

LEGAL SERVICES CORPORATION

BOARD OF DIRECTORS MEETING

OPEN SESSION

Saturday, May 13, 1995  
10:00 a.m.

Legal Services Corporation  
750 First Street, N.E.  
Board Room  
Washington, D.C. 20002

BOARD MEMBERS PRESENT:

Douglas S. Eakeley, Chairperson  
Hulett "Bucky" Askew  
LaVeeda Battle (via telephone)  
John T. Broderick  
John G. Brooks  
F. William McCalpin  
Nancy Rogers  
Maria Luisa Mercado  
Thomas F. Smegal, Jr.  
Ernestine P. Watlington  
Edna Fairbanks-Williams

*OTHER:*  
*José Padilla/CRLA*  
*Harrison McJuer/PAG*  
*Stan Foster/LAW OKLA.*  
*Karen DeHannore/PHS*

STAFF PRESENT:

Alexander D. Forger, President  
Martha Bergmark, Vice President  
Patricia D. Batie, Secretary  
David Richardson, Treasurer and Comptroller  
Victor Fortuno, General Counsel  
Edouard Quatrevaux, Inspector General  
~~Gail Laster~~  
Suzanne Glasow  
Gerry Singsen  
John Tull  
Renee Szybala  
Merceria Ludgood  
Christopher Sundseth

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

(10:00 a.m.)

1  
2  
3 CHAIR EAKELEY: Let me call the Board of Director's  
4 Meeting back into order and first apologize for the delay in  
5 getting started. Secondly, deviate from the agenda once  
6 again by asking up to the podium Stan Foster from Oklahoma,  
7 who is here and we very much appreciate having joined us.  
8 We've just lost him again. You're on, Stan.

9 Let me just say how grateful we are to you for  
10 being here today but also for the heroic efforts that you and  
11 your colleagues have been undergoing in the last several  
12 weeks. We know the emotional and physical toll that that  
13 must be taking, which makes all the more significant for us  
14 the fact that you'd take some time and meet with us.  
15 I know you have a support group meeting that you're on your  
16 way to, but we would welcome a few words.

## PRESENTATION OF STAN FOSTER

17  
18 MR. FOSTER: I'll try to keep it brief. Thank you  
19 for having me here. I am Stan Foster. I'm the Director of  
20 Legal Aid of Western Oklahoma. I wanted to share with you  
21 just an overview of how we responded and how we fit in with  
22 the community response to this bombing, this mass murder,

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1 whatever you want to call it.

2 I guess I'd like to also begin with thanking Alex  
3 Forger and other folks in the Legal Services community,  
4 actually, throughout the nation, people with the Legal  
5 Services Disaster Working Group, friends and colleagues  
6 throughout the country and in particular our sister programs  
7 in Oklahoma for offering their assistance.

8 I had calls from folks as far away as Robert  
9 Hickerson in Alaska sharing his experience with the Valdez  
10 incident.

11 Anyway, let me give you this overview that I wanted  
12 to share with you of our response. When this thing happened,  
13 there was not a great deal of immediate Legal Services needs,  
14 but it was really heartening to see the community; that is,  
15 the social services community, the emergency services  
16 community immediately turn to us as a natural resource when  
17 legal advice was needed.

18 In fact, the first legal cases that we saw were  
19 housing cases that would have been routine housing cases but  
20 for the catastrophe folks that had their apartments  
21 destroyed, and their landlords weren't willing to refund the  
22 rent, that sort of thing.

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1           From the standpoint of the changes in how we used  
2 our resources, we found that on that first weekend we keep  
3 the office open. The switchboard was open during regular  
4 working hours staffed by our attorneys.

5           The following week and a half we staffed a center  
6 or a booth at the Salvation Army's Crisis Center, which is  
7 located in the near downtown Oklahoma City area. That effort  
8 we've since closed down with the bringing on line of, really,  
9 the state bar and the county bar volunteer effort.

10           The Monday following the bombing incident, we took  
11 part in a training and volunteer services planning meeting  
12 that was held at our office that representatives of the Young  
13 Lawyers from the Oklahoma Bar Association as well as John  
14 Carey, the general counsel for FEMA participated in.

15           On the following Tuesday, which was -- to give you  
16 a sense of reaction time, this is almost a week after the  
17 bombing incident, we had a training event at the state bar  
18 center on that Tuesday night in which we gave an orientation  
19 to some 200 volunteer lawyers in the Oklahoma City area that  
20 were willing to donate their time. And I'm sure there are  
21 many more that are, for that matter, willing, but that's how  
22 many folks were in attendance.

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1           We helped organize that training. The training  
2 included brief overviews of emergency legal needs as we saw  
3 them in six areas, those areas being estate and property  
4 issues, consumer law, housing law, family and guardianship  
5 matters, insurance law or insurance problems and then public  
6 benefit issues with not only the standard traditional  
7 poverty-based legal services public benefits but also an  
8 overview of government employee benefits and a perspective  
9 view of what might be available if this was declared a  
10 national emergency so that full benefits under FEMA would be  
11 available.

12           It's interesting to see and I think again a  
13 compliment to Legal Services or our program that four out of  
14 these six training sessions were presented on 24-hour notice  
15 by Legal Aid attorneys that included preparation of materials  
16 and the actual brief presentations. The areas we didn't make  
17 presentations on, by the way, are insurance problems and the  
18 estate related problems.

19           We continue to work with the bar in responding to  
20 the disaster. We're seeing that the bar has really come  
21 forward and is playing the role that they ought to be  
22 playing, as far as providing a lot of expertise and volunteer

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1 services.

2 And I think it's working the way it should work;  
3 that is, that our staff services or complementing the bar's  
4 volunteer efforts. Are there any questions?

5 CHAIR EAKELEY: Anyone?

6 MR. BRODERICK: I'm just curious how many lawyers  
7 are in your office in Oklahoma? How many Legal Services  
8 lawyers are there?

9 MR. FOSTER: We have ten lawyers on the civil staff  
10 that are full-time lawyers, and then we have another half  
11 dozen lawyers that are part-time lawyers. Some of these  
12 folks we've activated really to fill positions that we're  
13 leaving vacant, and it turned out that these part-time  
14 lawyers have really become very useful in this emergency and  
15 that they typically had extra time and availability as far as  
16 taking on new responsibilities that the staff, with the  
17 existing case load, did not.

18 MR. BRODERICK: Can you give us a sense of how many  
19 people directly or indirectly you've been able to help as a  
20 result of that tragedy?

21 MR. FOSTER: The number is not that impressive. My  
22 sense is we've helped about 30 families which, if you use a

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1 factor of 3, I suppose it's about 100 people. In addition to  
2 that, we've made referrals, of course, to the state bar, and  
3 I really don't have any idea of what their numbers show.

4 MR. BRODERICK: Thank you.

5 MR. McCALPIN: Did you get additional funding to  
6 help you through this?

7 MR. FOSTER: No, and it's something we've been  
8 watching. We have had some extra costs. We think we can  
9 absorb them. Mr. Forger called me early on and made me aware  
10 that if we thought there was a need we could certainly seek  
11 extra funding from the Corporation, that you folks are  
12 rolling in dough.

13 So far, we have not really seen a need for that.  
14 The initial rush of extra time and extra -- especially with  
15 these part-time attorneys, extra costs I think is over, and I  
16 think we're going to be able to absorb it.

17 CHAIR EAKELEY: Thank you for coming here.

18 MR. FOSTER: Thank you.

19 CHAIR EAKELEY: And thank you for all of your  
20 efforts.

21 MS. FAIRBANKS-WILLIAMS: Sounds like a wonderful  
22 job.

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1 MR. FOSTER: Thank you.

2 CHAIR EAKELEY: Let's go back to the agenda, if we  
3 could, and start with the President's Report.

4 PRESIDENT'S REPORT

5 MR. FORGER: Thank you, Mr. Chair. And Stan  
6 Foster, it's the work that you folks do on those kinds of  
7 occasions that have caused us to make a request for  
8 appropriation in our '95 budget request -- '96 budget request  
9 for a fund so that we don't have to wait for other  
10 legislative activity or OMB to function so that we would have  
11 funds available that we could advance immediately for  
12 temporary expense.

13 I think, in large measure, because of the way the  
14 field has responded in disasters over the last two years,  
15 FEMA is going to be testifying at our reauthorization or  
16 oversight hearing on Tuesday.

17 The General Counsel has a good relationship with --  
18 and experience in Oklahoma City and in the other disasters  
19 with which we've been involved. So it is nice for someone to  
20 report them to Congress that we are helping government as  
21 well as helping people in need.

22 So my thanks, too, for what you've done.

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1 MR. FOSTER: Thank you.

2 MR. FORGER: On an issue of -- I think we alerted  
3 you to the fact that the Washington Times had an article  
4 talking about travel in which it was stated that there have  
5 been a lot of travel done by people of the Corporation,  
6 presumably not in accordance with our personnel manual.

7 That article, presumably, was the reason for a  
8 request from the House Subcommittee on Appropriations that we  
9 furnish them with every travel voucher or evidence of travel  
10 over a two-and-a-quarter-year period and more related aspects  
11 to travel, taxis and ham sandwiches as well as an explanation  
12 as to the purpose of the travel.

13 I was somewhat disappointed that we didn't receive  
14 a telephone call saying, "Can you explain any aspect of  
15 the story that was in the Washington Times?" rather than set  
16 off that inquiry.

17 I expressed that concern to the staff of the  
18 Subcommittee. The Inspector General also determined that we,  
19 therefore, should make an inquiry into travel that occurred  
20 here at the Corporation.

21 I think what had set off the story were some  
22 critics of ours who have access by FOIA to much of the

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1 information that we have in the Corporation and misconstrue  
2 or misinterpret that information, but it was, basically, the  
3 consultants that we had.

4 When I was interim president, we had some people  
5 here on a transition team, John and Martha and James Head and  
6 Gerry. I had entered into a contract on behalf of the  
7 Corporation with John, whose travel was the principal focus  
8 of this article because there were some 28 trips, so stated,  
9 back and forth to Denver by John.

10 That was an overstatement, and there were some,  
11 maybe, 19 personal trips back and forth, which was part of  
12 the contractual arrangement made with John in order to  
13 attract him here at a time when we were in the midst of  
14 changing over the monitoring system.

15 It seemed to us essential to seek to get John's  
16 services, and I think at great personal sacrifice he came  
17 here, and we're very fortunate to have had his service, which  
18 is the principal reason that we have managed to change the  
19 monitoring process so significantly.

20 And as part of the contract, we agreed with John  
21 that he could commute back home because he couldn't bring his  
22 family here and change schooling and the like.

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1           So the Congress still has that information.  
2           Everybody else has, including the Board, and we've had no  
3           further response on that, but of the order of magnitude, the  
4           total for John was some \$18,000.

5           The total for Gerry was some 8,000 for August. We  
6           had Ada also at 8. Martha and I didn't travel, and James had  
7           5,000.

8           When we took John and Gerry on as full-time, we  
9           increased our compensation, and John continues to -- well,  
10          sorry, John, increased his compensation. We reduced Gerry's  
11          compensation because he was coming in in a different  
12          position, but recognizing that John still had those expenses  
13          to bear.

14          And I have opinion of counsel that I had the  
15          authority to offer that reimbursement for travel. When  
16          people became permanent employees, we went according to the  
17          manual, and that's what we have done since those who were in  
18          transition joined us on a full-time basis.

19          The materials that went over there were -- it says  
20          Part 2. I was curious as to the cost of this, and it has  
21          thus far, through May 11th, taken 253 person days to respond  
22          to the congressional request.

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1           The non-IG time was 53 person days, and the IG time  
2 up to May 11 is 200 person days. So it's pretty close to the  
3 equivalent of one person per year putting this information  
4 together, which, in my judgment, is within the prerogative of  
5 the Corporation to reimburse people on a reasonable basis,  
6 and I had no doubts as to the reasonableness of what was  
7 done.

8           But nonetheless, that's the system under which we  
9 function. It may well end up as 280 or 90 or 300 days before  
10 we're all finished. So far as I'm aware, nobody has found  
11 any egregious activity here.

12           I'm sure that somewhere along the line maybe there  
13 was a \$5 or \$10 or some other kind of reimbursement that  
14 might have been made.

15           In that regard, I asked about the FOIA costs, and  
16 we have a total of 198 hours devoted to FOIA requests of Ken  
17 Boehm. He had been the most demanding of those seeking  
18 information from us, and that's the equivalent of 20 days.

19           Also, we charge a very modest amount, 10 cents a  
20 page. We have turned over 5,500 pages to Ken Boehm in the  
21 last 12 months, and I think that we need to review the cost  
22 factors that enter into the compliance with respect to FOIA.

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1 MS. FAIRBANKS-WILLIAMS: Has he paid this?

2 MR. FORGER: He has as outstanding balance at the  
3 moment of some \$238, I understand. We keep a running  
4 account. Any questions on travel or FOIA?

5 CHAIR EAKELEY: Why should we advance Mr. Boehm  
6 anything?

7 MR. FORGER: David, are we advancing? Do we have  
8 an open account with Mr. Boehm?

9 MR. RICHARDSON: We do not, sir.

10 MR. FORGER: It's now paid?

11 MR. RICHARDSON: I would have to check with  
12 Mr. Fortuno, because his office -- I would have to double-  
13 check with Mr. Fortuno, because normally what happens is we  
14 fill the request, and then we tell them how much he would owe  
15 with a telephone call, but we would go ahead and fund the  
16 request, and then the money usually returns shortly  
17 thereafter, comes to us.

18 MR. FORGER: Okay. I just have a memo from the  
19 office that says Mr. Boehm's current balance due is \$358.89.  
20 So I mistook that to mean that he owed us some money.

21 On the issue of the funding policy that we should  
22 at least address in terms of recision, I sent you all a

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1 memorandum dated May 4 with a proposal for the \$50 million  
2 recision.

3           And it had an illustrative chart showing how we  
4 were going to implement the express desire of the  
5 Subcommittee that there be a lesser burden borne by these so-  
6 called field programs that we had originally suggested when  
7 we decided to eliminate the law school program and some  
8 miscellaneous unobligated that would reduce by about a  
9 million and a half the burden on the so-called field programs  
10 facing Native and Migrant.

11           We then discussed in our telephone meeting the  
12 consequence of a 3 percent reduction beyond the roll-back  
13 there the so-called nonfield programs, which would generate  
14 another \$1 million that could ease further of burden for the  
15 field programs.

16           As a consequence of doing that, the Basic Field  
17 programs would be rolled back in the aggregate about 76  
18 percent instead of 100 percent. They would have the benefit  
19 of two and a half million dollars that came from the nonfield  
20 programs which would be rolled back, the entire amount of  
21 increase they got plus another 2.5 million, 1.4 coming from  
22 the law school program and the balance spread prorata among

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1 all the others.

2 I think that I would like to get the sense of the  
3 board that management can respond and meet with the  
4 Subcommittee in an effort to resolve the issue of allocation  
5 of the recision subject, of course, to the assumption that  
6 there is not a further recision of 5.8, which would then  
7 cause us to revisit this de novo.

8 But subject to that, it would be to get the sense  
9 of the group that taking 3 percent of the nonfield programs,  
10 as illustrated in that chart, and it's, basically, a prorate,  
11 and to reduce the field not by 100 but by an aggregate 76  
12 percent and to offer that to the Subcommittee, leaving to our  
13 judgment some discretion in the way in which we may address  
14 the 76 percent production.

15 CHAIR EAKELEY: Since we had your memo, Alex, we  
16 were given a letter or I was given a letter which we  
17 distributed to the Board from the Project Advisory Group that  
18 outlines a what different at the margin proposal for  
19 recision.

20 It's my sense -- it seems to me that that request,  
21 which I gather has been discussed with you and Martha and  
22 Harrison McIver would be one of those things that you would

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1 take into consideration and apply your judgment to as you  
2 have further discussions with Committee staff about what the  
3 Committee thinks most appropriate. A course of action should  
4 be consistent with the congressional intent in the rescision  
5 bill.

6 MR. FORGER: The 76 rather than the 100 percent  
7 frees up two and a half million, and there are three lines,  
8 and it's a question of how best to allocate that two and a  
9 half million among the three lines.

10 CHAIR EAKELEY: So I think the question for the  
11 Board is whether or not -- it's the sense of the Board that  
12 we support your proposal with the flexibility that you need  
13 in order to be responsive to the expressed and perceived  
14 needs of the Congress.

15 I had promised -- let me do it this way. Jose  
16 Padilla had asked to be heard on the issue at some point in  
17 the meeting. Harrison would like to be heard at some point  
18 in the meeting.

19 My proposal would be to first see whether the Board  
20 has any questions and then, perhaps, to invite them to speak  
21 on these issues but then come back and, hopefully, confirm  
22 your authorization to do what you believe is necessary in

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1 order to make sure that the House Appropriations Subcommittee  
2 understands our willingness to be as responsive as we should.

3 Is that all right with the Board? Tom, did you  
4 have a question?

5 MR. SMEGAL: I thought I did. Well, I do have a  
6 question. Maybe it's obvious to everyone else here. I'm  
7 looking at the attachment to your memo, Alex, of May 4. And  
8 with respect to column 7, I understand the heading is at 76  
9 percent rollback.

10 Looking at the numbers, I understand that the ones  
11 under A-1, 2 and have numbers there that represent 76 percent  
12 of what is listed in column 2. I am unable to determine  
13 mathematically where the rest of the numbers came from in the  
14 other categories. Are they adjusted so that the bottom line  
15 is 15 million? They are clearly not 76 percent.

16 MS. BERGMARK: Yes.

17 MR. SMEGAL: The answer is yes. So is that  
18 arbitrary, or did we use the same formula with respect to all  
19 the other sublines? For example, Management Administration,  
20 is that a percentage?

21 MR. FORGER: Yes.

22 MR. SMEGAL: The same as Other Support, for

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1 example?

2 MR. FORGER: Isn't that a straight 3 percent?

3 MS. BERGMARK: We rolled back -- first, we rolled  
4 back all those other categories to their '94 funding level,  
5 and then we applied a 3 percent cut to every component that  
6 is not in the field, not those three field categories.

7 MR. FORGER: Except law schools it was already  
8 zeroed out.

9 MS. BERGMARK: That's correct.

10 MS. FAIRBANKS-WILLIAMS: You took all the client  
11 initiatives except where we spent --

12 MS. BERGMARK: That's correct. And that was part  
13 of the rollback. That was actually not a 3 percent. That  
14 was the rollback to '94.

15 CHAIR EAKELEY: Maria Luisa.

16 MS. MERCADO: Just in looking at -- at least in  
17 reference intent anyway, and I guess this word is about what  
18 are core or noncore programs and pretty much the field  
19 programs, at least from your conversations, Martha or Alex,  
20 on the Hill that the basic programs or core programs that  
21 they discuss were Basic Field, Native American and Migrant,  
22 and that's your understanding from staff on the Hill?

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1 MR. FORGER: The first formulation of that was core  
2 programs, and we stopped in to ask the Committee what "core"  
3 meant, and they said the field, the three elements.

4 Then, they used different language on their  
5 conference, which talked about direct delivery, and in  
6 conversations, I think those were intended to have the same  
7 meaning as "core."

8 MS. MERCADO: To follow up with my training of  
9 thought, where I was going from, the '95, FY '95  
10 appropriation that was given to Legal Services above proposal  
11 to Congress last year when we submitted the FY '95 budget  
12 request was to look at equalization of funding issues to  
13 different categories of client population and different kinds  
14 of programs that will affect population in other programs  
15 that historically have been underfunded, are those factors  
16 that staff has taken into account in doing this recision  
17 proposal?

18 I mean, is it something that we have worked with  
19 Pat in making sure that programs who were being brought up to  
20 equalize funding in '95 appropriation because of the recision  
21 that they would stand to be harmed the greatest in trying to  
22 equalize that?

1 MR. FORGER: I thing this chart, Maria Luisa,  
2 simply did a 76 percent reduction in each one of those three  
3 lines applied against the increase.

4 As for example, the Native American increase was  
5 440 as the budget was originally adopted, and a 75 percent  
6 rollback is 334,000. So it was simply applying the 76  
7 percent of the amount of increase that was given to each of  
8 those three lines, and that shows in column 2, which is  
9 labeled "Recision Rollback to FY '94." That is also the  
10 amount of increase that each of those three lines received in  
11 the '95 budget for recision.

12 MR. SMEGAL: The 76 is an artificial number that is  
13 determined from going back to see how much of a percent  
14 reduction you needed, having made \$2.5 million, roughly, of  
15 adjustments?

16 MR. FORGER: I start -- the total increase --

17 MR. SMEGAL: It could have been 72, or it could  
18 have been 79 --

19 MR. FORGER: Whatever the amount showed.

20 MR. SMEGAL: It just happens to work out to 76  
21 because of the 2.5 million that resulted from columns 4, 5  
22 and 6.

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1 MR. FORGER: Correct.

2 CHAIR EAKELEY: And it may have to be more if there  
3 is an additional recision, and it may be different if the  
4 additional recision carries with it different language. This  
5 is the attempt -- this is the Corporation's management  
6 reporting back to us on their best judgment of what meets the  
7 congressional intent with respect to the \$15 million  
8 recision.

9 Actually, it's a reiteration of that, because  
10 they've already been to the staff once and been told to come  
11 back and rework it and develop some other adjustment, which  
12 this chart represents.

13 MR. FORGER: We have no assurance that this will be  
14 totally acceptable to the Subcommittee, and it's simply  
15 something that we believe ought to be and would discuss it  
16 with them.

17 The sense was that since we had used the law school  
18 line, essentially, to reduce the burden on field that there  
19 had been not enough sharing of the burden among the other  
20 nonfield lines.

21 MS. MERCADO: I'm not sure whether PAG or any of  
22 the other field groups has any input to this. I know that

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1 looking at -- not looking at field lines but looking at other  
2 lines where you had underfunded programs -- I mean, in some  
3 cases, if we're looking at the cuts that we have, they may be  
4 as high as 20 percent, but they can still be at 50 percent of  
5 whatever the floor funding level would be for other programs.

6 I mean, I'm just trying to make sure that when  
7 we're looking at specific categories that there is not a  
8 particular category of programs that is harmed the greatest  
9 if there is an ability to work numbers in a way that, sort  
10 of, equitably distribute the resources in those different  
11 categories.

12 MR. FORGER: Well, I certainly could make the  
13 argument, Maria Luisa, on supplemental field programs,  
14 because I believe that to be as direct delivery as anything  
15 else can be direct delivery, yet that's below the line.

16 That not only gets the rollback to whatever its  
17 increase was in '95, but it takes a 3 percent reduction as  
18 well. So I think there are some inequities if one analyzed  
19 the pieces of it. There is an element of direct delivery in  
20 other lines as well.

21 So we're just trying to get, sort of, general  
22 equity in achieving this without doing a lot of intricacy

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1 among lines or within the line.

2 CHAIR EAKELEY: Our definition of "core" differs  
3 from that of the Subcommittee. We've had presentations about  
4 why each major element of the system is part of the core,  
5 national support and state support, but the Subcommittee has,  
6 basically, said that "We think that," and indeed interpreted  
7 the recision that Basic Field, Native American and Migrant  
8 programs are the core or direct delivery programs that  
9 Congress intended to be held relatively harmless in the  
10 recision and that all others should be rolled back and  
11 perhaps -- that was where we started, with the rollback and  
12 the folding in of the law school, and that wasn't enough.

13 So we've, basically, gone back to have this  
14 additional adjustment, which takes another 3 percent out of  
15 all of these. But I think that while we had a certain  
16 objective that we were pursuing in last year's appropriations  
17 question that was somewhat reflected in different rates of  
18 increase in different lines of budget, those have been  
19 superseded by the recision bill, and our obligation now is to  
20 implement the intent of the Congress in that recision action.

21 MS. MERCADO: And of course, in implementing the  
22 intent of the Congress, the intent of the Congress is to

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1 almost pretty much leave the field programs harmless, I mean,  
2 if you're going to take their interpretation to black and  
3 white letter law, basically.

4 They probably wouldn't get any cuts, and we would  
5 do the cuts out of everywhere else, and we, obviously,  
6 decided not to do that.

7 MR. FORGER: Well, certainly, the language on the  
8 Senate where this recision came about where -- I mean, the  
9 House didn't have anything for us, and in the House  
10 supplemental they pretty clearly earmarked their 5.8, which  
11 was to do the nonfield.

12 I mean, if we don't add a 5.8 recision, we wouldn't  
13 have touched the field, and when the Senate rolled back the  
14 entire 15, the language on the floor by the proponent was  
15 that perhaps we shouldn't have had an increase at all in '95.

16  
17 Thus, the Senate voted for no increase, and the  
18 purpose of that amendment was to rescind the increase that  
19 had been granted in '95. If there were no other words, one  
20 would think it would be a straight rollback of every line,  
21 but then it was in a conference where the language entered  
22 talked about the maximum extent feasible to ease the burden

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1 on the field.

2 MR. SMEGAL: Well, let me just say, now that I  
3 understand this that, Alex, I think you and the staff have  
4 done commendable work in complying with what is your  
5 understanding of the House Appropriations Subcommittee staff  
6 members' suggestions were, and you, in fact, rolling back to  
7 Fiscal Year '94, you have increased the field programs, A-1,  
8 2 and 3 by about \$2.5 million over the funding they had in  
9 1994, and that \$2.5 million has come from these other  
10 programs, as you indicated.

11 MR. FORGER: Yes.

12 MR. SMEGAL: You've certainly done and it certainly  
13 should be apparent, possibly even with less time than it took  
14 me to get here that you have in fact done exactly what they  
15 asked in a way that seems very appropriate.

16 CHAIR EAKELEY: I think that what Alex is asking  
17 for is authorization or support by the Board to take this  
18 approach back to the Committee but also give him some further  
19 flexibility if the staff thinks that 3 percent is not enough  
20 of a shave, to give them some additional flexibility in order  
21 to be absolutely responsive to a situation that is critical  
22 not only in terms of this current year's funding but also

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1 critical to our credibility going into the next  
2 Appropriations session.

3 MS. MERCADO: And that would be my preference,  
4 because I think that if we tie them to say, you know, you're  
5 going to present a 76 percent or a 3 percent cut, then you're  
6 tied to that, and I don't think that as a Board we want to do  
7 that, because then you really aren't giving the flexibility  
8 to work and figure out by talking to the Committee on the  
9 Hill about other concerns that they may or may not have in  
10 working those numbers.

11 Because if we only authorize them to do the 76  
12 percent and the 3 percent across the board, then they're,  
13 sort of, limited to that.

14 CHAIR EAKELEY: That raises the PAG proposal and  
15 developing a sense of the Board that it includes sufficient  
16 flexibility for management to do what is appropriate under  
17 the circumstances. Maybe we should invite Harrison, if he  
18 wants to, to come up and talk about PAG.

19 MR. McIVER: My name is Harrison McIver. I'm  
20 Director of the Project Advisory Group. What I would ask is  
21 that my correspondence to you be made a part of the record at  
22 least.

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1 I would -- the only point I would make would be  
2 that if within the flexibility that management would exercise  
3 that they, perhaps, would, perhaps, lead with the PAG  
4 position and then, as a fall-back, perhaps their position,  
5 because we feel that our approach does address what you  
6 intended last year, in terms of deciding the allocation with  
7 respect to the lines in terms of equalization, in terms of  
8 lower-funded programs be given a bump up, and that's the  
9 point I would make.

10 CHAIR EAKELEY: Would you be comfortable with the  
11 Board supporting Mr. Forger's judgment call on what to lead  
12 with and what to come up with? I feel very uncomfortable  
13 directing how a negotiation take place or a discussion take  
14 place that we're not party to.

15 MR. McIVER: It was directed to urge management,  
16 not the Board.

17 CHAIR EAKELEY: Okay. Any questions of Harrison?

18 MR. FORGER: Well, I think the chart, which has 76,  
19 Harrison, does keep that disproportionate increase that was  
20 granted to, say, the Migrants. It's just only 25 percent of  
21 the total increase, but that 25 percent is disproportionately  
22 larger and consistent with what was granted.

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1           In the '95 budget, Basic Field went up 2.5, and  
2 Migrant went up 8.3. I believe it's still in that same ratio  
3 after the 76 rollback of the respective increases.

4           So to that extent, it is recognizing that we are  
5 seeking, at least to the 25 percent that we've got left to  
6 allocate, that we're giving greater credence to the needs of  
7 the Migrant and the Basic Field. Is my math correct, Gerry?

8           MR. SINGSEN: Always.

9           CHAIR EAKELEY: But I think Harrison is presenting  
10 a slightly different approach to this. I think that my  
11 response would be that I don't think management needs urging  
12 to take your proposal into consideration and work with it and  
13 do the best we can collectively to accomplish what were,  
14 after all, common objectives that were supported by PAG and  
15 by this Board and found their way into the budget next year.

16           But I think that the flexibility needs to be  
17 preserved for management so that the wrong impressions are  
18 not conveyed either. My comfort level would be leaving it  
19 with their comfort level but making sure that they get that  
20 input from you, which we now have and appreciate and will  
21 make part of the record.

22           MS. BATTLE: This is LaVeeda, and just simply

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1 because I don't have a copy of the proposal from PAG, can you  
2 tell me just in real broad terms what the distinction is  
3 between your proposal and that of management?

4 MR. McIVER: Yes. What the PAG position would do  
5 is increase the amount -- when there is a reallocation after  
6 the rollback and the 3 percent cut to the nonfield  
7 categories, a greater percentage of the 2.5 million would be  
8 reallocated to the Migrant category line.

9 Specifically, the amounts would be rather than  
10 256,130 to be retained as proposed in LSC position, 779,852  
11 would be retained. So that's about a \$523,000 additional  
12 increase to that line upon reallocation, and it would be  
13 about a \$650,000 reduction in the Basic Field category.

14 MS. BATTLE: Okay.

15 MR. McIVER: Which would be de minimis in terms of  
16 the impact on the Basic Field programs when you would then  
17 decide how that distribution occurs.

18 MS. BATTLE: Okay. I understand it. Thank you.

19 CHAIR EAKELEY: Any other questions of Harrison?

20 MR. McIVER: One last point I want to make is to  
21 thank Alex and Martha for conferring with us before this  
22 meeting and trying to work through these things, and we

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1 hope -- it's been a sign since his administration has been in  
2 place to work with us, and we want to encourage that to  
3 continue.

4 CHAIR EAKELEY: Maria Luisa?

5 MS. MERCADO: And I think that especially for folks  
6 in the field, and the Project Advisory Group is the field  
7 representation of the grantees that are out there, and I  
8 think that as a Board we are -- we have and continue to be  
9 open to dialogue and input and stuff from the field and the  
10 working relationship between Harrison and Martha and so forth  
11 to get input from all the different sectors.

12 And of course, then, ultimately management will go  
13 with their proposal but there not be a misinterpretation  
14 especially because we have the client initiative line that  
15 has been struck out that, at least from the field program  
16 perspective, you know, that there has been that input from  
17 them as well from the field programs.

18 CHAIR EAKELEY: I agree. Thank you, Harrison.

19 MR. McIVER: Thank you.

20 CHAIR EAKELEY: Jose, did you want to address this  
21 issue as well?

22 MR. PADILLA: Yes. And I want to have Karen

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1 Dettamore, a fellow project director, also make some brief  
2 comments. I thank you for the opportunity to say these few  
3 words in these next few minutes.

4 CHAIR EAKELEY: First, Amy will not ever forgive me  
5 if I don't ask you to identify yourself for the record.

6 MR. PADILLA: My name is Jose Padilla,  
7 P-a-d-i-l-l-a, and I'm the Director of California Rural Legal  
8 Assistance.

9 CHAIR EAKELEY: And Karen?

10 MS. DETTAMORE: I'm Karen Dettamore, and I'm the  
11 Director of a Pennsylvania Legal Services program.

12 MR. PADILLA: I have to -- I want to make two types  
13 of statements. I don't come 2,000 miles to not take the  
14 opportunity or advantage of the opportunity to at least  
15 educate you a little bit about our clients.

16 I'd like to do that to lead off, and then I'd like  
17 to express my opinion with respect to the proposals that are  
18 in front of you.

19 In educating you about my clients, I'd like to pass  
20 out a little propaganda, if I may. There was a recent  
21 article that you read, some of you may have read, in the  
22 National Review, and in some respects some of us recognize

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1 the lax -- those kind of articles need to show you another  
2 side, and that's why I'm here.

3 You may not remember the word Santa Ana Yareni, but  
4 the last time I addressed you there was a man who was with  
5 me, and if you may recall, he was somewhat of a man who was a  
6 little afraid of addressing such important people as you.

7 And some of us, maybe like you, you may wonder what  
8 happens to people like that, and I think it's very rare for  
9 us to find out what happens to people like that once you've  
10 served them and done work for them.

11 The article that I've passed out was an article  
12 that was written about three weeks ago in the Los Angeles  
13 Times, and it is about that gentleman and his community.

14 In the next few months, you will be addressing very  
15 critical issues with respect to Legal Services  
16 reauthorization. One of those will be what happens to  
17 immigrants.

18 We serve legal immigrants. The case was brought in  
19 the name of legal immigrants. These folks are bi-nationals.  
20 They live part-time in this country, part-time in that  
21 country. They bring their labor. They leave it here, and  
22 then, when we serve them, we wonder what happens.

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1           The articles addresses what happens to some of them  
2 when you win a case. There are two articles. A second one,  
3 the title is, "Formerly Abused Laborers Now Live Their  
4 Dreams."

5           It was only to tell you that in that story remember  
6 that gentleman. Doug and I sometime ago went up into the  
7 hills of North County San Diego. In speaking to some of  
8 those clients, Doug, you may recall some of them saying,  
9 "Sometimes I wish I wasn't here. I wish there was an  
10 opportunity back home. I wish that we had that extra water  
11 so that I could work my land back home."

12           And in here you will see what some people do with  
13 their money. \$7,000 to a client is three years' worth of pay  
14 for somebody from Santa Ana Yareni. He can go back home, and  
15 she can go back home and build a house with \$7,000.

16           The gentleman that was with us may have been part  
17 of the gentlemen who put -- 20 of them pooled their money,  
18 and now they have a furniture factory in Santa Ana Yareni  
19 that builds furniture.

20           That's what we're talking about when we read titles  
21 that talk about people living their dreams. So that I bring  
22 that to you because these are the kinds of stories that I

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1 think we have to think about when we debate those critical  
2 issues that are going to be before us in the next few months.

3 But let me jump to my second issue, which is  
4 related, because when I come here and express an opinion, I  
5 don't come alone, because I come with their stories. And  
6 it's very hard for me to be an advocate and come here in  
7 front of you somehow feeling that dye has been cast, but the  
8 sage Abraham Lincoln once said that to remain silent when you  
9 should speak makes cowards of people.

10 So that I also feel the need, when I have these  
11 stories, to speak in the names of those stories and those  
12 people. So that's why I'm here, to express an opinion.

13 You've heard of proposals. You've read the  
14 proposals, and I applaud your leadership thus far in taking  
15 certain risks. I applaud the administration being very  
16 supportive of support. I applaud you because you have tried  
17 to find a way to soften the deep cuts that a lot of us are  
18 going to be facing because of the recision in '95.

19 So it's not as if I don't thank you for what you've  
20 done so far, and I heard a little while ago some statements  
21 being made about, "Yes, we will consider your proposals," and  
22 I sense a wanting to be open to what the community says.

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1           But sometimes I find myself being heard, but then  
2 there is a difference between being heard and being listened  
3 to. So to that extent, I make that distinction, because I  
4 hope that people are listening.

5           I think the PAC proposal addresses some principles  
6 that you had early on when you addressed in '95. I think it  
7 keeps true to those. I think there is a fairness -- there is  
8 a standard of fairness that's different in the two proposals.

9  
10           One of those proposals will affect my rural clients  
11 in a very devastating way, perhaps the difference between  
12 \$300,000 and \$100,000. That translates to, perhaps, three or  
13 four lawyers who will not be able to do the work that is  
14 described in the article that I presented to you.

15           I come from a rural community. I was born and  
16 raised in a rural community. That rural community is largely  
17 Latino so that when I address you about the  
18 disproportionality that will fall in that community, I do it  
19 because I feel for that community.

20           So I'm hoping that the way this proposal that PAC  
21 has put in front of you, I would hope that the way  
22 administration approaches it is this: that they will do it

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1 the way they did it with support. Why should we lack the  
2 courage now?

3 It is a very viable proposal. It is neutral on its  
4 face. It is politically palatable, but if it's not  
5 presented, you will not find out. So that I am hoping that  
6 if you are not going to take a vote, at least to express your  
7 opinion about some preference but only as an opinion about  
8 preference, and I hope that you will express some opinion  
9 around the PAG proposal.

10 Because I think with we leave it as do with it what  
11 you want, I, for one, am not convinced that it will get its  
12 fair play and its fair chance in that debate or in that  
13 discussion with the appropriate people in Congress.

14 I want to say one final thing both to the Board and  
15 to the administration, and that's about morale. The issue of  
16 morale is very critical when we are in trial. Calls to unity  
17 and calls to community are powerful words, but I think that  
18 unless the community's voice is heard and paid attention to I  
19 think sometimes those calls ring hollow.

20 We out in the field take a lot of risks, and we  
21 have to think that here we also are not afraid to take some  
22 risk, calculated as it has to be, given the political times.

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1           So that I'm hoping that that feeling of morale --  
2 because we will be -- I recognize the fact that this is only  
3 one small battle. I recognize that, but we get messages.

4           As a director of a large program, I get messages.  
5 So to the extent that we're willing to risk, I think people  
6 should be open to meeting us part of the way, and I hope that  
7 in that light you take these viable options, discuss those,  
8 and if they are found to be unacceptable, not as palatable as  
9 we think they are, then you have others to argue with.

10           We are taught as lawyers to be that way. We are  
11 taught as lawyers to argue that way, and I think  
12 administration has got to recognize that it's not about  
13 saving Sierra CRLA. It really is about the clients and that  
14 you've advocating for clients; you're not advocating for me,  
15 and that you're lawyers, too.

16           And lawyers have to fit in some advocacy. I think  
17 that's what lawyering is about, and I think in these  
18 positions you have to play that that way.

19           So that I thank you for your time, and in this  
20 fight and the fights in the future I also pray that God gives  
21 you wisdom, because a lot of us are going to be needing that  
22 in the next few months. Karen.

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1 MS. DETTAMORE: I want to just echo a couple of  
2 things that Jose said. He asked me to speak because he's a  
3 big program on the West Coast. I'm the director of a very  
4 small program on the East Coast, but I share his concerns,  
5 and I know that the senior staff here has worked very hard to  
6 try to fashion the best compromise proposal that would be  
7 fair.

8 But I also believe that the PAG proposal refines  
9 that in some ways that will help ameliorate the worst effects  
10 of the administration proposal. I think you really need to  
11 realize, harkening back to the issue of congressional intent  
12 that if there is an intent to not cut or to minimize the cuts  
13 on Basic Delivery programs that any proposal that results in  
14 cuts -- and it's a cut.

15 Let's not talk about a decreased increase. This is  
16 a cut in this year's funding. We're not just halfway through  
17 the year. For my program and for many programs that have a  
18 July 1st/June 30th fiscal year, I'm almost through the fiscal  
19 year.

20 So this is a real cut, and it's a cut that for some  
21 programs, which are currently the lowest funded Basic  
22 Delivery programs, it will be a cut in excess of 15 percent

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1 of this year's funding, and it will then be the base for  
2 further cuts next year in there are further cuts in the  
3 appropriation.

4 I just want to again urge the staff to really  
5 consider that issue in adopting the PAG modification of your  
6 earlier proposals to try to decrease what will be devastating  
7 effects on the lowest funded delivery programs providing  
8 direct services to clients.

9 CHAIR EAKELEY: Thank you both. Let me just say I  
10 hope we never stop listening. I have an opinion. I think  
11 that the PAG proposal does try to preserve more of what we  
12 were after in last year's budget.

13 I do think that the ultimate issue is -- I don't  
14 think we're afraid to take calculated risks. I think that we  
15 are still there -- we're here knowing that there has to be  
16 some risk-taking, that voices have to be heard, that the  
17 voices of those whom we seek to serve ultimately are the  
18 voices that must be heard, and if they have no advocates they  
19 will not be heard.

20 And that what we are trying to do is advocate the  
21 best position for those client and potential clients, but  
22 it's the calculation of the risks that is at issue here.

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1           Really, it's Alex Forger and Martha Bergmark and  
2 Gail Laster who, in going to the Subcommittee, must take into  
3 consideration the Subcommittee's views of what the  
4 congressional intention was with respect to the recision.

5           And it's for them, I think, to calibrate that  
6 calculation for the purpose of best serving those clients,  
7 and I think that's all -- I don't think we're disagreeing  
8 about any of this.

9           I think the only constraint -- the common  
10 constraint we're looking at is whether or not one proposal or  
11 the other better conforms to that congressional intent, but I  
12 think the sense of the Board is that, obviously, we supported  
13 last year's request for appropriation.

14           We're on record this year in going in the same  
15 direction, and to the extent that that direction is  
16 consistent with the intention of the recision, it's our  
17 expectation that the calculated risks will be taken at the  
18 appropriate moment by management. In any event, I'll stop  
19 there. We understand, and we're trying to do the best we can  
20 in response.

21           MR. PADILLA: My only point was I was hoping there  
22 would be an expression of preference, but I realize the very

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1 difficult situation that you are because I'm a director, too.  
2 I recognize -- my board recognizing that they put me in a  
3 position where, ultimately, on the day-to-day, I am expected  
4 to make the final decision and be held responsible to it.

5 But I always appreciate listening to my board, and  
6 I have a 45-member board, hearing opinions about where they  
7 would go and then ultimately acting upon those, and I was  
8 hoping at least to be able to hear some preferences, but  
9 that's just, again, another opinion of a director who likes  
10 to --

11 CHAIR EAKELEY: Yeah, but you weren't listening to  
12 me just now, Jose, or maybe not. Tom.

13 MR. SMEGAL: I'd like to respond, in a sense, and  
14 see if I understand this stuff correctly what Jose has been  
15 saying.

16 The only difference between PAG and our  
17 recommendation from Alex and the staff is with respect to the  
18 redistribution of the portion of \$400 million which would go  
19 to our field programs A-1, 2 and 3.

20 And with respect to that amount, it's the same  
21 number in both senses overall, and the issue, Jose, is a  
22 redistribution of two-tenths of 1 percent of that budget,

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1 \$660,000.

2 PAG's proposal is that two-tenths of 1 percent of  
3 the money that we determine should go to the field, when we  
4 voted on the Fiscal Year '95 budget, should be distributed  
5 differently than proposed by management, and the difference  
6 is not a difference in -- the difference you're proposing is  
7 not a difference from what we did when we passed the Fiscal  
8 Year '95 but a desire to have that concept or that policy or  
9 that vote extended to \$2.5 million less of money. Is that a  
10 fair statement of where you're coming from and where PAG is  
11 coming from?

12 MR. PADILLA: I'm assuming that that's the way the  
13 numbers work out.

14 MR. SMEGAL: Assuming the numbers -- 660,000 is  
15 two-tenths of 1 percent of 366 million, roughly. So that's  
16 what we're talking about. That's the issue. That's the only  
17 difference. It's a small difference in an overall global  
18 picture, but you're saying it's a really big difference in  
19 terms of A-2 and 3.

20 MR. PADILLA: In reality, we recognize that we're  
21 going to have to take a disproportionate hit because we took  
22 a disproportionate increase. So no matter which way you cut

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1 it, it's going to be disproportionate on us.

2 The PAG proposal, for example, may read there that  
3 all the categories take equal percentage loss, 2.1 percent,  
4 but within certain categories we will stand to lose 4  
5 percent, 5 percent. I don't know what the exact numbers are.

6 So we're going to not take the 2.1 percent. We're  
7 going to take a higher hit. So we know that. It's a  
8 question of how soft it is. So that it's a difference of how  
9 it gets distributed, you're right, in that respect.

10 MR. SMEGAL: And what we're hearing and what you're  
11 echoing is PAG is telling us that the field programs, at  
12 least as represented by PAG, are prepared to have that  
13 \$660,000, that two-tenths of 1 percent of the field program  
14 budget distributed by a formula different than the formula  
15 that has been worked out by management?

16 MR. PADILLA: Yes.

17 MR. FORGER: Another way of looking at that, Tom,  
18 is that I think Migrant is a little less than 4 percent of  
19 the total Basic Field, and it will get, under management's  
20 proposal, 30 percent of the increase to Basic Field.

21 So it is recognizing that there is a vastly  
22 disproportionate allocation under -- I'm sorry, under PAG's,

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1 it would be a 30 percent increase of the entire amount, and I  
2 think, under other proposal, it's somewhat less than that,  
3 but it's well above 4 percent.

4 MR. PADILLA: You meant decrease.

5 MR. FORGER: No. If you take -- if you role  
6 everything back, Jose, and then you have the \$2.5 million and  
7 you look at your '94 funding, and we now have \$2.5 million to  
8 distribute among three lines, under the PAG proposal, you  
9 would take 30 percent of that even though you're only 4  
10 percent of the Basic Field.

11 MS. DETTAMORE: Well, I think the PAG proposal  
12 isn't looking at giving more to some group of clients. It's  
13 looking at a way of protection to ensure that no programs and  
14 particularly not the lowest funded programs in any category  
15 end up with 15 percent cuts.

16 CHAIR EAKELEY: They're starting from this year's  
17 appropriations level.

18 MS. DETTAMORE: That's correct.

19 MR. FORGER: Everybody gets a cut, and it's a  
20 question of where does it lie.

21 MS. DETTAMORE: That's exactly.

22 MR. PADILLA: And that's a hard decision. Thank

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1 you very much.

2 MR. SMEGAL: Let me again summarize what I'm  
3 understanding. This Board, in considering the Fiscal Year  
4 1995 budget, voted, in going to Congress, that there should  
5 be a certain amount of funding for the field programs A-1, 2  
6 and 3.

7 And what you're asking us to do and what PAG is  
8 asking us to do is look at the end of the tunnel where those  
9 numbers are rather than the end of the tunnel where we were  
10 in '94 and say, "Okay. Here is the end of the tunnel we're  
11 on. This is what you thought was right when you passed  
12 Fiscal Year '95," and reduce that -- to comply with Congress,  
13 reduce that 2.1 percent.

14 MS. DETTAMORE: Exactly.

15 MS. BATTLE: This is LaVeeda. Alex, can I  
16 understand what the distinction is between the PAG proposal  
17 and management's proposal as to what the percentage  
18 allocation would be to the line where the Migrant clients  
19 are?

20 You're saying that the PAG proposal that it would  
21 be 30 percent of the spread that's left. What would it be  
22 under management's proposal?

1 MR. FORGER: If you look at it as \$2.5 million  
2 being redistributed, under the management proposal, it's a  
3 million, seventy-one was the gross increase. We would reduce  
4 it by 814. That would leave approximately -- somebody check  
5 my math -- \$260,000, perhaps -- is my math correct -- 260  
6 over 2.5 million, which would be, maybe, 11 percent versus 30  
7 percent.

8 MS. MERCADO: Alex, I just want a clarification,  
9 because I'm getting confused now. When you're saying 30  
10 percent, 30 percent of what? Not 30 percent of the whole  
11 appropriation, 30 percent of the -- the 2.5 million you're  
12 redistributing from the law school line and the supplemental  
13 field program line?

14 MR. FORGER: No. If I had the '94 budget, Maria  
15 Luisa, which is on this schedule, and I said I've got \$2.5  
16 million to distribute to Basic Field, how shall I distribute  
17 it, if I distribute it on a prorate basis, Migrant would get  
18 \$50,000, maybe, \$20,000, because it represents, I think, less  
19 than 1 percent of -- and I'm saying of the 2.5 million being  
20 distributed under management's proposal Migrants would be  
21 getting something like 11 percent of that, and under PAG's  
22 proposal, they'd be getting 30 percent of that 2.5 million.

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1 MS. MERCADO: But that's -- the 2.5 million,  
2 though, is a supplement to the cut already back to 76 percent  
3 of the '94?

4 MR. FORGER: Well, the way I was phrasing this was  
5 if you take '94 and say, "We now have 2.5 million to add to  
6 it," you could go the other way and take '95 and take three-  
7 quarters away.

8 CHAIR EAKELEY: I think we're going to get lost in  
9 numbers here. The point is nobody is saying management must  
10 commit to one proposal or another proposal.

11 I think that everyone here has said management must  
12 have the flexibility to deal with the political reality in a  
13 way that doesn't -- that comports with the congressional  
14 intent, and management needs that flexibility, and we're  
15 authorizing management to go forward.

16 And the only question was whether or not -- I  
17 suppose it's the sense of the Board that if, in management's  
18 judgment, it's worth the calculated risk to go with one  
19 proposal or another, the Board would like to see management  
20 proceed with that calculated risk.

21 And I think that's really the crux of it. I mean,  
22 we can spend a lot of time talking about numbers and

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1 percentages and lose that basic issue.

2 MR. SMEGAL: Well, let me just say one more thing  
3 just to make sure that everyone is on the same page, and  
4 maybe I'm just a lot slower this morning than the rest of  
5 you.

6 The issue is to give management the flexibility --  
7 they are trying to comply with what they understand the House  
8 of Appropriations Subcommittee staff members have told them  
9 to do, that they should make every effort to direct funds to  
10 the field program categories of Basic Field, Native American  
11 and Migrant programs, and they've done that.

12 They have taken a \$400 million budget, and they've  
13 squeezed \$2.5 million out of it that is going to the Basic  
14 Field programs, and the only questions -- and the options  
15 they have available to them are two.

16 One is you take the 2.5 million, and you distribute  
17 it among the three subsections of the field programs by a  
18 formula that corresponds to the funding in 1994; in other  
19 words, what portion of 400 million did those three components  
20 have? That's what is in the management program.

21 What PAG has come to us with and what Jose is  
22 suggesting we do is not redistribute that 2.5 million

1 increase by the amount that these programs had in 1994 Fiscal  
2 Year but by what they understood they were getting in 1995,  
3 and because we don't have the extra 15 million, they don't  
4 get it.

5 So management has two options, one of which they  
6 have recommended to us, another which has been recommended by  
7 Harrison and Jose and others. Is that it?

8 CHAIR EAKELEY: That's it. It cushions the  
9 rollback of Migrant and Native American lines somewhat.

10 MR. SMEGAL: Okay. And if I understand what you've  
11 said, the Board is going to leave it to the management. They  
12 have the discretion, the flexibility to go back to the House  
13 Appropriations Subcommittee staff members with the proposal  
14 they recommend.

15 I'm sure the staff will know about this proposal,  
16 that alternate proposal, and there will be discussions, and  
17 something will come out of that which may or may not be the  
18 management proposal; it may or may not be what PAG is  
19 proposing. Is that where we are?

20 CHAIR EAKELEY: Yes or may even be something else.

21 MS. MERCADO: It might even be something in  
22 between.

1 CHAIR EAKELEY: Or there may be an addition  
2 recision that we have to contend with as well.

3 MS. FAIRBANKS-WILLIAMS: That was going to be my  
4 next question. If we have the other five something percent,  
5 do you have work-in-progress, Alex, to do something with  
6 that?

7 MR. FORGER: No.

8 MS. FAIRBANKS-WILLIAMS: You've just laid down and  
9 died on that.

10 MR. FORGER: Everything is up for grabs at that  
11 point. We'll eliminate the M&A line.

12 CHAIR EAKELEY: We had a 20.8 scenario earlier on.  
13 John.

14 MR. BRODERICK: Mr. Chairman, only because I have a  
15 long-standing commitment in New Hampshire and a 12 o'clock  
16 plane, I just wanted to make, I guess, a motion, which is  
17 probably somewhat out of order, but my clock won't allow me  
18 to stay.

19 M O T I O N

20 MR. BRODERICK: In view of comments made around the  
21 table, Edna's being the most recent one, I would propose that  
22 a working group be selected from this Board to work with

1 management in the coming months, leave it somewhat open-  
2 ended, on issues of rescission appropriation and  
3 reauthorization.

4 To work with the management of this Corporation,  
5 obviously, the leader of that working group would be the  
6 Chairman of this Board and whomever else would be designated  
7 from this Board to speak for the Board between meetings.

8 Because I have a sense that this train is starting  
9 to move at a very rapid pace, and there are different points  
10 of view and different issues confronting the Board, and I  
11 think it would be valuable to have a working group that would  
12 provide a cross-section of those views to work with  
13 management and under the leadership of the Chairman.

14 I wouldn't want to have to reduce that motion to  
15 writing, but in any event, I wanted to pose it, because I  
16 think it's important.

17 CHAIR EAKELEY: Do we need a motion or just a sense  
18 of the Board that we create a working group that will be --  
19 not a committee, Bill.

20 MR. SMEGAL: I would like to hear Mr. McCalpin's  
21 comments on this proposal, whether it can be done. Can we do  
22 this?

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1 MR. McCALPIN: Well, is this entity, whatever it's  
2 named, going to have authority to act for the Corporation?

3 CHAIR EAKELEY: Was that the intent of the  
4 proposal, John, or was it the intention to help develop  
5 policy alternatives that would be brought back to the Board  
6 for decision but also to help provide some better guidance to  
7 management along the way?

8 MR. BRODERICK: Well, as I understand it now, the  
9 Chairman of this Board, by resolution of this Board was  
10 designated as the individual to speak for the Board between  
11 meetings and to deal with management on these issues, unless  
12 my memory is wrong on that.

13 My proposal, really, is to modify that slightly to  
14 include along with the Chairman some members of this Board to  
15 serve in the same fashion, to assist in that area when we  
16 can't have meeting of the Board, because things are going to  
17 be happening hourly, it seems to me, in some cases.

18 We're meeting every 30 or 60 days. However it  
19 needs to be fashioned to comply with our limitations or  
20 authorizations, I think it needs to happen.

21 CHAIR EAKELEY: A working group to construe the  
22 sense of the Board in between Board meetings?

1 MR. BRODERICK: Whatever it takes to fit in the  
2 fine print, Mr. Chairman.

3 MR. SMEGAL: With whatever comes out of that  
4 sausage process being ultimately voted on by this Board?

5 MR. BRODERICK: I think probably it needs to be  
6 voted on by this Board.

7 CHAIR EAKELEY: Perhaps by way of reputation  
8 that --

9 MR. MCCALPIN: I detect General Counsel shaking his  
10 head sidewise. In fact, I suspect that if that entity is  
11 going to meet and consider, it needs to follow Regulation  
12 1622.

13 MR. BRODERICK: I'm sorry. It's very impolite to  
14 start a fight and then leave the room, but I don't think  
15 United Airlines is going to wait for me. So I apologize for  
16 starting an argument and then not finishing it, but I do  
17 think if it were possible to do it would be of aid to the  
18 Chairman. It would be of aid to management, and it would be  
19 of assistance to this Board. But I leave it to wiser minds  
20 than mine to know whether it's feasible or not.

21 CHAIR EAKELEY: I think we'll appoint John  
22 chairman. Maria Luisa.

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1 MS. MERCADO: Yes. Just as sort of a point of  
2 order, I guess, more than anything else, there already exists  
3 a structure within the Board of Directors to deal with all  
4 the financial and appropriations and budgetary matters, and  
5 that is the Finance Committee.

6 Now, last year we had lots of hearings, lots of  
7 presentations on budget requests and budget proposals on  
8 comments from the public on how to deal with budgets. This  
9 is just a different wrinkle.

10 It's recision or it's a different, you know, cut,  
11 but it is still under the purview of the Finance Committee.  
12 That is who has authority to look at that and review it, and  
13 I think that we would be remiss to have our general counsel  
14 going to -- that matters that have got to be deliberated and  
15 acted upon by the Board of Directors that deal with budget  
16 processes, whether that be cuts, additions whatever, goes to  
17 the Finance Committee.

18 There is, obviously, some negotiating that you're  
19 going to do, and part of our discussion is that if the  
20 committee is needed to meet more often to do that and get  
21 some sense of what needed to be worked on that that be done.

22 Last year I don't think we had any difficult with

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1 the Finance Committee meeting and discussing appropriations  
2 matters and budgetary matters if we needed to do so.

3 MR. McCALPIN: I think the distinction is between  
4 our considerations in the appropriation process and other  
5 elements that may be attached to an appropriation bill such  
6 as restrictions, conditions of one kind or another.

7 I would not have thought that the Finance Committee  
8 was empowered to deal with those nondollar signs --

9 CHAIR EAKELEY: Because really Ops & Regs --

10 MS. MERCADO: That would be for Business or Ops &  
11 Regs to do that.

12 CHAIR EAKELEY: I'll ask the empty chair whether  
13 it's the sense of the motion to rescind the earlier  
14 resolution, because that's a different way of doing it, and  
15 therefore, we can --

16 MS. MERCADO: We already have the structure in  
17 place. You just need to utilize it, is all I'm saying is the  
18 process.

19 CHAIR EAKELEY: John.

20 MR. BROOKS: Well, I'm speaking for the empty chair  
21 without any authority to do so. My sense is that what John  
22 Broderick had in mind was to provide a little broader base

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1 for decision-making for the Board, if appropriate, if the  
2 time element is too short for the Board, where the resolution  
3 now provides for the Chairman to act for the Board.

4 The suggestion, basically, was that the Chair might  
5 feel free to call for advice on one or two or three members  
6 of the Board, such as the Chair of the Finance Committee to  
7 give him a little more strength of sense of what the Board  
8 opinion would be if the Board were to act as a whole; in  
9 other words, to function as an advisory board as a source of  
10 strength for the Chair in making fast decisions.

11 CHAIR EAKELEY: Well, if that's the sense of the  
12 Board, I think the proper way to do it is just rescind the  
13 earlier resolution and deal with -- we have a new set of  
14 bylaws that give us -- I mean, there is the consultative role  
15 and the deliberative role that the committees should be  
16 playing as we go forward, and clearly Ops & Regs needs to be  
17 meeting as we get into reauthorization, and Finance Committee  
18 should be doing elements of recision and next year's funding,  
19 too, I think.

20 But with our telephone -- not that the telephone  
21 conference call is user-friendly, but nevertheless, if there  
22 is need for Board decision on one or another issue and it's

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1 not possible to meet physically in order to develop consensus  
2 on that, then perhaps a better route to go is a telephonic  
3 conference call.

4 Because we deliberated avoided creating an  
5 executive committee that could act on behalf of less than the  
6 whole Board, and I don't think the sense of the resolution  
7 before authorizing me to speak on behalf of the Board meant  
8 that I was to be authorized to decide on behalf of the Board,  
9 because that would be an executive committee of one.

10 And if that's the sense of the Board, I would  
11 propose a friendly amendment just to rescind that earlier  
12 authorization -- that earlier resolution.

13 M O T I O N

14 MS. MERCADO: I'll so move.

15 CHAIR EAKELEY: I mean, if that's what the Board  
16 wants, I'm happy to turn over the Chair to somebody else,  
17 too.

18 MR. McCALPIN: If it gets seconded, I want to speak  
19 to it.

20 CHAIR EAKELEY: Ernestine.

21 MS. WATLINGTON: So what is that motion? I want  
22 clarification on what it is.

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1 MS. MERCADO: To adopt the motion that John  
2 Broderick put on the table to have a group of people that  
3 will help him make decisions in-between Board meetings.

4 MS. WATLINGTON: And not just one committee,  
5 because I think this would need the involvement of, you know,  
6 Ops and also the Delivery Committee people involved, a cross-  
7 section. I just wanted to get that input in there and not,  
8 you know, just one committee.

9 CHAIR EAKELEY: There are two different things  
10 going on here.

11 MS. WATLINGTON: Okay. That's why I wanted  
12 clarification.

13 CHAIR EAKELEY: There are several different things  
14 going on, and maybe this is out of order, because we're  
15 really talking about this recision bill, but let's deal with  
16 it.

17 One is a fundamental question of who should speak  
18 for the Board or the Corporation, and that's been raised  
19 before, and that's been raised again, and we have a  
20 resolution about that.

21 Secondly, who should decide on behalf of the Board?  
22 I think that's clear. The Board can only decide for the

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1 Board, and committees don't have action authority. Neither  
2 does the Chair.

3 Thirdly, though, is how we approach the  
4 deliberative process in a compressed period of time when all  
5 sorts of new issues are being raised, and it seems to me that  
6 there we do need to drive as many of these issues as we can  
7 through the appropriate committees, because that's one of  
8 their primary functions.

9 The decisional authority, I think with the new  
10 bylaws, remains with the Board and can be exercised in  
11 between meeting -- well, first, we're going to try and have  
12 another meeting in June, but exercise between meetings by  
13 telephone conference calls.

14 And since there has been a lot of criticism about  
15 my testifying, then I think the way -- I think part -- I  
16 don't read that resolution as authorizing me to make  
17 decisions on behalf of the Board in any event, but if that's  
18 a sore point, then I think we ought to just withdraw that  
19 resolution.

20 MS. MERCADO: Well, you're talking about a  
21 different resolution. I thought you were talking about  
22 Broderick's --

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1 CHAIR EAKELEY: I was amending Broderick's motion  
2 because I don't think -- I mean, just Tom's question to Bill  
3 and Victor, I don't think -- I think we have working groups  
4 now that are constituted as committees, and I think those  
5 committees should be asked to keep closer monitoring of  
6 what's going on.

7 MS. FAIRBANKS-WILLIAMS: I agree. I think we  
8 should leave it the way it already is and start talking to  
9 each other and saying what can be cut and what can't be cut  
10 and not be afraid to use our pencil.

11 MR. McCALPIN: I understood Ernestine to move, in  
12 response to your question about rescision. Is that motion  
13 pending or not?

14 MS. MERCADO: She never moved.

15 MR. McCALPIN: I'm sorry. Then let me --

16 CHAIR EAKELEY: Nobody seconded John's motion. So  
17 we are free to make a new motion.

18 MR. McCALPIN: Well, let me suggest that I don't  
19 think we ought to rescind it, and I've asked Ruby to go find  
20 the resolution if she can, because I think the numbers are  
21 imprecise.

22 But if we rescinded the motion, then we'd be dead

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1 in the water. We wouldn't have any way of responding quickly  
2 to these matters. I think it might serve the sense of John's  
3 suggestion if it were the consensus of the Board that when  
4 you are called upon to responding such as that or in that way  
5 that it's urged that to the extent that you can you seek  
6 advice from other members of the Board such as you might  
7 think appropriate. And I think that may serve what John's --

8 CHAIR EAKELEY: That's very comfortable. There is  
9 a caveat there, though. I think all of us have expressed in  
10 the last two days a need to be better informed on a prompter  
11 basis. I think there is an implicit assumption that I am  
12 less in the dark than anybody else at any given moment at  
13 time, which may or may not be the case. Maria Luisa.

14 MS. MERCADO: I think the resolution that  
15 authorizes you to speak on behalf the Board in between  
16 meetings, there was a caveat to the effect that you can only  
17 speak to issues to which the Board has deliberated and acted  
18 upon, and it's not authorizing you to do a complete decision,  
19 something that has not come up before.

20 And I think that's why it's even more important for  
21 Board members to get information as quick as possible from  
22 staff and from people in the field about particular issues so

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1 that we can be informed and knowledgeable.

2 So you have to do that, sort of, field test. I  
3 mean, there are some general principals that we would agree  
4 to how to do it. Now, there might be some very particular  
5 details that there might be some differences on, but I think  
6 on general principles the Board is going to back you on those  
7 decisions, and how the different colors look doesn't make  
8 that much difference.

9 CHAIR EAKELEY: What does the ad hoc Governance  
10 Committee, former ad hoc Governance Committee Chair think?

11 MS. FAIRBANKS-WILLIAMS: Told you guys not to  
12 disband that.

13 MR. SMEGAL: You have a very limited charter,  
14 though.

15 MR. McCALPIN: I leaned over yesterday and said to  
16 Nancy that I voted for that motion so that I would be in a  
17 position to move to reconsider.

18 MS. ROGERS: I agree with the sense of the Board.

19 MR. ASKEW: I would propose rescinding the  
20 resolution that we adopted earlier.

21 MS. WATLINGTON: We did that earlier, yeah, for the  
22 president to do that. That's already on record.

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1 CHAIR EAKELEY: Well, if that's the sense of the  
2 Board, I have an announcement. Would the owner of a green  
3 Honda Accord, D.C. tag 527972 on level P-1 of the building  
4 turn your lights out? I'm sorry.

5 All right. Can we go back to -- is that enough on  
6 this for the moment? And we'll revisit this at the June  
7 meeting or between.

8 MS. WATLINGTON: We've already voted on that.

9 MS. ROGERS: Is there consent for the --

10 CHAIR EAKELEY: No. We're going to do that at the  
11 end of this meeting. I think after this we don't have a lot  
12 more to do, but we will try and do that.

13 Does anyone else want to be heard on the question  
14 of management's approach to developing workable and  
15 acceptable proposals to implement the 1995 recision?

16 (No response.)

17 CHAIR EAKELEY: Then, I think we should leave that  
18 with management and wish them good luck. Can we move to the  
19 next agenda item?

20 MR. SMEGAL: Well, I would just observe that they  
21 will continue to be responsive to this House Appropriations  
22 Subcommittee, as they have been.

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1 CHAIR EAKELEY: Yes, I think that the sense of the  
2 Board not only should be articulated as being supportive of  
3 management's flexibility to do something that's appropriate  
4 but also of the Board's intention to comply with the  
5 congressional intent as best as we can.

6 All right. Now, the next item is Consider  
7 Management Report Responding to the Inspector General's Semi-  
8 Annual Report, Alex.

9 MR. FORGER: We're still on the President's Report.

10 CHAIR EAKELEY: Oh, I thought this was an action  
11 item that we had to deal with. I'm sorry. All right. We'll  
12 go back.

13 MS. MERCADO: So what item on the agenda have we  
14 taken care of?

15 CHAIR EAKELEY: We're 6-A, maybe. We're in the  
16 middle of 6-A.

17 MS. FAIRBANKS-WILLIAMS: If Nancy is leaving and  
18 John has already gone, is there an action item we have to do  
19 before Nancy leaves?

20 MS. MERCADO: We did 7. We just, sort of, already  
21 did that.

22 CHAIR EAKELEY: We did 7, but in the guise of 6-A.

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1 Nancy, what time do you have to leave?

2 MS. ROGERS: 12:00.

3 CHAIR EAKELEY: Okay.

4 MR. FORGER: Good morning, ladies and gentlemen.  
5 This is the President's Report. I think the most significant  
6 thing that we have encountered, at least in the time that  
7 I've been in the Legal Services position is the issue of what  
8 do we do in terms of redesigning, restructuring or  
9 accommodating what is likely to be a significant reduction in  
10 the funding of the Legal Services Corporation program.

11 And I simply wanted to report that management has  
12 been considering in a very preliminary way a number of  
13 options, but the circumstances change virtually every day,  
14 and we are trying to develop a series of factors that would  
15 enter into the Board's judgment as to how it would proceed in  
16 the event, which seems quite likely I think, or at least  
17 reasonable to anticipate a significant reduction in funding.

18 Had the House Budget Committee become the reality,  
19 we would have a proposal for that. I think it's not worth  
20 dwelling on for the moment. I think if it were a modest  
21 reduction in funding such as 10 or 15 percent, we would have  
22 a plan for that, but I think that is not the reality that we

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1 need to do with.

2 Thus, it seems to us that particularly in light of  
3 what happened or didn't happen last week with respect to the  
4 Senate side that there is the likelihood that the reduction  
5 in our funding could well be of the order of magnitude of 30,  
6 40 or 50 or 60 percent.

7 That being so, we believe the Board has to consider  
8 how it would function on, say, a 50 percent reduction or,  
9 heaven help us, a 60 percent reduction.

10 As we continue our own discussions here and talking  
11 to the extended family, we thought that it would be important  
12 to convene a special meeting of the Board or an unscheduled  
13 meeting of the Board in order to try to set forth those  
14 proposals.

15 We think at the very least we need to go forward to  
16 the field promptly to alert the field to the fact that we  
17 stand ready here to help them in respect of some of the  
18 problems they're going to face right now.

19 I think it's inevitable, as I was out talking to  
20 folks this week, that they are already anticipate that the  
21 funding level may well be significantly less, and therefore,  
22 what about long-term contracts, leases, real estate,

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1 agreements with employees, unions or whatever; what should  
2 they be doing, and how can we give them counsel and advice on  
3 that.

4 And I think we have to have a spot here in the  
5 Corporation where we can do that. We're not in a position to  
6 say anything more to the field on that score, though I met  
7 with all the Ohio project directors in Nancy's bailiwick  
8 yesterday in Ohio, and needless to say the level of concern  
9 is quite high and no doubt properly so.

10 Our next step, it would seem to us, after the Board  
11 meets, if it does, in June is, sort of, forecasting a view  
12 whereby we would be looking principally to the states to come  
13 up with some proposals as to how they would structure a  
14 delivery system within their own jurisdictions with the hope  
15 that they might convene some kind of working group consisting  
16 of the Chief Justice and bar presidents and Legal Services  
17 programs, others in the government to see how they would  
18 organize their activity within that state.

19 Meanwhile, we would be developing criteria here as  
20 to what we think would be the essential elements of a viable  
21 program. The one basic principle I think we would all agree  
22 is that we need to try to sustain a national program

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1 throughout the country.

2 And thus, we would like to try to create such a  
3 formulation in which the Legal Services community would  
4 continue as a core. The combination of amount of funding as  
5 well as the amount of restriction depending upon how that  
6 came out, you can have different results as to how you would  
7 structure it.

8 But, basically, what you're saying is if you had  
9 what was originally thought from the Senate a reduction such  
10 that it's the lowest amount ever in the history of Legal  
11 Services on today's dollars, how would you structure a  
12 national delivery system. But even if you take absolute  
13 dollars and say a 50 percent cut, you're talking \$200  
14 million, how would you structure a delivery system across the  
15 country?

16 Would you look to those who are able to support  
17 themselves better than others, and would you do  
18 disproportionate to those communities that had less  
19 resources, and would you try to create -- what kind of a  
20 support mechanism would you have on that basis? Would you  
21 have discreet populations that you serve separate and apart  
22 from basic?

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1           Would you insist on new technology in the field and  
2 go principally to hotline as distinct from staff attorneys  
3 meeting with lawyers? Would you involve to a greater degree  
4 the others in the community, in the network? And surely,  
5 would you not seek to have more discretion in the Corporation  
6 in order that it might be able to direct the monies where it  
7 might be most needed even though that would not accord  
8 necessarily with all of the structure that has now been put  
9 in place?

10           The only certainty, I guess, is that there is no  
11 way we could administer 321 separate programs on 50 percent  
12 of this budget. You may end up with one and a half people  
13 covering 80 square miles or something of that nature. So  
14 you've got to discover how that could be brought about.

15           I think Gerry postulated if we had the Senate cut  
16 as we saw it originally in the State of New Hampshire, you  
17 might have \$300,000 for a Legal Services program. I mean,  
18 that might fund three lawyers for the entire state.

19           So there would have to be consolidations, mergers,  
20 and all that I'm saying is that we here are thinking about  
21 that and meeting on a regular basis and got charts and  
22 diagrams, graphs, using the history going back the last 20

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1 years in another era as to what happened.

2 We'll be talking with our friends in the field and  
3 any of you who want to be involved in that, but we're not  
4 trying to make decisions. We're trying to figure out all of  
5 the factors and what might be the things that this Board  
6 should consider should that come to pass in deciding a  
7 different system.

8 And once the Board functions on that, then I think  
9 we need to go out to the community-at-large, and if you agree  
10 that we've got to look principally to the states as the focal  
11 point, whether it be a single program in a given state or  
12 simply a coordinator in the state, whether the state  
13 coordinator or program would be the principal grantee and  
14 there would be subgrants to others.

15 But it's a variety of issues that we need to  
16 consider, and we would hope by June to be able to give you  
17 some preliminaries on that to get further guidance as to how  
18 we proceed.

19 CHAIR EAKELEY: Why don't we -- I think there are  
20 so many different things coming together that require a June  
21 meeting, and really it's not a luxury but a necessity. Can  
22 we set a date? And then I want to go back to this portion of

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1 Alex's report. Is June 16-17 a possibility for most people?  
2 Not for Nancy.

3 MR. SMEGAL: Not for me.

4 CHAIR EAKELEY: 23-24?

5 MR. ASKEW: That would be better for me.

6 MS. ROGERS: The 24th is okay. 23 doesn't work.

7 MR. FORGER: 24-25?

8 MS. MERCADO: 24-25.

9 CHAIR EAKELEY: A Saturday-Sunday, 24-25?

10 MS. MERCADO: That's fine.

11 CHAIR EAKELEY: LaVeeda?

12 MS. BATTLE: Yes. The 24th and 25th would be fine.

13 CHAIR EAKELEY: Okay. Now, what I think might be  
14 helpful to plan for for the meeting that we've just set would  
15 be the following: I think that it would be helpful to have a  
16 Provisions Committee charged to look with management into  
17 alternative models or scenarios.

18 Modeling is probably premature, but what are some  
19 of the policy options, structure, organization, operation  
20 that this program might look like if we get the possible  
21 funding reductions and the like and restrictions that may  
22 confront us.

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1 I think it would be very helpful if the Operations  
2 and Regulations Committee could be reviewing intensively  
3 between now and then the host of issues that are likely to  
4 surface in the reauthorization process commencing Tuesday, if  
5 not before.

6 I think that the Finance Committee clearly needs to  
7 grapple with whatever additional recision issues there might  
8 be plus, in conjunction with Provisions Committee, look at  
9 different things.

10 One of them is just this what do we do with reduced  
11 funding. There is a further Ops & Regs related issue that  
12 Alex raised. If there is a substantial reduction in funding,  
13 what does the Corporation look like? How do we manage it,  
14 administer it? What should its functions be?

15 I think we all need to be taking subsets of these  
16 issues and giving some concerted thought, taking counsel and  
17 advice and come back, plan to come back in June prepared to  
18 advance the dialogue significantly. Does that make sense,  
19 Alex?

20 MR. FORGER: Yeah. And I hope that we could devote  
21 if not all most of that time to this issue.

22 CHAIR EAKELEY: Yeah. Well, I think we're going to

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1 have to deal by that point in time with reauthorization  
2 issues. We are clearly going to be in the middle of the  
3 appropriations process, and those will drive the discussion.  
4 Let's get back to your report, Alex.

5 MR. FORGER: I think I'm finished.

6 CHAIR EAKELEY: Okay. Any questions of the  
7 President and the President's Report?

8 (No response.)

9 CHAIR EAKELEY: I cut off the possibility that  
10 there were other people in the audience who wanted to address  
11 the recision issue. I say that gingerly but nevertheless in  
12 an attempt to accommodate.

13 Seeing and hearing none, then let's move to the  
14 Draft Management Report Responding to the Inspector General's  
15 SAR.

16 CONSIDER DRAFT MANAGEMENT REPORT TO  
17 INSPECTOR GENERAL'S SEMIANNUAL REPORT

18 CHAIR EAKELEY: I don't think we have a text of  
19 such a report. It dealt with what to me was one of the major  
20 issues in that SAR yesterday; namely, the audit  
21 responsibilities, audit guide functions. Martha, do you want  
22 to come up to the table, too?

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1 Alex, I think we brought to closure the issue on  
2 page 3 of the IG Report, Responsibility for Grantee Audits,  
3 and I think that we've got that to the point of mutual  
4 satisfaction or relative satisfaction.

5 The only other point I wanted to just mention was  
6 the recurrent theme that is very familiar to all of us. It  
7 concerns the personnel guide, person nil issues and then the  
8 written policy with respect to employees being held harmless  
9 who come to the Inspector General with information or  
10 complaints or problems.

11 I know we were waiting for a revised personnel  
12 manual and that we were awaiting somebody coming in to help  
13 us work on that, but if we're going to be confronting  
14 significant changes in our operational landscape in the next  
15 several months, might it make sense to ask the Operations and  
16 Regulations Committee to consider some of the -- I don't  
17 want -- I'm sensitive to 253 days of time responding to FOIA  
18 requests and other investigative activities, but I'm looking  
19 for a way to make sure that we bring into focus, along with  
20 these other issues, whatever personnel issues might come to  
21 the fore if there were a downsizing required by funding and  
22 to try and take that partially off your plate maybe bring in

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1 a consultant to help us with that.

2 We keep saying we don't have enough time to get to  
3 the personnel issues, but I think they're going to get to us  
4 if we don't have a strategy for getting to them.

5 MS. FAIRBANKS-WILLIAMS: I think we should have a  
6 preliminary plan by the last of June.

7 CHAIR EAKELEY: I don't want to impose yet another  
8 unfair burden on management, but my sense of it is that --  
9 and it's just been prompted by this. My sense of it is I  
10 think we need a strategy for getting to the issue rather than  
11 have it be on a forever receding horizon.

12 MR. FORGER: Well, I had hoped our strategy was to  
13 hire a Director of Administrative Services, but decisions are  
14 being made by others, apparently. With respect to the issues  
15 that Ed has raised, I think we had agreed on whistleblower  
16 language, correct, Ed? And all it needs to do is to get  
17 distributed.

18 Secondly, I think we had agreed on access to  
19 information, and all that needs to be done is to have it  
20 distributed. In terms of what will management look like, my  
21 guess is it would look substantially larger with a scaled-  
22 back corporation, depending upon where a number of the

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1 services and functions are going to be performed.

2 I mean, it's difficult for me to say if we're just  
3 one half the size suddenly we'll be half --

4 CHAIR EAKELEY: I'm not looking for a substantive  
5 response today. What I'm inquiring about is whether, in our  
6 management report responding to the Inspector General's  
7 Semiannual Report we will be able to say we've put out the  
8 flyer on communications with the IG and protection of  
9 communications.

10 Whether we can say that we dealt with the access to  
11 documents but there is still a Board IG issue that will await  
12 a further Board IG discussion -- and we're attempting to deal  
13 with personnel issues in the absence of a new hire. That's  
14 just for the report coming in.

15 MR. FORGER: Well, I would think if Ops & Regs  
16 wants to take that on, I'm delighted to have them do that.  
17 As you know, every day something else comes up that attracts  
18 our time, attention. The rules keep changing. Congress has  
19 meetings. We've got to provide information, and it is a --  
20 it's a constant juggling act.

21 If we can get an entity to come in to satisfy, you  
22 know, the IG on the various issues he would like, I would be

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1 delighted to have a review of our affirmative action and  
2 evaluation process and hiring and salary and all of those  
3 issues that we just don't stop for the moment to do those.

4 CHAIR EAKELEY: I'm not asking you to stop --

5 MR. FORGER: But if Ops & Regs will do that --

6 MS. BATTLE: Let me suggest something. First of  
7 all, I guess I need to be clear as to what all the specifics  
8 are that the IG has raised about personnel related issues.  
9 It may be that Ops & Regs can, from the Board perspective,  
10 make recommendations to the Board regarding certain policies  
11 that should be in place for the Corporation and, in doing  
12 that, at least begin the process of examining some of the  
13 remaining personnel issues which IG may have.

14 Now, I do think, though, that, you know, given the  
15 constraints that we have with respect to both time and the  
16 issues that we're going to have to face in the future that  
17 how we prioritize the personnel issues that we address is  
18 really going to be dictated based on, you know, which will  
19 provide the biggest fire for us to put out.

20 And it may be that some of the issues that we have  
21 to address sooner are going to be related to the other issue  
22 I think that you mentioned in terms of where we're going to

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1 be as an organization given what the appropriation  
2 recommendations look like they're going to be.

3 So it seems to me that we can begin that process,  
4 but I would need to know more specifically the concerns that  
5 the IG has about what personnel issues he's interested in,  
6 and at the same time I think there are some things that the  
7 Operations and Regulations Committee can do in its work from  
8 the standpoint of assuring that certain policies are in place  
9 as to how to handle the downsize.

10 CHAIR EAKELEY: Ernestine.

11 MS. WATLINGTON: I think that was suggested by ad  
12 hoc committee yesterday in that committee's --

13 CHAIR EAKELEY: Yeah. What I'm looking for is an  
14 indication of whether it's feasible to develop within the  
15 next two and a half weeks, which is the time period left  
16 before our management and response to the IG report is do, to  
17 agree that it might be feasible to develop a strategy for  
18 taking the personnel issues forward for resolution,  
19 preferably through the Ops & Regs Committee.

20 MS. BERGMARK: I think that management and the IG  
21 are in complete agreement that our plan to go forward with  
22 the hiring of a Director of Administration was an appropriate

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1 strategy to deal with this.

2 As you know, there has been a roadblock thrown up  
3 to that, although it is our understanding, from our  
4 conversations, that depending on how recision works its way  
5 through that there is receptivity to revisiting the issue of  
6 how we would be able to handle this internally.

7 So I would like to see us be able to push that  
8 strategy a bit longer and to -- I expect we will have some  
9 final word on recision within the next two weeks.

10 CHAIR EAKELEY: So we could -- I just don't want to  
11 see a management response to this point of the IG's report  
12 saying we haven't gotten to it, but if that strategy becomes  
13 or looks feasible by the end of the month, then I do think it  
14 is an appropriate strategy and response. The IG may disagree  
15 with us, but nevertheless --

16 MS. BERGMARK: I think the IG and management are  
17 also in agreement that we need to get to this set of issues,  
18 and we're less driven by when a report or a response date  
19 falls than it --

20 CHAIR EAKELEY: Just a helpful catalyst.

21 MS. BERGMARK: I understand that, but that we do  
22 have a strategy for pushing the strategy we already had, and

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1 we should continue with that, and that when that -- if that  
2 door does get closed on us, we're going to need another one.

3 So we'll be working with the IG, I'm sure, and  
4 discussing with him how we can approach this if our plan A  
5 goes by the boards.

6 MR. FORTUNO: I would add one point, however.  
7 Although there is nothing that, strictly speaking, bars us  
8 from making some reference to the discussions that you  
9 proposed take place and the actions that possibly may be  
10 commenced, the fact is the semiannual report is for the  
11 period ending March 31st.

12 So to the extent that it's a reference to anything  
13 that postdates that its, strictly speaking, not responding to  
14 the semiannual report, which is for a discreet six-month  
15 period.

16 That's not to say that we should feel so confined  
17 that we couldn't make reference to some action that was taken  
18 afterwards, but strictly speaking, it is a semiannual report  
19 for a discreet six-month period.

20 CHAIR EAKELEY: But that semiannual report says we  
21 had been planning on hiring a Director of Personnel and  
22 subsequently learned that approach was foreclosed, but we're

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1 working on it.

2 MR. FORGER: I thought he said we are deferring the  
3 project until the next fiscal year. Is that -- I don't see  
4 that there is an open issue here.

5 CHAIR EAKELEY: I haven't seen the report. I don't  
6 know. I don't know what our report says.

7 MR. FORGER: Oh, no. Have you seen the IG's  
8 report?

9 CHAIR EAKELEY: Yes. That's what I was --

10 MR. FORGER: Down here is what I'm reading. "We  
11 agreed that before a contract could be executed news of an  
12 impending appropriation rescission caused us to defer the  
13 project until the next fiscal year," which I took -- is that  
14 right, Mr. Inspector General?

15 MR. QUATREVAUX: That's correct.

16 MR. FORGER: So I had thought from the point of  
17 view of his report that we were not now in default, and he  
18 recognized that we had agreed to go forward with OPM and hire  
19 a consultant, and then rescission came, and we had to wash out  
20 the consultant, and we've deferred this until your next  
21 report, I guess, it will show up.

22 MR. QUATREVAUX: That's correct, Alex. I agree

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1 with you. We both agree, we all agree that there is a need  
2 to take a hard look at our personnel system.

3 MS. BATTLE: I'm sorry, Ed. I can't hear you.

4 MR. FORGER: Closer to the mike, Ed, please.

5 MR. QUATREVAUX: Sorry, LaVeeda.

6 MS. BATTLE: Okay.

7 MR. QUATREVAUX: I was saying that all of us agree  
8 that there is a need for a comprehensive review of our  
9 personnel system, and I think we all agree that that can't  
10 really take place in the immediate future, at least not in  
11 the manner in which we had planned to do it because of  
12 funding shortfalls.

13 I do think, however, to the degree that there are  
14 elements that relate not just -- that are not -- just relate  
15 to the general personnel situation but relate more to IG Act  
16 implementation with regard to advising the work force of  
17 their responsibilities to report misconduct and to provide  
18 them whistleblower protection that that's something that  
19 could very easily be done simply by board resolution and  
20 which could be captured in the management response this time,  
21 if that was the pleasure of the Board.

22 CHAIR EAKELEY: I don't think it needs a board

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1 resolution. I think it's the pleasure -- I think we'd like  
2 to see it done. I think management has indicated that  
3 they're willing -- they're happy to do it. There have just  
4 within other things happening. I'd like to see it if the  
5 report, if it's appropriate, our report.

6 Okay. Any other questions on this issue?

7 MS. MERCADO: Just to Mr. Quatrevaux, though, just  
8 as far as, you know -- I don't have the report in front of  
9 me, but there are a lot of different concerns that are  
10 brought in management about some of the areas that they need  
11 to work on and that I would hope, and I know that you've  
12 indicated here, as far as the appropriations being part of a  
13 problem in implementing some of your concerns that when we're  
14 looking at that be realistic about what staff and resources  
15 what appropriations or funding we have available to address  
16 some of the issues that you have and yet allow us to comply  
17 with the Inspector General Act and your responsibility to  
18 this Corporation.

19 There just some different pieces and  
20 recommendations that you have that it seems like are, sort  
21 of, out of our control, but I'm glad you put in the aspect of  
22 the appropriation, as far the Director of Administration

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1 Services is concerned.

2 I don't think that we wanted to come across we're  
3 totally ignoring. That's not the case. We're trying to work  
4 within that structure and the resources we have available to  
5 us.

6 CHAIR EAKELEY: Okay. Is there any other -- Ed,  
7 you might as well stay up there. You're next on. Any  
8 other --

9 MR. FORTUNO: You will have a draft. The question  
10 is whether you think it's something you can deal with by  
11 notational vote or whether you would have a telecon meeting.  
12 But you will have a draft in time to make a decision so we  
13 can finalize it and get it out at the end of this month.

14 CHAIR EAKELEY: Well, let's try and do it by  
15 notational vote, but in time enough to have to do a  
16 conference call if we have to. A notational vote needs  
17 unanimity, right?

18 MR. FORTUNO: Yes, it does.

19 CHAIR EAKELEY: And that means all of us have to  
20 vote and vote in the same way if we want to, but if we can  
21 get it out in time -- we've handled it that way in the past.

22 MS. BERGMARK: Right.

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1 CHAIR EAKELEY: Okay. Next item, Inspector  
2 General's Report.

3 INSPECTOR GENERAL'S REPORT

4 MR. QUATREVAUX: Thank you, Mr. Chairman. I'd like  
5 to begin by apologizing for any inconvenience my absence  
6 yesterday may have caused.

7 CHAIR EAKELEY: There was none, and we understood  
8 the reasons for it.

9 MR. QUATREVAUX: Thank you, Mr. Chairman. I'd also  
10 like to express my appreciation to the Board for the action  
11 it took yesterday on that subject as well to management for  
12 all the hard work that they put in through this lengthy  
13 process.

14 I'd like to express the opinion that I believe the  
15 action will benefit the National Legal Services program by  
16 improving credibility of that process with those who might  
17 question it, and I'll be working next week meeting with  
18 Harrison McIver to craft a statement to the field to more  
19 other less put this in perspective.

20 I'd just like to say now that one theorist once  
21 defined "war" as the continuation of policy by other means,  
22 and I would just like to assure everyone in this room and

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1 everyone who reads this transcript that audit policy, the  
2 audit process is a technical fiscal matter and is not an  
3 appropriate place for evaluating policy issues or taking  
4 policy stands.

5 It's completely policy neutral, and it will remain  
6 that way as long as I'm the Inspector General of the  
7 Corporation.

8 The other thing I'd like to mention, because I was  
9 not present for the Finance Committee meeting, is just to  
10 note that in addition to the \$40,000 that we had previously  
11 returned for general use to the Corporation from the OIG  
12 budget we've added this past week another \$24,000 which got  
13 freed up as a result of an unexpected departure of one of our  
14 people, and I won't be filling that slot until we see what  
15 '96 looks like.

16 CHAIR EAKELEY: '95 we don't know.

17 MR. QUATREVAUX: Right. The last thing I'd like to  
18 say is that the technology project still crunches on, is  
19 doing -- I think producing some interesting thoughts which I  
20 hope to share in the near future with Corporation's  
21 management.

22 I'd also make that available to the Provisions

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1 Committee as well as it begins to think about these issues,  
2 and that concludes my report, Mr. Chairman.

3 CHAIR EAKELEY: Thank you very much. Any questions  
4 of the Inspector General?

5 (No response.)

6 CHAIR EAKELEY: All right. Thank you very much.  
7 Next is Public Comment. Do we have any other public comment?  
8 Is there anyone else here who would like to be heard at this  
9 time?

10 (No response.)

11 CHAIR EAKELEY: Consider and Act on Other Business,  
12 we've got a new board meeting date. Is there any other  
13 business that should be brought before the Board?

14 MR. SMEGAL: With respect to that board date, I  
15 just thought about my calendar. I will be unable to be here  
16 for any significant part of Sunday, the 25th. I'll have to  
17 be in Toronto. I will be here for Saturday. ~~The chair~~ <sup>The chair</sup>  
18 Finance Committee <sup>(chair)</sup> and I have agreed that we will try to meet  
19 as early as possible on that Saturday.

20 CHAIR EAKELEY: Okay.

21 MR. SMEGAL: If it's possible, Mr. Chairman, for  
22 part of the board meeting to be on Saturday, the first day,

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1 as it was in this meeting as would be most personally  
2 appreciative.

3 CHAIR EAKELEY: I anticipate that most of the items  
4 that will be before the committees will also be items that  
5 all Board members would like to be apprised of. So I would  
6 just suggest to the committee chairs that they try ask work  
7 their agendas with management and IG participation so that we  
8 reserve the maximum amount of time for full Board  
9 deliberation on these issues.

10 So we would -- my expectation would be we could try  
11 to have simultaneous Board meetings Saturday morning,  
12 perhaps, recognizing nevertheless some of the overlaps and  
13 then go Saturday afternoon into full Board.

14 MR. SMEGAL: When the Chair of the Finance  
15 Committee is recognized, she is probably going to suggest  
16 that the Finance Committee will meet on Friday.

17 MS. MERCADO: Afternoon.

18 CHAIR EAKELEY: Okay. Well, that's -- I think the  
19 committee chairs -- we had a talk, and we hadn't decided what  
20 the best meeting schedule is, but that might be a good idea,  
21 and then we'd start Saturday with a full Board meeting.

22 All right. Any other business?

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1 (No response.)

2 CHAIR EAKELEY: Hearing none, do I hear a motion to  
3 adjourn?

4 M O T I O N

5 MR. SMEGAL: So moved.

6 MS. WATLINGTON: I'll second.

7 CHAIR EAKELEY: All those in favor?

8 (A chorus of ayes.)

9 CHAIR EAKELEY: Nays?

10 (No response.)

11 CHAIR EAKELEY: No abstentions. We're adjourned.

12 (Whereupon, at 12:00 p.m., the meeting was  
13 adjourned.)

14 \* \* \* \* \*

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