
19 local programs. I'm sure that they have more requests
20 than they can meet. A greater need is out there, than
21 they are able to accomodate, and simply because the
22 Houston program, for instance, may not lead to call on
23 a welfare center because it has very experienced wel-
24 fare attorneys, would not lead us to believe that
25 there's no need for a welfare center.

1 MR. DE MOSS: Do you conclude therefore, that
2 there would be no way to deal with the question of
3 continuation of expertise, by way of calling upon
4 local programs in an area of a major metropolitan
5 program, that was staffed up and had the people to
6 utilize their help?
7 I mean, is there much sense or feeling among the
8 individual field programs, that they can turn to any
9 locally staffed and operated other field program,
10 that is better prepared than they are, to answer some
11 of these questions, as opposed to turning only to
12 a national support center?
13 MR. ASKEW: Well, that is probably one of the
14 major functions of state support, is to provide that
15 coordination, and to provide a source of contact
16 between people within a state who have expertise in
17 a particular area, or, handle a case in a particular
18 area, whatever.
19 So that source of coordination is there. But there
20 still is the need, nationally, for the support centers.
21 MR. DE MOSS: My next areas of question deal with
22 the state support centers themselves. Other than a
23 sort of brief reference to the state support systems
24 in the background paper on the national support
25 system, I am not aware that there is any separate

1 background report on the state support systems, so
2 consequently, some of the questions that I may ask
3 may again reflect my ignorance, as they frequently do.
4 How many states have a state support center?
5 MR. ASKEW: Every state has a state support system
6 in place.
7 MR. DE MOSS: O.K. Do we get any reports from
8 those state support centers, as to their frequency
9 of response to local programs, or, like we get from
10 the national support centers?
11 MR. ASKEW: No, not here nationally. Now, state
12 support centers are under the jurisdiction of the
13 regional offices, and national support centers are
14 under the jurisidction of the Washington office.
15 Now, the regional offices do perform the same
16 sort of oversight function with the state support
17 centers, as they do with basic field programs.
18 So regional offices are monitoring the activities
19 of those programs, and do collect information from
20 them. We do not aggregate that information here in
21 Washington, as we do the national support information.
22 MR. LYONS: Let me clarify something for you, Hal.
23 The word state support centers may be a misnomer, and
24 may be misleading. We do have state support centers
25 in the sense of entity, with staffs and so forth, that,

1 you know, perform state support activity. But state
2 support, as it exists throughout the fifty states,
3 are basically a combination of centers, of state
4 support coordinating efforts, $70,000 here, $200,000
5 there, where one, where they do mostly training
6 coordination.
7 They are not set up in the use of the term center,
8 in the same way as the national support centers are.
9 That's the clarification I wanted to make.
10 MR. DE MOSS: O.K. Thanks. But the point I'm
11 concerned about is, that in Category 1(b), there is
12 five million, eight going to national centers, and
13 six million, five going to state support centers, and
14 I really feel the need for having a somewhat better
15 handle on what those state support centers are
16 doing in the form of some sort of background paper,
17 or something else, like you've done on the national
18 centers.
19 MR. LYONS: O.K. We have materials, we haven't put
20 it together in the same way, as we have the national
21 support paper, but we can do that in short order.
22 COMMITTEE CHAIRMAN MCKEE: Who hasn't spoken and
23 wants to speak? Frank Donatelli? Howard Dana?
24 MR. DANA: A couple questions. Buckey, how do we
25 monitor -- right now, how good a job, or, how bad a

1 job, the local grantee is doing in performing this
2 decentralized training function?
3 MR. ASKEW: We have funded five regional training
4 centers around the country. Those centers have multi-
5 ple responsibilities, mostly the development of
6 training in local programs, providing support to
7 local programs, providing assistance, even funds in
8 some cases, to help them develop their own training.
9 So there is some accountability from my office
10 to those regional training centers, and from those
11 training centers to each program.
12 Each regional office is a part of this monitoring
13 evaluation function, and is required to write an
14 annual report on every program, every year.
15 One of the things they are expected to look in
16 to is the training being done by that program,
17 the quality of it, the frequency of it, and report, as
18 a part of their monitoring evaluation function on that
19 training, and serve as a link, if necessary, to the
20 regional training center, or the other sources of
21 training, if they see a problem in that regard.
22 COMMITTEE CHAIRMAN MCKEE: With the two million
23 dollars? Is that two million dollars? That's right.
24 MR. ASKEW: That's right, for the regional training
25 centers.

1 MR. DANA: Are those being phased out?

2 MR. ASKEW: No.

3 MR. DANA: No. Your request is for how much?

4 MR. ASKEW: For no new money in 1983.

5 COMMITTEE CHAIRMAN MCKEE: Wake up, Bill. Excuse me.

6 Bill?

7 BOARD CHAIRMAN HARVEY: Yes.

8 COMMITTEE CHAIRMAN MCKEE: O.K.

9 MR. ASKEW: The grants that were given to them in

10 1982, we expect them to continue their operation

11 through '83 without additional funding from us.

12 MR. DE MOSS: Buckey, let me ask: on pages 40 and

13 41 of the Board book, which is the new breakout of

14 the 1983 budget, and maybe I'm looking at the wrong

15 category, but training development under the offices

16 of Field Services, is being reduced, right, but that

17 is not the training activities that you are referring

18 to?

19 MR. ASKEW: The two million dollars in the base,

20 that was used in 1982, some of that money was used

21 to fund the regional training centers. We're not

22 recommending additional funds to those training centers

23 in 1983. They have adequate funds to operate through

24 this year, we believe. So that is what I was referring

25 to, in answer to Howard's question. It does not speak--

1 those are not funds that are used to monitor and
2 evaluation the activities of local programs vis-a-vis
3 training. That's under the regional office budget.
4 MR. LYONS: What we did, Hal,, we took the two
5 million dollars that is part of the 1983 base. In
6 1982, we required those regional training centers
7 to utilize monies over a two year period. So we're
8 taking the two million dollars out of the base, in
9 terms of our 1983 recommendation, and putting it, most
10 of it, into new directions, because we don't think
11 that these regional support centers need the money
12 in 1983, and we want to experiment in our new
13 directions with some new concepts around training,
14 that involve the continually good education efforts
15 of the private bar in connection with the utilization
16 of those regional training centers.
17 MR. DANA: Just really in the nature of a comment.
18 I come from a state which has a lot of people in it,
19 but it wouldn't fill up half of Houston, and the
20 consequences of that are, that we have relatively few
21 attorneys working in this program, and in our
22 largest metropolitan area, we have three or four
23 attorneys.
24 And it's my understanding that they rely heavily
25 on the expertise that is available in support centers.

1 They can't possibly, any more than any of us can in
2 our practice, have within a program the size of
3 Maine's program, the constantly available in-house,
4 or in-state kinds of expertise that is required for
5 the level of quality service that we are required
6 to, or we are striving to provide.
7 So that for a state like Maine, it is helpful
8 to have that kind of expertise somewhere, and I would
9 hope that as this Board deals with this issue, that
10 we maintain that reasonableness, or, the ability to
11 call upon experts in the kinds of areas that are
12 not -- that require expertise.
13 I come from a law firm which is, I think, more
14 than twice the size of the entire staff of Pinetree
15 Legal, which serves all of the poor people in my
16 state,and we have several areas of the law, that we
17 don't pretend to be able--we're not qualified to deal
18 with, and we refer those matters out to other lawyers
19 who are, or, where we are capable of providing some
20 of the service, we associate ourselves with other
21 lawyers who are more capable to supplement our
22 knowledge.
23 And I sense that that is the principal, now the
24 principal ongoing appropriate function of support
25 centers, and, if we can, we should, in my judgment,

1 maintain that capability within this program.

2 COMMITTEE CHAIRMAN MCKEE: Bill.

3 BOARD CHAIRMAN HARVEY: I have no comment. Thank

4 you.

5 COMMITTEE CHAIRMAN MCKEE: O.K. The last point on

6 support, on state support. I'm reading -- This is one

7 of Clint's memos. Is this policy still current?

8 It's a memo directed to the field program directors

9 and state support planning committees on state support

10 funding, indicating that the Board allocated

11 $2.7 million in December of '80, from the '81 budget,

12 for new work in the area of state support.

13 It talks about: "The Corporation has decided to

14 award grants from the new state support funds on

15 the basis of a competitive process." Then it talks

16 about a sliding formula, in terms of the -- Is this

17 the previous formula or the present formula?

18 "The sliding formula provides that each state

19 with less than one million dollars in out of state

20 field grants is eligible to apply for an amount up

21 to ten percent of total basic field funding," and then

22 it's kind of a sliding scale.

23 Now, in this April '82 listing of all the state

24 support stipends, South Central Connecticut, 74,000--

25 it goes all the way through them--is this based on a

1 sliding scale? Is that what this--how the money is
2 now allocated, every year, on that sliding scale, or,
3 is it still a competitive process? Do they apply for
4 this each year? What does a competitive process mean
5 in terms of this?
6 MR. ASKEW: It was a competitive process in 1981
7 for the award of that $2.7 million. The sliding scale
8 was what programs were eligible, the maximum they were
9 eligible to apply for. We got 7 million dollars worth
10 of applications for that $2.7 million, so obviously,
11 we were only able to fund approximately a half of
12 what was supplied, or, less than half of what was
13 supplied.
14 COMMITTEE CHAIRMAN MCKEE: The 2.7 million dollars,
15 plus whatever we had before, makes the six million
16 that it is now, correct?
17 MR. ASKEW: Yes.
18 COMMITTEE CHAIRMAN MCKEE: O.K. Now, the last
19 point, and then we'll move on to two other areas, and
20 go eat. In this same memo, it talks about suggested
21 areas of activity for state support, and there are
22 six basic activities.
23 One was quality, substantive, statewide legal
24 advocacy. That is must occur, must occur in at least
25 three areas: legislative advocacy; administrative

1 advocacy; and litigation on issues which have state-
2 wide effects, and effect statewide constituencies.
3 Is that still a purpose of state support, one of
4 the six?
5 MR. ASKEW: Yes.
6 COMMITTEE CHAIRMAN MCKEE: O.K. Ad we go down,
7 maintenance of effective staff is fine. Clearinghouse
8 sharing information, I can understand. Client informa-
9 tion system, important. Coordination of advocacy and
10 litigation.
11 The last one, advocacy and support for the
12 provision of quality legal services to poor people.
13 Are those all current, under the present policy,
14 as to what state support's supposed to do?
15 MR. ASKEW: Yes.
16 COMMITTEE CHAIRMAN MCKEE: Now, if we go back to
17 (A), legislative advocacy, administrative advocacy,
18 and litigation, litigation -- I'm sorry -- legislative
19 advocacy and administrative advocacy apparently are
20 going to be curved under either the Congressional
21 restriction. Litigation on issues which have statewide
22 effect. From the statistics that I was reading earlier
23 shows there may not be that much litigation.
24 So it seems that the first one out of the six
25 activities has been substantially cut back. That was

1 all I was going to ask. Now, does anybody want --
2 I tell you what we should do is: we were going to eat
3 at 1:00 o'clock. Does anybody want to take a quick--
4 I mean, if I say five minutes, if you could do whatever
5 you have to do in five minutes, because we want to go
6 to lunch.
7 But there are two other areas that we want to
8 get to for the staff recommendation, that is, the
9 REGGE program and the Clients Council. Am I missing
10 anything?
11 MR. LYONS: I don't think so.
12 MR. OLSON: Clarence, could I just ask one last
13 question. In the budget, as line items, appear
14 five million plus for national support, and six million
15 plus for state support.
16 Is there any other monies that are provided,
17 either from the corporation, or, from local delivery
18 programs, to any kind of state or regional, or
19 national support function?
20 Is there any transferring of money that occurs,
21 that might not be apparent on the face of the budget,
22 to a support function?
23 MR. ASKEW: Not that I'm aware of. The only thing
24 I was thinking of was, last year, we did make a lot
25 of training grants from here, and state and national

1 support centers, local programs, received those
2 training grants, but we're not doing that this year.
3 Other than that, I can't think of anything.
4 MR. OLSON: But there's be no situation, say, where
5 the state -- every single penny that is spent by a
6 state support center, or, a state support venture,
7 or whatever you might call it, is reflected in the
8 six million dollars in the budget?
9 MR. ASKEW: No. Let me make one additional thing I
10 just thought of. We fund a number -- and this is unduly
11 complicated but I'll have to say it.
12 Some of the state support centers are what's called
13 joint ventures, which is the efforts of all the
14 programs in the state to support their own state
15 support system.
16 We have made, traditionally, grants to those local
17 programs for state support purposes, and then they
18 use those funds to run the state support systems.
19 Some programs have chosen on their own to add
20 some of their basic field funds into the support of
21 the state support system, matched our funding, whatever.
22 That was a local program choice that was made.
23 So some state support programs probably do have
24 funds that ultimately come from the Corporation,
25 that are in addition to the funds reflected in this

1 budget, but the joint ventures are--I would have to
2 get the figures, but there are probably ten or
3 fifteen joint ventures around the country, out of
4 the total state support programs.
5 MR. OLSON: Do we have good figures on that, in
6 terms of how much money is being transferred through
7 to them?
8 MR. ASKEW: I think we could get them quite
9 easily, if we don't have them. I'm not sure we do
10 have that level of detail.
11 MR. OLSON: Do you have any idea of how much money,
12 in total, we're talking about? Under a million?
13 MR. ASKEW: Yes, substantially.
14 MR. OLSON: The last question is simply with
15 respect to the first line of the background paper,
16 which says something like, "The problems confronted
17 by Legal Services' attorneys, in representing
18 eligible clients, are at least as broad as those
19 confronting private practitioners." If I could find
20 it, I would quote it, but it's words to that effect.
21 Just having listened to Clarence discuss the
22 program breakouts that the Corporation makes available,
23 I can't help but wonder if that's an accurate
24 statement.
25 It seems to me that there are some very large areas

1 of concentration, where great percentages of the
2 kinds of cases that are handled fall in. Family
3 services, welfare matters of one type of another,
4 housing.
5 And that if you put together three or four of
6 these types of categories of services that are
7 provided by legal aid attorneys, that would be a
8 very heavy percentage of the total activity.
9 In other words, very few legal services attorneys
10 are engaged in stockholder derivative suits, I would
11 imagine.
12 But the thing that I'm -- you know, in other words,
13 I can't help but believe that that is, on its face,
14 false. That the kinds of cases by and large--and I'm
15 not talking about where there's one or two or three
16 cases in the country--but where there are any bulk of
17 cases, and say, more than three percent of total
18 Legal Services cases around the country, that those
19 fall into very broad areas, that are much narrower than
20 the services provided by law firms that Howard's in.
21 Do you think I'm --
22 MR. ASKEW: I just take issue with the truth of that
23 sentence, and I wonder if you can defend it.
24 No further questions.
25 COMMITTEE CHAIRMAN MCKEE: Before we go to the

1 seventeen support centers dealing with basic issues
2 in terms of poor folks, there are only two minorities,
3 and out of the eight regional training centers that
4 were there, I think that there are none at all.
5 And I think also, that the structure, in terms
6 of -- I used to think there were twenty-six state
7 support centers. I know there's one minority female
8 running those.
9 Notwithstanding affirmative action requirements,
10 when you have a structure and money, and people are
11 doing their own thing, in terms of a local board
12 here, and developing a policy, how do you keep a
13 handle on basic important issues like that?
14 MR. ASKEW: We have an EEO office, of course.
15 We put together a fairly comprehensive report on
16 the minority employment practices of the support
17 centers, and of the regional training centers, and
18 I don't --
19 COMMITTEE CHAIRMAN MCKEE: Oh, I've seen that.
20 I saw it.
21 MR. ASKEW: And indeed, it's admirable, I think is
22 the conclusion of the report, in terms of --
23 COMMITTEE CHAIRMAN MCKEE: Two blacks out of
24 seventeen support centers?
25 MR. ASKEW: Well, this is the entire staff of the

1 support centers as opposed to the directors, and so
2 we could provide that to the entire Board. It is
3 monitored quite closely, both by the Equal Employment
4 Opportunity office of the Corporation, a division is
5 charged with that, but also by the monitoring office
6 of the Corporation, whether that's the regional
7 office or the headquarters office, depending on
8 the particular entity.
9 COMMITTEE CHAIRMAN MCKEE: I'll get off on this,
10 on terms and grant conditions. But could we have a
11 discussion of the Reggie Program and that backup
12 paper?
13 MR. OLSON: Well, let me ask this last question.
14 There are something like fifteen states, I think,that
15 have one program for the entirety of the state, and,
16 the funding for those programs is something,
17 approximately $40 million is my recollection of some
18 rough notes I took once, that bears me out.
19 With respect to those states in which there
20 is a single program, we have no way of knowing,
21 I assume, how much of that funding is spent on
22 support kinds of functions, as opposed to direct
23 delivery, or, is there some way we know? In other
24 words, with respect to Howard's program, which is
25

1 a statewide program, if I remember from what you
2 said, they would not be transferring their funds
3 to another entity, say, like the one that's in
4 Richmond, Virginia, in order to spend in Richmond,
5 but they would be in Richmond, they would cover the
6 state, and they would be responsible for it, and
7 there would be no transfer of funding out from
8 the local delivery unit, to another entity to
9 provide the support function.
10 It would be an in-house capability. Is there
11 any way we can tell how much of that $40 million
12 goes to support as well?
13 MR. ASKEW: Of course we do make grants for state
14 support, to a number of those statewide programs,
15 maybe all of them as a matter of fact, and, those
16 grants are monitored by the regional office.
17 There are audits done on those grants to make
18 sure states spend for the purposes for which they're
19 granted. So we do obviously look to make sure that
20 the state support functions are being provided, and
21 that the funds that we give them are being spent
22 for the purposes for which we gave them.
23 The question would be whether they use additional
24 basic field funding to do support functions, for which
25

1 we do not give them a separate grant. And I would
2 say that all of them do, because one of the
3 functions, obviously, of a statewide program, and
4 one of the reasons for the existence of a statewide
5 program is to perform many of those functions
6 itself, to better coordinate, better serve on a
7 statewide basis.
8 I don't know that we break out those dollars
9 spent for support purposes over and above grants
10 that are specifically made to them for that purpose.
11 No.
12 MR. OLSON: O.K. I'm really not being critical of
13 it. I just think, that when we look at the budget
14 items, and we see eleven million plus for state
15 and national support, we ought to realize that
16 there's actually more than that being expended
17 for those purposes, that doesn't appear in the
18 budget quite in that fashion.
19 I just want to make sure that I have the request
20 on record, to get the funding for the joint, through
21 these joint ventures, in terms of how much, and
22 where the money's going, and from whom it's coming.
23 MR. ASKEW: Right.
24 MR. DE MOSS: Let me ask a question, Buckey, right
25 there on that point. If we were talking about renewing

1 and extending contracts for the coming year, in
2 those cases where you have a single program that
3 serves the dual function of delivery and support for
4 a whole state, do they have two separate contracts?
5 MR. ASKEW: No. They have one grant from the
6 Corporation for a total amount of money, but the
7 grant award schedule that's given to them breaks
8 down the various categories that those funds are
9 provided for. They may be more than just state
10 support and basic field. It could be a native
11 American component, a migrant component, other
12 sources of funds. But they just receive one grant
13 and one check per month from the Corporation.
14 MR. DE MOSS: In those cases, do any of the
15 dollars that are in the allocations for support
16 functions, do those dollars appear in these figures
17 that show in national and state support?
18 MR. ASKEW: Yes, they do. Yes.
19 MR. DE MOSS: Would there be any way, if we
20 were going to deal with these next year contracts
21 now, would there be any way to, if we -- and this
22 may just be my suggestion -- but if we were going
23 to split and deal with field programs as one sort
24 of contracts, and support functions as another sort
25 of contracts, on a different time frame, or different

1 COMMITTEE CHAIRMAN MCKEE: They haven't yet.

2 The Winston Center on Law and Poverty.

3 $860,000.

4 MR. DE MOSS: Mr. Chairman, may I ask you: did you

5 abandon your idea about a five minute break?

6 COMMITTEE CHAIRMAN MCKEE: We'll do it in thirty

7 minutes. Thirty seconds.

8 The Winston Center on Law and Poverty. I had

9 read somewhere where they get $1.4 million in total,

10 and this says $860,000.

11 That is a state -- that is a total support

12 program, isn't it?

13 MR. ASKEW: Well, but they perform different

14 functions. They are a state support program for the

15 State of California, under one grant they receive

16 from us. They also receive a training grant from us

17 for the substantive law training program, which is

18 a nationwide program, where they're expected to

19 provide substantive law training nationally.

20 COMMITTEE CHAIRMAN MCKEE: To whom?

21 MR. ASKEW: To field programs.

22 COMMITTEE CHAIRMAN MCKEE: Do they get any other

23 money beyond ours?

24 MR. ASKEW: I don't know.

25 COMMITTEE CHAIRMAN MCKEE: O.K. Before we take

1 degree of permanency, could we deal with that in
2 the case of these entities?
3 MR. ASKEW: To make two grants to them in effect,
4 you mean?
5 MR. DE MOSS: Yes.
6 MS. WEISEMAN: I think in that case--and I
7 haven't thought of this before--I think we might
8 run into the question of, Is there a denial of
9 re-funding, and, do we trigger at this point, for
10 those programs, the hearing requirements under our
11 current regulations?
12 If their grant has been for a certain amount,
13 one grant--I'm not sure of this, but I would think
14 there might be some issues with respect to that.
15 COMMITTEE CHAIRMAN MCKEE: Of course if we stated
16 that it's not the intent of the Board, or in terms
17 of what he has talked about, this is not to be
18 interpreted in any way as a denial of refunding, or
19 termination of funding, and there was a straight
20 statement that that is not the intent? Of course
21 people would talk about the effect--
22 MS. WEISEMAN: Well, if it has the effect.
23 COMMITTEE CHAIRMAN MCKEE: I know.
24 MR. OLSON: I don't think our statements of intent
25 are going to have much --

1 this quick break of five minutes, I want to make
2 sure that Miss Tracy and Miss Bernstein, in terms
3 of the backup papers, that they are put into the
4 record, on all these issues, as well as this
5 following documentary, whoever takes care of that,
6 anyway.
7 We'll take a five minute break.
8 (Whereupon, a recess was taken.)
9 COMMITTEE CHAIRMAN MCKEE: Back on the record.
10 We'll go now into a discussion of the
11 Reginald Heber Smith program, and the background
12 paper, or the backup paper that was prepared on it.
13 For the record, I will submit a package that
14 Mr. Olson and I received from John Davis, the
15 Executive Director of the Reggie Program, with a
16 coverletter.
17 We had a meeting last week, at Mr. Davis's
18 request, and it says, "Dear Mr. Olson, et cetera.
19 Thank you for your letter of November 23rd, wherein
20 you requested that I provide you with certain
21 printed information about the Smith fellowship
22 program.
23 In my three years with the Smith Fellowship
24 Program, this is the first time a board member of
25 the Legal Services Corporation has ever requested such

1 relevant information directly from the Reggie Program.
2 Your letter is insightful, and the questions extremely
3 provative. In our luncheon, et cetera, et cetera,
4 et cetera." But I'll put all of this in the record,
5 plus a huge packet on the program.
6 Do you have your letter?
7 MR. OLSON: Yes.
8 COMMITTEE CHAIRMAN MCKEE: I should probably
9 read the letter. This was to John Davis.
10 "It was a pleasure to meet you at the Indianpolis
11 contracts committee. I am pleased you called yesterday
12 to arrange a meeting. As I told you, several questions
13 have come up concerning the matters we discussed that
14 day, and which I'd appreciate your comments on or
15 before Thursday, December 2nd, et cetera."
16 Anyone who is in -- what city is that? Indianapo-
17 lis. Sorry, Bill. We had a joint meeting of the contracts
18 committee and the legal services committee.
19 It was a tight time frame, and one of the groups
20 that we wanted to hear from was the Reginald Heber
21 Smith Fellowship program.
22 During that meeting, Mr. Olson and Mr. Davis
23 exchanged in a rather lengthy philosophical and often
24 heated debate as to what the Reggie Program was, what
25 it should be, what it isn't, et cetera. When we returned

1 after that, Mr. David called Mr. Olson to say, "Listen,
2 don't go off half-cocked", et cetera. The questions
3 that were asked, and they're in this package entered
4 in the record, are: No. 1: How many Reggies in last
5 year's class, August 1, '81 to July 31st, '82, were
6 actually hired by LSC local programs? How many Reggies
7 in this year's class, August 1, '82 to July 31st,
8 '83, were actually hired by local LSC programs?
9 What materials are sent to the Reggies under
10 your training responsibilities? Please provide copies
11 of any materials used, and what interaction is there
12 between the Reggies and the staff attorneys to pass
13 on their training to others?
14 Three: Have Reggies ever worked on any private
15 bar involvement programs? Where was each Reggie from
16 last year's class assigned? Where is each Reggie in
17 this year's class assigned?
18 Since the reallocation, the relocation of the
19 Reggie program to Howard, how many Reggies were assigned
20 to work with organizations other than LSC programs?
21 Please identify the program.
22 What's the bar pass rate for each Reggie class
23 for which information is available? Please provide
24 a detailed breakdown of your budget for the past three
25 years. Does your program receive funding from any

1 other organization? Please provide a copy of newsletters
2 since the beginning of Reggie. Please provide a copy
3 of work plan for LSC funding for 1983 to '84. What
4 is the current status of recruitment for next year's
5 class, including schools visited, applications received,
6 et cetera.
7 What programs have requested Reggies for next
8 year? Are Reggies paid during the period they take
9 the bar view course and sit for bar exams?
10 Are Reggies paid full salary and benefits between
11 bar exam and swearing in? CCO, Harvey and McKee.
12 That was the letter. Now I'll have this all
13 attached. So if the staff will pick up on this background
14 paper on the Reggie program, give us a quick outline,
15 and discuss your recommendations on it.
16 MR. LYONS: Well, the materials on the Reggie
17 program are voluminous, and I feel like I've been
18 living with theprogram since I got here in Washington,
19 and I was a Reggie, coming in to the Legal Services
20 program.
21 Obviously, the program is set out, and its
22 contract is designed to achieve a number of purposes.
23 One is to recruit and place in Legal Services programs
24 highly qualified law school graduates, to retain those
25

1 people in Legal Services programs, and to ensure a
2 significant pool of minority and women law school
3 graduates coming in to Legal Services programs. And
4 to use those people, hopefully, to assist the programs,
5 in better orienting their focus into the local communi-
6 ties, working with clients and client groups.
7 I think that, in my judgment, it is a worthwhile
8 program, indeed, a critical program, and, I think
9 it meets a number of needs, in terms of symbolism,
10 and, in terms of committment to certain goals and
11 objectives that add to the perception of a multi-
12 ethnic, multi-cultural society, that gives out the
13 signal that we want to include everybody to make a
14 contribution in the work that we do in Legal Services,
15 and that is, I think, a hard value to be placed on
16 the Reggie program.
17 I have reluctantly recommended that the funds
18 for the Reggie Program be cut by ten percent, because
19 1), I think that the program can absorb that cut,
20 and, 2), because I think it is important that we provide
21 the funds for this Board, to be able to shape and
22 test out some new directions that will expression
23 to its vision of what this program ought to be.
24 So, I think the recommendations and the analysis
25 is fairly straightforward, and I hope that this Board,

1 while I may not be there, will adopt your recommendations.

2 COMMITTEE CHAIRMAN MCKEE: What's the current --

3 Explain this contracting business. I get confused

4 on how the Reggie Program is to be funded, and it's

5 a two year gap, or, taking into consideration different

6 areas of different classes. For example, it was extended

7 through July '84, is when the current contract expires?

8 MR. LYONS: My recollection may be faulty on

9 this point. We initially, back in the fall I believe

10 of 1978, contracted with the Reggie Program for three

11 years for the delivery of -- for the Reggie Program

12 to operate.

13 The Board of Directors of the corporation,

14 in the second year of the program, at the conclusion

15 of the second year, extended the contract, I believe,

16 by another two years, through -- Leeann?

17 MR. OLSON: July '84.

18 VOICE: Fiscal '84, fiscal year 1983.

19 MR. LYONS: O.K.

20 COMMITTEE CHAIRMAN MCKEE: And that's what confuses

21 me. Fiscal year '83, calendar year '84?

22 MR. LYONS: Fiscal year '83. Our fiscal year

23 '83 would begin their last year on August 1st of 1983,

24 and it would conclude July 30th of 19 --

25 COMMITTEE CHAIRMAN MCKEE: Oh, I see. That's

1 the contract period?

2 MR. LYONS: Right. Now that is the contracting

3 period. That is separate from the issue of funding.

4 The contract provides for funds being available,

5 and allocated by the Board of Directors, for the last

6 year.

7 MR. DE MOSS: You are saying, Clint, that we

8 would not breach any contract right now vested, by

9 making any change, because the contract said it was

10 subject to further funding by the Board, for whatever

11 is the remaining year, is that correct?

12 MR. LYONS: Yes. There are a few more details

13 in the contract, but basically and generally, that's

14 a good way to state it.

3-S1 15 MR. OLSON: I am still somewhat undecided.

16 My understanding is, that there have to be certain

17 findings before there can be any extension in the

18 funding for Reggie programs. The contract is scheduled

19 to expire on July 31, 1982, but I believe in December

20 of 1982--I'm sorry--December 10, 1981, which was seven

21 days after the December 3rd, 1981 Board meeting, at

22 which they adopted their budget for the ensuing calendar

23 year, and was some twenty days before those os uf

24 on this Board got appointed to this Board, there

25 was an extension for two years put on the contract.

1 And I think that there are some provisions requiring
2 specific findings being made, in terms of what's better
3 allocation, and expenditure of the funds. We can't
4 just simply do it. It has to be based on a finding
5 that there are other programs that are more essential
6 to the needs of the Legal Services community.
7 Now, indeed, that would be the reason we'd
8 take any action anyway, but I think that that background
9 is needed, in order to understand the conditions on
10 the current draft.
11 MR. LYONS: I think you're right, that background
12 is needed, and that's what I referred to by some basic
13 details, which are set out in the contract, and we
14 have -- and in my presentation here today, I have
15 said that I am recommending, in all cases, a shift
16 in funds from certain classes of programs, in order
17 to achieve other objectives, while at the same time
18 not critically harming the operations of these basic
19 programs.
20 And I think that the background papers, and
21 what is set out, and the goals that we set out for
22 these new directions, will satisfy the terms of the
23 contract that's cause for making the reductions, at
24 least that this staff has recommended.
25 MR. DE MOSS: Clint, is there any distinction --

1 In the background paper on page six, it talks about
2 "If the Board determines that other activities are
3 more essential, it may cancel this contract." And
4 now, what you're really proposing is not a cancellation
5 of the contract but a reduction in the funding level.
6 MR. LYONS: That's right.
7 MR. DE MOSS: Is there anything in the contract,
8 that speaks to that question?
9 MR. LYONS: The contract itself deals with the
10 issue of cancellation. The terms of the contract provide,
11 that the amount of the allocation is within the preroga-
12 tive of the Board of Directors of the Corporation.
13 The basic terms speak to cancellation and standards
14 to be set, cancellation, but we have never, over the
15 term of this contract, bound ourselves, in the contract
16 terms, to a specific amount of money.
17 MR. DE MOSS: O.K.
18 COMMITTEE CHAIRMAN MCKEE: Mrs. Slaughter?
19 MS. SLAUGHTER: I don't have any questions.
20 COMMITTEE CHAIRMAN MCKEE: Mr. Donatelli?
21 MR. DONATELLI: Clarence, just real quickly.
22 Clint, I get the view that the Reggie Program as a
23 separate entity or a separate program as such, is
24 better able, or has more expertise, or whatever, to
25 attract highly qualified law school graduates, as

1 opposed to say, individual grantees amonst themselves.
2 Is that the --
3 MR. LYONS: Well, we think that what the Reggie
4 Program does, and what uniquely qualifies it to do
5 it, is being a top university, Howard University being
6 a top university in this country, and having -- and
7 in that network of higher education, that we can create
8 through its activity, the kind of pool of graduates
9 from law schools that can be drawn on, and what programs
10 do, individual programs, they go out and they utilize
11 their own recruiting activities, but they don't always
12 have the resources to reach a broad pool of minorities,
13 and other, women graduates and others, that a larger
14 program may want.
15 So, we meet, you know, the need in this way,
16 by having available to them, a pool that can be sent
17 in to their program. All they've got to do is apply
18 for it.
19 We've got rural programs where, you know, you
20 don't have that basic cultural and ethnic mix all
21 the time, that you would have in larger urban areas.
22 This gives some programs access through this
23 mechanism.
24 MR. DONATELLI: You seem to putting heavy emphasis
25 on the affirmative action program.

1 committed graduates to a particular kind of work,
2 has worked across the board in the medical profession,
3 other professions, and this concept is in past modeled
4 on that.
5 We are trying to commit a certain type of graduate,
6 attract a certain type of graduate to a particular
7 kind of work, and the concept of a fellowship that
8 speaks to that kind of work, we think, will not only
9 attract people of quality, but people who are committed,
10 and who can be expected, reasonably be expected to
11 remain beyond their scholarship year in the community,
12 to give service as they, you know, when they really
13 become mature.
14 So that is a goal of the program, is the retention
15 component of it, and attracting a certain kind of
16 law school graduate.
17 COMMITTEE CHAIRMAN MCKEE: Howard. Mr. De Moss.
18 MR. DE MOSS: I want to focus on -- You are
19 proposing a ten percent reduction in the funding level
20 for the next year.
21 Does the adoption of that, in any way extend
22 beyond the June, or does it extend to the June '84
23 termination date of the contract?
24 MR. LYONS: The decisions that you would be
25 making now, would be for the--would be money for the

1 program year beginning Augus 1st, 1983, and terminating
2 July 30th, 1984, and, you would have no further commitment
3 in terms of funds to the program.
4 MR. DE MOSS: O.K. And the funds that are--
5 that will carry someone in the Reggie Program right
6 now, up to the beginning of our fiscal year in '83,
7 are already funded?
8 MR. LYONS: Right.
9 MR. DE MOSS: I mean, we don't -- there is
10 no obligation that we have, that needs to be reflected
11 in our budget, for what gets us to '83?
12 MR. LYONS: Right.
13 MR. DE MOSS: On the basis of this, of your
14 recommendation, do you think the Reggie Program can
15 continue to recruit new people to come in to the program
16 for a period of time after June of '84?
17 I mean, is there anything in these dollars
18 that we are committing, that would be for the recruitment
19 function, as opposed to the scholarship function,
20 beyond June of '84?
21 MR. LYONS: Well, see, what the Reggie Program
22 has to do, is govern its recruitment practices and
23 its commitment practices, according to the decisions
24 made by this Board, in the context of the allocation
25 of funds in their contracts, and commitments to people--

1 you know--have the provision that, you know, the commitments
2 are dependent upon funding, from the funding source.
3 MR. DE MOSS: So that if we take the recommended
4 action, the Reggie Program would continue as it is
5 now, i.e., funding those Reggies who are already in
6 programs, and, would there be another year of recruitment
7 begun, that is, for the Reggies to serve from August
8 of '83 to June of '84?
9 Are those people already recruited?
10 MR. LYONS: Those people are being recruited
11 now. Is that right? Those people are recruiting now.
12 MR. DE MOSS: O.K. Do we have any statistics,
13 or, can anybody tell us about what is the number of
14 Reggies that stay in a program after their scholarship
15 terminates?
16 COMMITTEE CHAIRMAN MCKEE: John, do you have
17 that? John Davis is going to be speaking in a little
18 while, if you want him to comment. Do you have those
19 figures in there?
20 MR. DAVIS: We have them.
21 COMMITTEE CHAIRMAN MCKEE: It's in the package
22 back there. Go ahead.
23 MR. DE MOSS: Is the recruitment activities
24 that the Reggie Program, that they do, is that in
25 addition to activities that the local programs themselves

1 do? Or do local programs only get Reggie people out
2 of the Reggie Program? I take it, that's the only
3 way they end up, in a local program.
4 MR. LYONS: Yes.
5 MR. DE MOSS: At some point--and I'm not prepared
6 myself, in my own mind to know, but I simply throw
7 this out. At some point, it seems to me, that we would
8 have to make a judgment as to the continuing value
9 of the minority recruitment effort of the Reggie Program,
10 as opposed to the economics of what's happening in
11 the field programs, of people leaving because of inadequate
12 salaries, and the experience of the field programs
13 of rising costs, rent, utilities, everything else.
14 Have we gotten any indication from the field
15 programs, in any form, as to what their preference
16 would be as to having the dollars that we might now
17 be spending for Reggie scholarships, for their own
18 utilization?
19 MR. LYONS: I think it's -- The only way I can
20 answer that at this time, Hal, is to give you some
21 history.
22 The previous Board, your predecessors in this
23 effort, considered the questions that you're asking
24 now, and I undertook to answer that question through
25 surveys and solicitation of comments from field programs

1 on that very point, and the overall conclusions were,
2 that people thought the Reggie Program was a valuable
3 program, and that they were comfortable with the commitment
4 of monies to that effort.
5 And this was not a universal response, but
6 it was the majority response of the programs that
7 the committment of funds was worth it.
8 And the same issues were -- I mean, they were
9 comparing that against their need for dollars, to
10 deal with their individual program problems.
11 MR. DE MOSS: And this information, did that
12 come in after the impact of the twenty-five percent
13 reduction across the board?
14 MR. LYONS: No, this was prior.
15 MR. DE MOSS: Do you think we would have any
16 way of developing, in light of the twenty-five percent
17 reduction, how the field programs view what, in effect,
18 are our providing them with another employee by way
19 of the scholarships, as opposed to their desire to
20 have the dollars for salary increases for their present
21 people, or carrying rent, or paying utility increases,
22 or whatever.
23 I mean, is there any way to develop that sort
24 of a response from the field programs?
25 MR. LYONS: We could develop an inquiry that

1 would be designed to solicit responses to those questions.
2 I think you've pinpointed something that's happening.
3 It's not like the Reggie Program is utilizing monies
4 in some other direction.
5 The direct benefit and the resource does wind
6 up in the program. It's a matter of who selects who.
7 MR. DE MOSS: Absolutely. The bottom line of it
8 is, that we are paying a salary for another person
9 to be on board in the programs that have Reggies,
10 through the scholarship program.
11 MR. LYONS: That's right.
12 MR. DE MOSS: And my general reaction is, if
13 that's what the local programs want, and cost-wise,
14 it's benefiting them, that's fine; but on the other
15 hand, if, in fact of the twenty-five percent reduction,
16 we had substantial comments from the local programs,
17 that they'd rather have more dollars that were unallocated,
18 uncommitted, that they could use for whatever they
19 needed, for their own purposes, in face of the twenty-
20 five percent reduction, and the inflation and rising
21 costs that all of the programs are experiencing, I'd
22 like to know about it in making a decision about this.
23 MR. LYONS: We can make that kind of inquiry.
24 COMMITTEE CHAIRMAN MCKEE: Frank. Bill?
25 MR. OLSON: Yes. I have been trying to read

1 everything that I can with respect to this, which
2 is some challenge. I got from Buckey the Robertson
3 study, and this, Maston, I guess it's pronounced,
4 or Maston study, that says it was commissioned by
5 Clint Lyons. I guess you've read this.
6 MR. LYONS: Some time ago.
7 MR. OLSON: Well, there is some volume of material
8 available on Reggie, that up until -- well, I guess
9 there's -- thank goodness you don't provide us with
10 everything that you have, or we'd never be able to
11 find our desks.
12 But it seems to me that there's some really
13 fundamental unanswered questions, but there are some
14 concerns that I have right now about the program,
15 based on what I know. There's some good things about
16 it, and there's some bad things about it, and I think
17 it might be helpful to get on the table, at least,
18 the thinking of those of us that have gone through
19 this material, or -- and I think the house comments
20 are well-founded.
21 I want to start off by asking this question,
22 which I still don't understand, John, despite your
23 best effort to teach me. In 1982, we gave four million
24 to the Reggie Program. Does that fund the current
25 class through the current class inclusion in July

1 of 1983?

2 So, don't grab for your heart, but if not a
3 single dollar were to be given to you beyond January
4 1st, you still would have enough money to fund all
5 the people who are currently in the first and second
6 year class. O.K.

7 Now, one of the things that -- what we have
8 to do is make some decisions with respect to this
9 program, if it can be tailored to accomplish the goals
10 that are needed.

11 The most important goal that it seems to fulfill
12 is the recruitment of quality attorneys into the program,
13 both minority and nonminority.

14 There are some problems, however. One of the
15 problems I see is, I frankly don't understand why
16 we have second year Reggies. I can't figure that out.

17 I think, if the program is successful in recruit-
18 ment, that people then ought to be assimilated in
19 to a local program. In response to what you said,
20 Hal, the retention rates are in the document, but
21 they varied substantially by year, and I think it
22 probably varied in proportion to the way in which
23 hiring was being done generally by local legal services
24 units. In other words, it was 38 percent one year
25 or something, 60 percent in 1980, I think perhaps

1 was the high point. I'd have to look at the numbers
2 again, but, it's gone like this, but it's always been
3 between, say, forty and sixty percent, have been retained,
4 either by that local legal services provider, or another
5 one.
6 And I think that after one year, after we've
7 recruited the person and brought them in the program,
8 and presented them with the understanding of what
9 this is about, if the local program will keep them,
10 or doesn't want them, or, if they would not stay unless
11 they were continued as a fellowship, I think we've
12 got a real problem.
13 So, I don't see any justification for second
14 year, candidly. And the other and more major problem
15 that I have is this twenty-five percent requirement
16 of community involvement.
17 Based on what I've been able to read, we have
18 a situation where the Reggies are sent into the field,
19 in communities with which, hopefully, they have some
20 contact, but I guess not in all cases they have some
21 contact, to determine client needs.
22 And very often, what they wind up determining
23 is that the clients have a need as a group, as opposed
24 to individuals, and they then work with the client
25 groups to pursue those needs. I, for one, believe

1 that the highest priority that we have is to deliver,
2 to meet the needs of individual eligible clients,
3 and, I think if we have something left over, and there
4 are groups available, fine.
5 But I think that the first priority has to
6 be individuals, and I am therefore skeptical of this
7 twenty-five percent community involvement criteria
8 requirement, because it compels -- well, it virtually
9 compels the representation of groups, the way the
10 thing seems to be set up, as opposed to individuals
11 who come in with a specific need, which is what I
12 think the program should be.
13 So, I will leave it with those. I've got some
14 other problems. I think the newsletter has been less
15 than evenhanded on occasion. I think that we've got
16 possibly a excessive politicization of the program
17 because of that, which could be avoided.
18 But I think that we've got at least one very
19 important positive aspect, which is the recruitment
20 of qualified people, and we've got to figure out how
21 to meet that.
22 The only way to meet it is, if we don't do
23 t this way, to substitute something for it, such as
24 in the way of a centralized recruitment office, which
25 we used to have, and don't appear to have anymore.

1 So let me just -- Now that I've made my speech, let
2 me ask one question, which is, why could a centralized
3 recruitment effort, based in the headquarters, meet
4 some -- fulfill some of the same functions that the
5 Reggie Program is now fulfilling?
6 MR. LYONS: The answer is yes, but, to what
7 degree, and what level of quality, and what do you
8 want to accomplish by it? We did have a centralized
9 recruiting effort here, but it was not focused on
10 recruiting people as the first priority. It was focused
11 on, 1), making law schools aware that there was a
12 legal services program, that there are legal services
13 programs throughout the country, and that there is
14 a job market, a potential job market for law school
15 graduates in legal services.
16 And the second purpose of it was to coordinate
17 local programs' recruiting efforts by helping bring a
18 number of programs together to perform recruitment
19 conferences, and thereby, presumably, conserve some
20 resources and better coordinate.
21 But it was not specifically targed toward putting
22 paid fellows in programs, or anything like that.
23 MS. SLAUGHTER: Can I say something?
24 BOARD CHAIRMAN HARVEY: Clarence?
25 COMMITTEE CHAIRMAN MCKEE: Yes? Anne. Then Bill.

1 MS. SLAUGHTER: I think Harold hit the spot,
2 when he says, that if the programs are willing to
3 say that the Reggie Program is worthwhile, and will
4 continue, I don't see that this should raise an additional
5 issue, because they're saying that we need it, and
6 we want it to continue. We're willing to give up our
7 additional funding for it. So I think that says a
8 lot.
9 COMMITTEE CHAIRMAN MCKEE: Bill?
10 BOARD CHAIRMAN HARVEY: I just want to tell
11 you, Mr. Chairman, that while Bill was talking, President
12 Bogart came in the office, and joined us as an observer,
13 or, a listener, I guess I should say.
14 MR. OLSON: If he's an observer, he's a man
15 of substantial talent. Welcome, Don.
16 BOARD CHAIRMAN HARVEY: Everyone from Indiana
17 has substantial talent, Bill, but I said he's a listener,
18 not observer.
19 COMMITTEE CHAIRMAN MCKEE: Is that what you
20 had? That's it. Howard?
21 MR. DANA: John, am I correct, that the monies
22 that you have now fund the first and second year through
23 the end of this year?
24 MR. DAVIS: July of '83.
25 MR. DANA: So a ten percent cut for next year

1 would --

2 MR. DAVIS: (Interrupting) Affect the future

3 plans, the plans for August of 1983.

4 MR. DANA: Well, one of the two classes that

5 is in the program now is susceptible of serving a

6 year and a half.

7 MR. DAVIS: A second year.

8 MR. DANA: A second year. And what percentage

9 of your dollars goes for that second year?

10 MR. DAVIS: Probably about 40 percent.

11 MR. DANA: Forty percent for the first year?

12 So that if we cut your budget by ten percent, you

13 will have to cut the number coming into the first

14 year by greater than ten percent, because forty percent

15 of your budget is committed already to Reggies currently

16 in the program for the following year, which is unfunded?

17 MR. DAVIS: Right. Well, we do not guarantee

18 a Reggie the second year of their fellowship. The

19 second year of the fellowship is contingent upon their

20 passing the bar, and our having sufficient funds to

21 renew this, such that, you know, we can juggle the

22 formula as we set fit, with the approval of the Corpora-

23 tion, and the Corporation usually determines the number

24 of second year Reggies that will be funded, based

25 on their own funding allocations.

1 MR. DANA: So you could, by way of example,
2 absorb the ten percent cut entirely in the second
3 year?
4 MR. DAVIS: True. I'd like you all to keep
5 this point in mind, that we'd like six million.
6 COMMITTEE CHAIRMAN MCKEE: Six million. Take
7 it all away from state support and give it to the
8 Reggie Program.
9 MR. OLSON: John didn't even smile.
10 COMMITTEE CHAIRMAN MCKEE: I want to comment
11 on this, before the election business. I think that
12 independent of any Reggie Program, every program has
13 an obligation to recruit minority attorneys around
14 the country, and, I think to a large extent, I think
15 what some programs do is rely upon the Reggie Program
16 to provide them with minority attorneys, and say,
17 "Here we have ours, who also happen to be Reggies."
18 So I wouldn't want anything to occur which allows
19 the programs to shirk their responsibility, in terms
20 of the hiring of minority attorneys, by utilizing
21 Reggie as our vehicle, which I think has been the
22 case in the past, and from what I have understood
23 in that sense.
24 I kind of have--I have agreement, in terms
25 of this community involvement--it's like the rose--

1 community involvement is what, it's all in the eyes
2 of the beholder, in terms of the individual client.
3 It seems to me, that the Reggie concept could be expanded
4 in many different ways to have -- the theory's been
5 that one of the best parts of the program is that,
6 the persons who are recruited into the program have
7 a high degree of concern and sensitivity to the objec-
8 tives of the program, and that's why they're put into
9 legal services offices.
10 It seems to me, in addition to that, or, as
11 kind of a co-option, that there are like organizations
12 that need the sensitivity sometimes more than local
13 legal services programs. Some of the bar associations
14 and organization institutions, need the sensitivity
15 moreso than a Reggie, moreso than, say, a local legal
16 services program.
17 So, I think, with all these options and plans
18 in terms of the Reggie Program, there should be a
19 discussion down the line, of how to either expand
20 the Reggie base, and function, to provide the sensitivity
21 to the nonlegal services attorney community, which
22 doesn't basically exist.
23 I understand also, that Reggies are hired not
24 by the Reggie Program, or, selected rather. They are
25 selected by the regional office, I believe. Who hires?

1 Who selects?

2 MR. DAVIS: The Reggie fellows are selected

3 by us. Who gets Reggie slots is basically an ultimate

4 decision of the Corporation.

5 COMMITTEE CHAIRMAN MCKEE: Any more questions?

6 MR. OLSON: Yes. John, please followup on the

7 funding. Is the management part of your budget already

8 funded through July 31st, 1983 as well, not just the

9 program part?

10 MR. DAVIS: All phases.

11 MR. OLSON: All phases. So in -- I guess this

12 is for General Counsel. If we take a little bit of

13 time with this program and figure out what it is we

14 want it to do, or, how we want it to do it, or if

15 we wanted to do it at all, and don't make that decision

16 within the next period of days or weeks, would there

17 be a denial of re-funding, if we go beyond January

18 1st, with this program, since they're already funded

19 through the middle of next year?

20 MS. WEISEMAN: The 1011 rights won't come in

21 to play with the Reggie Program, so that's -- although

22 there would have to be money, mainly taken from the

23 budget, in order to make that possible, but there

24 wouldn't be any 1011 --

25 MR. OLSON: Is that because it's a contract

1 and not a grant?

2 MS. WEISEMAN: That's right, and the contract

3 itself calls for the manner of funding, and the options

4 for cancellation, and that sort of thing.

5 MR. OLSON: Now, there would be some practical

6 problems with respect to selection of a class, I assume.

7 What would normally be the day, that you would

8 send out the letters accepting the class?

9 MR. DAVIS: Probably February or March.

10 MR. OLSON: So as long as we were to make, finalize

11 this within January and February, it would not --

12 I know there would be some uncertainty, and people

13 wouldn't know if they were applying for something

14 that existed, in the same form that it's been, but

15 it wouldn't -- in other words, it would be workable,

16 it would not be desirable, I understand, but, it would

17 be workable.

18 MR. DAVIS: I'll answer this that we need to

19 make our selection decisions in February, and in making

20 our selection decisions we need to know two things.

21 1), who's going to go where? In other words, what

22 programs have been designated to receive Reggies?

23 And 2), how many Reggies are we looking at? If we

24 don't know, you know, how many Reggies we're looking

25 at, we also don't know how many programs we're looking

1 at, which makes the selection process -- and we don't
2 even know what basis -- we're basically competing
3 against one another, based on the committe's option
4 to go to certain locations.
5 MR. OLSON: I think we're trying to balance --
6 MR. DAVIS: (Interrupting) It's more expeditious
7 and better for us.
8 MR. OLSON: Yes. I understand.
9 COMMITTEE CHAIRMAN MCKEE: O.K. Any more questions?
10 It is now one --
11 MR. DE MOSS: Wait a minute. I have one other
12 question.
13 If we include in the budget a line item for
14 the Reggie Program, as the staff recommends, since
15 there is no contract that needs to be executed, or
16 put into place as of January 1, am I correct that
17 that is purely just a budgetary decision on our part,
18 or, does the fact of inclusion of it in the budget
19 constitute an implementation, or an affirmation, in
20 some way, of the continuation of the program?
21 MS. WEISEMAN: I think there might be some issue.
22 The contract says that the funding for '83-84, July,
23 would be made by the Board, if there is a funding
24 decision, whether -- I would like an opportunity to
25 just review the contract for a minute.

1 COMMITTEE CHAIRMAN MCKEE: I have it here, if
2 you want it.
3 MR. LYONS: I think basically, once the Board
4 makes its allocations decision, based on the approval
5 of line items included in the budget, as presented
6 by the staff. So, if you approve a budget that has
7 a line item for national support, state support, without
8 expressly doing something different with that, then
9 that's an allocation decision that would trigger,
10 according to the terms of the contract, a commitment
11 to the Reggie Program.
12 MS. WEISEMAN: There may be, in terms of wording
13 or whatever, but I would see some issues.
14 MR. DE MOSS: In terms of what the committee's--
15 I mean, the staff recommendation is about a two month
16 extension of current contracts, and a contingent ten
17 month contract which would be subject to Board revocation,
18 that really doesn't apply to the Reggie Program though,
19 does it?
20 MR. LYONS: No.
21 MS. WEISEMAN: Because the 1011 rights don't
22 apply to Reggie.
23 COMMITTEE CHAIRMAN MCKEE. 1011 doesn't apply
24 to what, the Reggie program. Anything else?
25 MS. WEISEMAN: I know those two. I believe those

1 are the only two.

2 COMMITTEE CHAIRMAN MCKEE: That means no right

3 of hearing, correct?

4 MS. WEISEMAN: That's right.

5 COMMITTEE CHAIRMAN MCKEE: I always wondered--

6 I don't have to know the answer now--how that developed,

7 that you have a program, the Reggie program gets four

8 million dollars a year, national support gets a million

9 dollars more, and national support monies have a hearing

10 right, and the Reggie program, which gets not that

11 much less, has no hearing right.

12 MS. WEISEMAN: It's the kind of grant, the provision

13 of legal services, and then that's picked up in your

14 1011 section of the statute.

15 COMMITTEE CHAIRMAN MCKEE: Any more questions

16 from the members of the Board? Bill. Don.

17 MR. OLSON: But that would -- Mary, getting

18 back to this issue of how you allocate costs in the

19 budget. If it did not -- what you're saying is, if

20 it doesn't trigger 1011, it should be in the support

21 category, as opposed to the direct provision.

22 MS. WEISEMAN: Well, the contract itself --

23 MR. OLSON: And Reggie's in the provision.

24 MS. WEISEMAN: It is in the provision and that's

25 a different -- but the contract itself does not

1 provide for the re-funding of hearing rights, and
2 it's our position, in our office, that they don't
3 have those hearing rights as a result of a contract,
4 the specific contract under which the Reggies operate,
5 as opposed to the national Client Council.
6 MR. DE MOSS: So, if we wanted to put some
7 sort of a hold on the Reggie Program, what would --
8 I mean, maybe what the staff needs to do, is to tell
9 us what we should do to avoid the pure affirmation
10 that may come from simply listing it as a line item.
11 MS. SLAUGHTER: Why would we want to put a hold
12 on it, Harold?
13 MR. DE MOSS: Well, I would want to put a hold
14 on it, if it's possible, to hear what the field says.
15 I mean, if we can develop that information,
16 and the field comes back and says, "We want our Reggies.
17 Keep it up." That's positive to me, you know. On the
18 other hand, if they come back and say, "Look. We are
19 bound, we're tight for cash, and we could make a more
20 effective use of the dollars if we got them in our
21 grant, than having another Reggie employee for another
22 year", I would want to know that.
23 MR. LYONS: Incidentally, an increase to the
24 field program of one percent is in excess of two million
25 dollars. The Reggie Program is four million dollars.

1 If you took that money, you'd be providing two percent
2 across the board for field programs, and for a five
3 hundred thousand dollar program, that would be ten
4 thousand dollars. That was some of the things we considered
5 in making these recommendations, that we just simply
6 could not, on balance, squeeze out enough money from
7 programs, other programs, to make a meaningful increase
8 for field grantees, without really, on balance, cutting
9 out substantial benefits to the national program in
10 other areas.
11 So we have tried to very carefully consider
12 all of these recommendations in the total context
13 of the national program, and, in the total context
14 of the requirements of all the provisions of the Act,
15 including the restrictions.
16 So these are not issues that we rightly came
17 by.
18 MR. DE MOSS: I understand that, Clint, but
19 what I want to hear is what the field people say,
20 and, as we're now talking, we might ought to include
21 this, and say what do the field people think about
22 state and national support systems. Because if the
23 field came back and said, "We can get by without those",
24 then you've got -- and Reggie, too -- then you've
25 got fourteen million dollars to put in the field.

1 MR. LYONS: Is that an offer to be bound by
2 what the field programs say?
3 MR. DE MOSS: Well, I mean, we're all speculating
4 here about something that I don't know the real answer
5 to, but it is something that I would find it persuasive,
6 in my judgment and decision-making responsibility,
7 to know what the field said. You may be right. The
8 field programs may say, "We want the state support,
9 we want the national support, we want the Reggie,
10 and we are willing to take the hickey on whatever
11 increase of costs, our loss of personnel because we
12 can't increase salaries," or whatever else is involved.
13 COMMITTEE CHAIRMAN MCKEE: Never happen.
14 MR. DE MOSS: And if that's what they want,
15 then that would be very persuasive with me.
16 On the other hand, if they came back and said,
17 "Look. We need dollars. We don't need Reggies, and
18 we don't need national support. We want dollars down
19 here in the field", that also would be very persuasive
20 with me.
21 COMMITTEE CHAIRMAN MCKEE: Before we take a --
22 we're going to alter the agenda, if no one has any
23 objections, after I make this last comment. Then we'll
24 take an hour lunch break or a rest break, returning
25 here at approximately 3:30, and then open up this --

1 MR. LYONS: What time?

2 COMMITTEE CHAIRMAN MCKEE: What time is it now?

3 MR. LYONS: It's a quarter of two now.

4 COMMITTEE CHAIRMAN MCKEE: Oh, sorry. About

5 an hour, come back at 3:00 o'clock? No one will be

6 back by 2:30. Be back at 3:00 o'clock, and then we'll

7 have, unless anyone strongly objects, a discussion

8 of the National Clients Council, and then, after that,

9 opportunities for the public to comment on staff

10 recommendations.

11 MR. OLSON: Even if people strongly object,

12 we will still have a discussion on the National Clients

13 Council.

14 COMMITTEE CHAIRMAN MCKEE: That's right. Now,

15 Mr. De Moss's recommendation has been very interesting

16 to me, as I said earlier, that if you look at the

17 hearings, or the transcripts of the meetings of this

18 committee, you can already anticipate. If you leave

19 it up to the field programs to discuss, or make recommen-

20 dations on basic issues, the field programs have basically

21 been saying, since we started all this, that you definite-

22 ly need national support, and state support, et cetera.

23 As I said in the beginning of the meetings,

24 in terms of the Reggie Program , notwithstanding its

25 merits and high quality, and the fact that it's only

1 a million dollars less than national support, we have
2 had only approximately two or three comments, either
3 from the floor, of any meeting we've had since the
4 beginning of these meetings, in all the communications
5 in the last six weeks, or even in the press, that
6 even mentioned the Reggie Program.
7 And there were a lot of field people, and a
8 lot of support center people who commented. So it
9 just raises a question with me, if we left it wide
10 open for the field people, it would raise a question
11 as to why they have not commented on it in the past,
12 and, would they be doing it in the -- if we gave them
13 the opportunity, and I don't think it's necessary
14 to ask the field about a program which we think is
15 rather meritorious, and, the only point that they
16 might comment about is in terms of minority and affirma-
17 tive action recruitment, which sometimes -- some of
18 them are using as a crutch in certain ways.
19 Be back at 3:00 o'clock.
20 (Whereupon, at 2:00 p.m., the meeting was
21 adjourned for lunch, to reconvene at 3:00 p.m., the
22 same day.)
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1 CHAIRMAN McKEE: We are going to resume our
2 discussions of this morning with a discussion of the
3 National Clients Council, followed by public comments
4 and viewpoints, a maximum of three minutes per person,
5 hopefully, and then we will take a break of 10 or 15
6 minutes, and then the committee will discuss recommenda-
7 tions to the Appropriations Committee and to the board.
8 Yes?
9 MR. HARVEY: What is your guesstimate time
10 on breaks?
11 CHAIRMAN McKEE: You mean what time will we do
12 it?
13 MR. HARVEY: Yes.
14 CHAIRMAN McKEE: Four o'clock, maybe less.
15 MR. LYONS: The background paper on the
16 National Clients Council, I think, adequately discusses
17 its genesis, its history, its operations and functions,
18 and also any problems perceived or real with respect to
19 its operation.
20 And basically what we are recommending is
21 that the basic grant for the Clients Council be
22 continued, and with respect to the problem areas that
23 have been identified, that the restrictions with respect
24 to lobbying and so forth be strictly applied to that
25 grantee, as would be to any other grantee, and that the

1 addendum grant, if you will, of $225,000 that was given
2 to the Clients Counsel for client advocacy activities
3 be transferred, again, into the category denominated new
4 directions in the board book, in the audit and
5 appropriations section of the board book, and finding
6 ways through those new directions to further involve
7 clients, other than through an organized client council
8 level, to meet the provision of the Act that speaks to
9 involvement of clients and participation of clients and
10 the government in operation of legal services programs.
11 CHAIRMAN McKEE: Any questions on the Clients
12 Council? Ms. Slaughter? Mr. Olson?
13 MR. OLSON: Why don't you come back to me? I
14 have been dialing the phone.
15 CHAIRMAN McKEE: Well, you keep trying.
16 MR. OLSON: Yes, I will.
17 CHAIRMAN McKEE: Is he on the phone?
18 Frank? Dan? Howard?
19 Hello?
20 MR. HARVEY: Hi, Clarence.
21 CHAIRMAN McKEE: Sorry, Clint cut you off. No,
22 I hit the wrong button.
23 We arenow talking regarding the backup paper on
24 the National Clients Counsil.
25 MR. HARVEY: Fine, thank you.

1 CHAIRMAN McKEE: And no one has has any
2 comments, and Bill is about ready to proceed.
3 MR. OLSON: Okay. I want to make a comment
4 generally about client involvement and then get into
5 specifics.
6 With the Legal Services Corporation, and
7 particularly with the staff attorney mode of delivery,
8 we have got a problem in that the traditional language,
9 there is accountability from providers of services to
10 the consumers of those services is broken.
11 In other words, usually people get -- they
12 have purchasing power, they can go to a service provider,
13 they can demand a certain quality of service, certain
14 quantity of service, and if the service is not adequate
15 or what they wanted, they have the ability to use
16 purchasing power as a lever. They can demand
17 accountability because they have dollars.
18 When you have vouchers, there is accountability
19 I think more readily. When you have judicare, if it is
20 an open panel set-up, you can go to anyone you want, there
21 tends to be easier ways in which to create accountability.
22 But once you have a staff attorney system, you
23 have got to ensure that the attorneys in local programs
24 are meeting the needs of clients. You have got to
25 find some vehicle to substitute for the market mechanism

1 of purchasing power being in the hands of consumers,
2 because here the people are paid regardless of whether
3 they are meeting the needs of clients.
4 Now, having said that, I have yet to be
5 convinced in the course of a year's review that the
6 National Clients Council furthers that essential goal in
7 the best way that we could.
8 In fact, I think what we have done in many
9 respects is somehow passed the buck from the local
10 programs, who ultimately are going to have to ensure
11 that the programs are responsive to the needs of the
12 poor in a meaningful way, to have meaningful
13 accountability, and we have passed it off to others.
14 I would like to ask Buckey or Clint to simply
15 give us a minute or two discussion about why it would
16 be essential to have a national entity to provide this
17 function, as opposed to something decentralized at the
18 local level, which is where the accountability is going
19 to have to be if the program is going to be successful.
20 MR. LYONS: We have accountability,
21 centralized accountability for some purposes, localized
22 accountability for other purposes.
23 But basically, the way, I mean, historically,
24 the way the funding proposal for the Clients Council was
25 submitted to the corporation, it came with, you know, a

1 national organization.

2 The decision was made, not by me, not by this

3 staff, but prior staff, to fund it on the basis of the

4 way a client organization itself saw itself best

5 operating.

6 Now, there may be better and other ways to do

7 it, but we simply receive a proposal from the client

8 group, as they saw best they could operate.

9 Now, they do operate out of a decentralized

10 structure, even though they have a national office, and

11 I think that their reasoning is that they have a

12 national office because within the permissible limits

13 of the statute there are national issues, particularly

14 with respect to appropriations and other matters, that

15 affect client delivery that they want to be in a

16 position to respond to.

17 Now, whether or not the law is changed in

18 such a way as to negate that necessity for having that

19 centralized response, I don't know. But they do

20 operate out of a regional structure, which is again

21 down to a state structure. There are state

22 organizations, regional organizations, and local

23 organizations.

24 So, I think that what you have in this

25 current structure is a combination of the localized

1 client organizations and a national organization that
2 speaks to the national issues on behalf of the client
3 organizations at the local level.
4 Now, I don't know whether or not it is the
5 choice of clients to have it a different way, or whether
6 or not this board would choose to have it another way,
7 but that is essentially my understanding of why it is
8 done the way it is currently.
9 MR. OLSON: Well, that anticipates my next
10 comment, which is with respect to recent changes. I
11 think that we have got a real problem in providing funds
12 that are used to promote legislation at this point, or
13 oppose legislation, that we have learned in the hearings
14 we have had with respect to Clients' Council that there
15 is at least some attention given to these matters.
16 I think this comes back to a basic choice of
17 philosophy, and I think that the philosophy we ought to
18 be pursuing and that I have been pursuing and
19 fashioning is that our ultimate responsibility is to
20 individual clients with individual needs.
21 And I find it difficult to think that
22 hundreds of thousands, indeed millions of local
23 individual clients, could be best served through one
24 structure of this sort with -- I guess they have now
25 three offices, Clint, down from four, is it?

1 MR. LYONS: Four, I think it is, maybe three.

2 MR. OLSON: Okay. I just think that the best

3 way in which to handle this is at the local level where

4 the accountability must be.

5 And we have transferred a fair amount of

6 dollars to the Clients Council over the years. We have

7 given something in excess of $3 million now in the last

8 four years, I think. And I have yet to be -- of which a

9 very substantial part went to salaries, apparently, over

10 a million dollars. And I have yet to understand why

11 that way to ensure client accountability is effective.

12 I think the way you ensure it is at a local

13 level. And what I think is that by giving the money to

14 the Clients Council and setting it up in that fashion,

15 we have passed the buck again. It is almost like what

16 Clarence was saying with respect to minority recruitment

17 by local programs. You set up the Reggie program and

18 then the local units forget they have that

19 responsibility. You set up a National Clients Council

20 and local units forget they have the responsibility to

21 ensure accountability.

22 Anyway, that is what the status of my thinking

23 is on the issue.

24 MR. LYONS: I think that I agree with you that

25 programmatic approaches to what the corporation funds and

1 how it funds it is, in part, a matter of philosophical
2 preferences, as long as it is framed within the
3 context of the total provisions of the Legal Services
4 Corporation ACt, which not only talks in terms of local
5 control, but also in terms of efficiency and economy.
6 Now, it is -- I mean, I am at a loss to
7 understand sometimes how we would say that the localiza-
8 tion of training is undesirable on economical grounds
9 and efficiency grounds, and that localization of, you
10 know, activities that clients are involved in should not,
11 you know, have the same kind of factors applied to it,
12 which leads me to believe that very often we aren't
13 dealing in the total context of our Act and the provisions
14 of our Act in the way we approach some of these decisions.
15 It is up to this board to decide how it is
16 going to fund things in the future. My only advice and
17 recommendation to this board is that it do it within
18 the context and be informed and directed by the total
19 provisions of the Act, and not just select provisions of
20 the Act.
21 MR. OLSON: I concur. I think the one
22 difference that we have with respect to centralization
23 versus decentralization here is that training is
24 something that now we understand a great deal of how it
25 is done through the prototypes established through the

1 Bar associations, indeed through Legal Services, which
2 has been in the forefront of it, and I think was more in
3 the forefront when things were centralized.
4 We have found that there are economies of
5 scale. There is the ability to have closed circuit
6 television across the country and to be able to take the
7 same program and ship it into literally hundreds of
8 local places around the country. We have that ability.
9 And with respect to the things that cannot be
10 done nationally, there are still economies that can be
11 reached.
12 But client accountability, I think, is
13 something that differs from program to program. The
14 need for it is nationwide, but the way in which it is
15 implemented is localized. It is perhaps the most
16 localized of all.
17 Indeed, if we go back to the touchstone that
18 it is individual needs of individual clients, it is
19 individualized, and it is the individual client needs.
20 This is sort of what I was saying before about
21 how I would prefer to give our resources to individual
22 clients, rather than groups of persons. Likewise, I
23 would like to make sure that we have local programs
24 directly responsive to individual needs, as opposed to
25 what some people might tell us are those individual

1 needs in aggregate fashion, which glosses over lots of
2 important distinctions to the detriment of the true
3 interest of the individual client.
4 MR. LYONS: I think, you know, that what we are
5 really talking about here is, in fact, a philosophical
6 discussion. I am not persuaded that the application of
7 scarce resources can always lend itself in the most
8 efficient way to the addressing of individual needs as
9 opposed to individuals with similar needs coming together
10 and addressing their problems collectively.
11 But again, you know, we don't want to get into
12 the philosophical side of the debate.
13 What I am simply saying is that the Clients
14 Council accountability mandate goes to a number of
15 things. It goes to information sharing, ensuring that
16 those clients who sit on governing boards and who are
17 in the communities can have a dissemination of
18 information about the total program so that they can
19 make intelligent judgments about what it is the program
20 does, their participation in it.
21 I think regardless of what the structure of
22 Clients Council is, I think they have done a good job
23 at that.
24 It is about the training of clients, and I
25 think there is no other organization, client oriented

1 organization in this country that has particpated more
2 in the training of clients about their responsibilities
3 on boards and to get them to understand budgets, the
4 Legal Services Corporation Act, and all of those things.
5 So, when we are talking about individual
6 accountability, I think I can subscribe to that and
7 everybody can. But it can't be taken in isolation, and
8 we do do a number of things through Clients Council.
9 Again, I make no judgment at this point about
10 how it best can be done. I think what we basically have
11 done is accept the view of those people who organized
12 Clients Council and who have made the proposal that that
13 is what clients want.
14 I suggest that maybe you might want to pursue
15 Harold's suggestion in this direction and find out
16 what it is collectively throughout this country that
17 clients want in terms of how, you know, it should be
18 funded.
19 MS. SLAUGHTER: Are we going to have
20 participation from the audience?
21 CHAIRMAN McKEE: Yes.
22 MS. SLAUGHTER: Well, I think there are some
23 clients here. I think we should hear from them, what
24 they think of it. I think that would give us a ---
25 CHAIRMAN McKEE: Are you through, Bill?

1 MR. OLSON: Yes. I think that would be
2 useful. I think it is, nonetheless, important to
3 realize that there are many different views. There are as
4 many different views of legal issues as there are
5 lawyers litigating a case. There are as many different
6 views of what different clients would perceive as there
7 are different clients. And I think we have got to be
8 sensitive to the fact that it is very often the people
9 who do not come forward to meetings like this or have not
10 been involved in, say, serving on boards as client
11 representatives, who have real needs that have to be met
12 and they aren't necessarily the people who are speaking
13 at any one time. And we have got to be sensitive to
14 the fact that there are people out there whose interests
15 we have to perceive and who may or may not be in
16 attendance at any meeting.
17 CHAIRMAN McKEE: Frank?
18 MR. DONATELLI: No questions.
19 CHAIRMAN McKEE: Dan?
20 MR. RATHBUN: No questions.
21 CHAIRMAN McKEE: Howard?
22 MR. DeMOSS: No questions.
23 CHAIRMAN McKEE: Okay. Now we have an amount
24 of time for persons to give impressions and viewpoints
25 and comments on our discussion this morning.

1 Mr. Ray, keep it to three minutes, if you
2 could.
3 MR. RAY: Thank you. I am Denny Ray, from
4 North Carolina. I am here representing the National
5 Congressional Club of Senator Helms -- no, I am sorry.
6 (Laughter.)
7 I get that confused, being a North Carolinian.
8 MR. OLSON: This is Mr. Denny "Pork-N-Beans"
9 Ray.
10 By the way, before we begin, I would like to
11 make a motion formally to limit everybody to three
12 minutes ---
13 MR. RAY: Is this coming off my time?
14 MR. OLSON: This will not come off your time.
15 But limit everybody to three minutes, and then we have
16 to ring the bell and ask the Chairman to be strict
17 about it.
18 CHAIRMAN McKEE: Okay.
19 MS. HAMILTON : Mr. Chairman, there are
20 many questions that Mr. Olson has asked, and I don't think
21 I can really answer all those questions in three minutes.
22 And I really want to invite him to meet with us clients
23 this afternoon to learn what we are talking about. But
24 I really don't think I can answer you in three minutes.
25 CHAIRMAN McKEE: Well, what we are going to do

1 is see how time goes as we start talking. But I think
2 if you can make it very concise, after we get through
3 our own recommendations, and have another periods after
4 that, so we break it up.
5 I just don't want to have a long period and
6 we are going to 4:00 or 4:30.
7 MR. RAY: I am here representing the Project
8 Advisory Group, which is comprised of 270 programs
9 nationwide, and I am speaking on behalf of their
10 official position after a democratic and very broad-based
11 decision making process.
12 I want to preface what I say by indicating
13 that Bill Olson told me in the recess that he intends to
14 submit a written proposal at the board meeting. We would
15 ask that that proposal be submitted as long before the
16 board meeting as possible and be distributed nationally
17 so that we will have an opportunity to prepare.
18 MR. OLSON: Prepare for what?
19 MR. RAY: For whatever it says. Your test
20 of individual client representation to solve individual
21 problems is, by your standards, a legitimate test. But
22 the question is, how do we achieve that? Do we go about
23 it in the most intelligent way that will result in the
24 greatest fundamental benefits possible, or the lowest
25 common denominator?

1 And I would submit to you that many of the
2 things under attack are actually the most intelligent
3 way to proceed.
4 PAG supports, at the sacrifice of any
5 increased funding for the field, the national and state
6 support centers, the Reggie program in the National
7 Client Council as essential elements of the legal
8 services movement, and I would like to address each
9 very briefly.
10 The Reggie program provides an important
11 source of minority recruitment, a source which is not
12 available to any given program, which is confined to its
13 own jurisdictions in its recruiting.
14 Secondly, the national and state support
15 centers really are not support in the conventional sense
16 of that word. Support would include things like an
17 accounting system, public relations, management
18 administration.
19 National and state support provide an
20 integral part of the representation of clients, because
21 they undertake the research, the analysis, the
22 co-counseling where necessary, which allows us in the
23 field to do the most effective job possible, and they
24 should be retained on that basis.
25 And the National Client Council, in a manner

1 of speaking, is a support center for client, to enable
2 clients to be able to better advocate their own positions.
3 And clients are those persons who historically and in
4 the lot they find themselves born into most need, that
5 kind of added resource. It would be a tragedy to cut
6 them off.
7 The last thing I would like to say is with
8 respect to refunding.
9 If you adopt a position of a two or three
10 month grant extension, it is simply managerially unsound
11 for whatever reason you do it, and let me cite chapter
12 and verse.
13 Most importantly, we won't be able to take on
14 new cases. With respect to private Bar delivery, and we
15 are doing it extensively in North Carolina through
16 Judicare, we won't be able to refer cases to private
17 attorneys, who won't want to take them when we cannot
18 represent that we have the funds with which to pay them
19 for their obligations.
20 We won't be able to do staffing. We won't be
21 able to go out and raise money, where many funding
22 sources want to know if you are going to be alive a year
23 from now.
24 Don't do that to us. Thanks.
25 CHAIRMAN McKEE: Okay. Anyone else? Okay,

1 grant decisions, but I would just like to say that the
2 sooner that we know something, obviously, the better.
3 We have just undergone a tremendous period of
4 layoffs and one thing that you may not be sensitive to
5 is in terms of the perceptions in the field programs,
6 by the time they filter back to the various staffs, what
7 may be perceived as a relatively minor issue here gets
8 blown up there, primarily because of the cut in funding,
9 the layoffs, and the frustration level of people in the
10 program.
11 Finally, I would like to address the issue of
12 the Clients Council.
13 We had to make a decision in our program,
14 Mr. Olson, approximately a year ago as to whether or not
15 we were going to continue our law reform unit. And I was
16 probably among the proponents who took a position
17 similar to yours.
18 Law reform is important, but we had to make the
19 tough decision of deciding whether or not we were going
20 to meet the right-now needs of clients or whether or not
21 we were going to wage the broader war.
22 Obviously, we did away with the law reform unit
23 and chose the right-now approach.
24 Only the long term will prove whether or not that
25 was the right approach. But my bottom line about the

1 Clients Council is this:

2 It has been my experience that, if anything,

3 when it comes to a program addressing the needs of

4 clients, there is only so much you can do in terms of a

5 one on one approach to that.

6 Client councils are very important. If anything,

7 client councils aren't nearly where they ought to be in

8 terms of the impact that they could have on a board of

9 directors in terms of giving it direction.

10 It was our client council that in 1974 began

11 the first push for outreach, and some eight years later

12 it happened. And I give you that as one example of the

13 many creative ideas that have come down the pike in our

14 particular program. Many of those creative ideas were

15 put forth by clients. It was us lawyers who were hard

16 of hearing and drug our feet and took a long time to

17 implement them.

18 I know my three minutes are up, and I will sit

19 down now.

20 CHAIRMAN McKEE: Okay. Next.

21 MR. HORSKEY: My name is Charles Horskey. I

22 appear here as a representative of the American Bar

23 Association Committee on Legal Services and Indigent

24 Defendants.

25 CHAIRMAN McKEE: That is Mr. Raven's

1 committee, isn't it?

2 MR. HORSKEY: Mr. Raven's committee. And also,

3 if I may, on my own behalf.

4 I have had experience over the last two or

5 three years with the problem of the support centers. I

6 wish to say, and I think it is unquestionbly true, that

7 the necessity for specialization in the areas of

8 poverty law are just as great, if not greater, than they

9 are in any other field.

10 It would seem to me impossible, really, for

11 a legal services program to operate efficiently and

12 even successfully if there were not available to it the

13 kind of expertise that these programs make available.

14 Indeed, if you want to consider the implementa-

15 tion of more involvement of the private Bar, I can speak

16 from the point of view of my own firm.

17 We have, on the one hand, made available to

18 the Legal Services offices here in Washington a couple

19 of lawyers, paralegals and secretaries on a continuing

20 basis. But more than that, when we have in our other

21 pro bono work the necessity for some expertise in a

22 particular area of housing or welfare or something of

23 that sort, we don't hesitate to call the support centers

24 for information, and they willingly supply it. It is a

25 valuable resource for the private Bar in its pro bono

1 work.

2 And I would urge you very strongly to maintain

3 them.

4 I take it that there is really no dispute that

5 the specialization and the support that specialization

6 gives is important.

7 What I haven't heard is any reason to change

8 the system that now exists.

9 I do wish to say, although I have not polled

10 my committee on this issue, that I would endorse the

11 recommendations of the staff with the exception of the

12 10 percent cut. I do not see a justification for that.

13 It seems to me that the support centers are

14 essential. They are probably overworked as it is. The

15 load of legal services is obviously increasing

16 dramatically because of the economic conditions that we

17 face today, and I would think that it would be a

18 mistake, a great mistake, to reduce in any way the kind

19 of support that they give to the field services.

20 Thank you.

21 CHAIRMAN McKEE: Thank you, Mr. Horskey.

22 MR. OLSON: Mr. Horsky, can I ask just one

23 question? You were speaking with respect to the ABA and

24 not having polled your committee, but if I understand

25 correctly, Mr. Ortega as a former member of this board

1 urged at the last panel meeting that the ABA begin to
2 find alternative sources of funding the support centers
3 in order to be able to keep that work funded in the
4 private sector, or have that work funded in the private
5 sector.
6 Do you recall that?
7 MR. HORSKEY: I wasn't familiar with that. I
8 am not familiar with that. I am a new member of the
9 committee, so I don't go back into its history. I am
10 sorry.
11 MR. OLSON: Thank you.
12 CHAIRMAN McKEE: Bob Sable.
13 MR. SABLE: Chairman McKee, members of the
14 committee, my name is Robert Sable. I am the executive
15 director of the National Consumer Law Center, which is
16 one of the national support centers, and I am also the
17 chairperson of the Organization of Legal Services Backup
18 Centers, and it is in that capacity that I address you
19 today.
20 This committee today comes to what I consider
21 to be the close of a process that you began in May when,
22 having looked generally at the issue of legal services,
23 you began to address the issue of national support.
24 And in May, at hearings and then later in
25 hearings, and particularly in hearings in Jackson and

1 through staff reports, you have looked at the issue of
2 national support.
3 And I think that if you look carefully at the
4 record that you have compiled, you will find that the
5 evidence has been overwhelming and essentially
6 uncontradicted, efficient, effective service and
7 productive, high quality institutions. And there has
8 been no evidence presented to you that suggest any
9 difficulties with the present structure.
10 To be sure, there were issues raised of
11 difficulties. There were issues raised about newsletters
12 of the national support centers, and you have moved
13 effectively through regulations to clarify those issues.
14 There were issues raised about the prohibitive
15 activities and what the centers would do when those
16 prohibited activities were in effect, and your staff
17 recommendation deals with those prohibited activities.
18 I tend to disagree with it, but I think there is a
19 process by which that issue has been addressed.
20 And there were allegations of illegal
21 activities about the support centers made by Mr. Miller,
22 and your general counsel has investigated them, found
23 them without substance, and at the same time you have
24 set up and office of inspector general to be sure that
25 grantees such as ours do continue to be legal.

1 Some of the questions that were raised by
2 various board members here today are addressed in the
3 record, and I would urge this committee to look at it.
4 The question of field support which Mr. DeMoss
5 raised, over and over again field attorneys and project
6 directors have come before this committee and urged the
7 retention of national support, even if it meant no
8 increase.
9 In particular, in Mississippi there was a
10 unanimous opinion by every single project director that
11 although they desperately needed money in Mississippi,
12 that that money should not come from the national
13 support centers or, for that matter, the state support
14 centers and other possibilities.
15 The need for specialized services in large
16 cities as well as small was also addressed in Jackson,
17 and it has been my experience and I think the experience
18 of my colleagues that there is a need for our support
19 to the large programs.
20 The support is different in kind. We find it
21 to be much more intensive, but very much there. And
22 in Houston and in Austin, as well as in Portland and
23 in the smaller cities in Maine, we are constantly being
24 called upon by attorneys.
25 As a result, we think the staff proposal does

1 address the issues that this committee has raised, and
2 we are essentially in agreement with the analysis of
3 the staff proposal.
4 However, we are sort of puzzled at the
5 conclusion, which is that we should be cut despite our
6 effectiveness. And I think we lay out in my written
7 statement at somelength why we think that you should
8 reject the staff proposal and continue our funding at
9 the present level.
10 Essentially, we believe that the few cuts that
11 we will make in our services because of the prohibited
12 activities are more than made up for by the increased
13 demands on us both from field attorneys and from
14 Judicare and other private attorney involvement. And
15 then, in addition, we have suffered additional cuts
16 beyond those, beyond simply the 25 percent because of
17 other federal monies that we have lost and other
18 monies that we used to receive from the Legal Services
19 Corporation.
20 But I am very disturbed today to discover the
21 Chairman suggesting suddenly that all the support centers
22 or a substantial number of them should be abolished,
23 that that money should be used for Judicare.
24 CHAIRMAN McKEE: I didn't ---
25 MR. SABLE: Excuse me. Chairman Harvey. And