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TRANSCRIPT
OF THE
LEGAL SERVICES CORPORATION
MEETING OF THE
AUDIT & APPROPRIATIONS COMMITTEE

COLUMBIA ROOM
CAPITOL HOLIDAY INN
550 C ST., S.W.
WASHINGTON, D.C.

THURSDAY, MAY 23, 1985
1:30 P.M.

PRESENT:

Claude Swafford, Tim Baker, Basile Uddo,
Hortencia Benavidez, Robert Valois, Pepe Mendez,
Thomas Smegal, W. Clark Durant, III, Michael Wallace,
Lorain Miller, Paul Eaglin, Lea Anne Bernstein

1 afternoon's meeting. He has some comments on PAI as
2 well. We will invite him to make those comments and
3 I will insure that they get to the appropriate
4 committee chairman.

5 Other than that, is there any other
6 amendments to the agenda?

7 MR. UDDO: Will that come at the beginning?

8 CHAIRMAN MENDEZ: That is about to come
9 right now, yes. None appearing, do I hear any
10 objection to the agenda as presently stated? The
11 agenda is approved. Let the record reflect that
12 Lorain Miller has come in and has joined us.

13 At this time, I would invite Robert
14 Hickerson up. Since we did not have a witness list
15 I am requesting all witnesses to state their name
16 and spell it so that our court reporter can get
17 everything correctly.

18 MR. HICKERSON: Thank you, Chairman Mendez.
19 My name is Robert Hickerson, H I C K E R S O N. I
20 am the executive director of Alaska Legal Services.
21 I live in Anchorage, Alaska.

1 CHAIRMAN MENDEZ: Can every one in the
2 back hear?

3 A VOICE: No.

4 MR. HICKERSON: My name is Robert
5 Hickerson. I am executive director of Alaska Legal
6 Services and I live in Anchorage, Alaska. First of
7 all I would like to thank the Chair for allowing me
8 to speak a little bit out of order.

9 I have worked for Legal Services grantees
10 for ten years now, first in Oklahoma for about five
11 years and for about the past five years in Alaska.
12 I have been executive director for about two years
13 now.

14 Having never appeared, having never been
15 to Washington to Legal Services D.C., in years of
16 work for grantees, I thought I would take an
17 opportunity to come and speak to you today. I have
18 some opinions and some points of view to offer to
19 this committee on some things that I know that you
20 are going to take up this afternoon, and I wanted to
21 speak to a couple of the other issues I think that

1 were matters before the committee that met this
2 morning.

3 The chair has suggested that I could make
4 that record and he would forward whatever part of it
5 goes to whatever committee to the appropriate group,
6 but again, having never been here and being here in
7 town today, I thought I would take an opportunity to
8 put in my two cents worth from Alaska.

9 The first issue that I would like to talk
10 about and to the extent that either of these issues
11 have been dealt with or other decisions have been
12 made, I really don't know what the current status of
13 some of these issues are. But to just give the
14 point of view of executive director, somebody who
15 works for a project and has worked in legal services
16 for a number of years, I will just lay out what I
17 think about it.

18 I guess the first one I would like to talk
19 about is the private attorney involvement
20 requirement. I know that the committee this morning
21 and board is likely to consider that again for 1986.

1 I will begin by saying that were I in a position to
2 make a decision on that issue, I would not have
3 instituted a private attorney involvement
4 requirement for LSC grantees. However having lived
5 with that for two or three years now, I would say
6 that I am a believer that private attorney
7 involvement does have a role in Legal Services.
8 Having had to institute such a program in our
9 program, we have actually seen for the first time
10 this year, after three years investment in it,
11 actually a pretty good return on our investment. We
12 have been able to recruit a number of lawyers
13 through a pro bono program. We have one, I think
14 fairly successful private attorney contract. The
15 pro bono program being particularly effective in an
16 urban area, and the private attorney contract being
17 fairly effective in a remote area regarding a fairly
18 specialized area of the law.

19 However, and I guess by saying that, what
20 I am saying is that I am a believer to the extent
21 that I would not walk away from that program, even

1 if the percentage requirement was lifted. I would
2 continue to urge my board to allocate some of its
3 funding to continue coordination of the pro bono
4 program, and would continue, where appropriate, to
5 contract with private lawyers for the delivery of
6 some services. However, having said that, I would
7 urge you in your consideration to at least consider
8 the possibility of being more flexible about that
9 rather than mandating an absolute percentage.

10 The approach that I would suggest is the
11 one that you used for the native American grants and
12 other special grants where you have not required
13 flat percentage, but rather you have put the burden
14 on the program to show that they have used their
15 best efforts and put it in the normal course of
16 budgeting in the sense that where it is justified,
17 use it; where it isn't, don't.

18 To further elaborate on that point, just
19 briefly, what I would say is that in the process of
20 what I have to do, and that is budget what are
21 continually increasingly scarce resources, we budget

1 on the basis of need. We look at a given region of
2 the state, we look at the dollars that we have to
3 spend, and we allocate the necessary dollars within
4 the amount of resources that we have.

5 The only budget that we don't do that with
6 is private attorney involvement. With private
7 attorney involvement we start with the dollar amount
8 and then justify the expenditure of it. That is not
9 good budgeting. That is not the kind of budgeting
10 our program normally does. We would like to not
11 have to do that with private attorney either.

12 In terms of the allocation or the
13 reorganization of the office of fuel services, I
14 have a point of view on that issue as well. I don't
15 know exactly how this fits in, but specifically what
16 I would like to speak to are the regional offices.
17 Having worked with Legal Services for ten years,
18 this is the first time I have ever been to
19 Washington. I know very little of the Washington
20 staff. In my ten years I have had occasion to run
21 into them occasionally, when they send out a

1 monitoring team or something like that.

2 Periodically you see somebody from Washington.

3 On the other hand, first in Oklahoma with
4 region 10, I think it is, and now in Alaska with
5 region nine, I have developed in those five years in
6 each place a very close relationship with people in
7 each of those regional offices.

8 The point I want to make on that, the
9 first point is that we are in the process right now
10 of reconsidering our office set up because even with
11 the 1.3 million dollars that we get from LSC we have
12 about a \$3 million program. LSC is actually less
13 than half of the money that we have to spend to keep
14 our government office program in place. We raise
15 money from state and local governments, Bureau of
16 Indian Affairs, anyplace we can get it, essentially.
17 We could never run the program that we have got
18 simply on the LSC dollars available.

19 In our process this year we are a little
20 short of that, we are in a situation where we may
21 very well be looking at closing some of our offices.

1 Continuing that, we discovered in that
2 process that every office you close you don't
3 recapture 100 percent of those dollars. I don't
4 know what deliberations you have made in terms of
5 looking at closure of regional offices, but my guess
6 is that you may very well find that you will not be
7 recapturing 100 percent of those dollars. In fact
8 in terms of trying to cover the country, you may
9 find that you may recapture less than 50 percent of
10 those dollars in terms of what it will cost to do
11 that monitoring or do those functions from more
12 remote offices, and certainly in the case of Alaska,
13 we are far enough away from Seattle as it is, much
14 less Washington.

15 The other thing that I would point out is
16 that having developed relationships, both not only
17 with the directors of those regional offices in
18 which I have worked, but also with the staff of
19 those offices, there is a certain collegiality that
20 develops that I don't think could be replaced,
21 either from a more remote regional office or from

1 Washington. That is not to say that the people in
2 Washington are not sincere or that they wouldn't
3 like to have that collegiality, it just simply is
4 not going to happen when you have got so many
5 grantees to cover and so many people to see.

6 The other thing is, and again this goes a
7 little bit to this issue of how you do the work that
8 you need to do in terms of your responsibilities and
9 having people in place to do that work. Again,
10 without doubting the sincerity of the people in
11 Washington or their willingness to try to run this
12 program and do a good job, the simple fact is the
13 that you don't have a great deal of experienced
14 votes in Legal Services. Most of those votes of
15 people that have experience dealing with grantees,
16 running the programs day to day, tend to still be in
17 those regional offices. You have a great deal of
18 experienced staff who are out there, who know what
19 happens day to day in what we do every day, and that
20 is to serve people. I think if you closed all of
21 the regional offices or even some of them, you would

1 continue to diminish that experienced pool.

2 I followed the debate for five years and
3 no doubt to some extent this board or the
4 corporation decided that there were some of those
5 experienced people that were entrenched, and they
6 wanted to make some changes, but at some point you
7 have to make a judgment about how far do we want to
8 cut our experienced pool. I think that some of
9 those people that are in those regional offices are
10 the backbone of the delivery of legal services and I
11 am not making any specific claim for any individuals,
12 but I just feel like you ought to think twice before
13 you close out any regional offices.

14 In terms of the allocation formula for
15 1986, I guess this is the point where I will be
16 provincial for a moment, because Alaska has been
17 mentioned by the past president and occasionally
18 shows up in the documentation you have seen as
19 probably one of the highest funded programs in the
20 country. I will repeat my comment made earlier that
21 in order to serve Alaska we have determined that we

1 have to spend about 3 million dollars. We get 1.3
2 from the Legal Services Corporation and no doubt
3 everybody tells you that they need more money.

4 The point I would make, the only point I
5 would make on this, is that any reduction in the
6 funding formula for the higher funded programs, any
7 reduction from those levels just means that we have
8 to raise more somewhere else. It is not a situation
9 where we can serve Kotzebue or Juneau from Fairbanks
10 or Juneau from Anchorage. We have no roads between
11 those places, virtually all of our travel is by air
12 or by boat. The only two offices in the program
13 that are connected by roadway are Anchorage and
14 Fairbanks. We don't have the luxury of closing an
15 office in Kotzebue and somehow continuing to serve
16 it. If we do that we have to make a judgment that
17 the people in Kotzebue somehow aren't entitled to
18 service. We can't do it any other way.

19 For that reason, and I am sure you have
20 heard this before, and I think it is probably the
21 point of view that is most often espoused by the

1 project advisory group, that if you had available
2 dollars, we don't argue at all with the notion that
3 those dollars should go to the least funded programs.
4 All we ask, being at the upper end of the range, is
5 that you not make it harder on us at the same time.
6 Continue to fill up the cup as necessary and
7 hopefully still find dollars to make some cost of
8 living adjustment even for the higher funded
9 programs.

10 Now, regarding regulatory changes in the
11 Legal Services Corporation, Alaska is a long way
12 from Washington, and depending on how the mail is
13 running, things filter down to us after awhile, and
14 certainly in terms of compliance issues, again, it
15 is the regional offices that keep us in compliance
16 more than it is the Washington office.

17 What I would say about that is that we
18 have dealt with a number of regulatory changes in
19 the last four years. Many of them have not
20 significantly changed the way that we do business.
21 Most of them have simply added paperwork

1 requirements. If you are talking about eligibility,
2 if you are talking about lobbying, if you are
3 talking about a number of these things, more often
4 than not those activities were either valid in the
5 first place or the regulation has simply required
6 more documentation and paperwork.

7 To the extent that abuses are perceived
8 and identified, it is your business to do that, it
9 is your business to try to regulate that. To the
10 extent abuses are perceived and you are just adding
11 another paperwork requirement, it is a plea from
12 project directors not to do that any more. We are
13 put in a position of every time a regulatory change
14 is made, it generates a certain cost to us. As
15 dollars become more scarce, I would urge you to
16 streamline those processes rather than make them
17 more complicated.

18 Again, many of these things may be out of
19 order. That is my two cents' worth. I think it is
20 unlikely that I will be back to Washington for
21 another ten years, but I appreciate the opportunity

1 to have said my piece.

2 If there are questions from committee
3 members, I would be most happy to answer them.

4 CHAIRMAN MENDEZ: I have got a few. How
5 many offices do you have and how many attorneys do
6 you have?

7 MR. HICKERSON: We have about 40 lawyers
8 in about 11 offices from Ketchikan to Barrow, and
9 one paralegal station halfway out the Aleutian chain
10 at a place called Dutch Harbor. Those lawyers tend
11 to be in two lawyer offices with the exception of
12 Anchorage, Fairbanks and Juneau, we have three in
13 Juneau, four in Fairbanks, and about six in the
14 Anchorage office.

15 CHAIRMAN MENDEZ: You said you have about
16 a \$3 million budget, 1.3 is from Legal Services.
17 You also said that BIA furnishes you some funds?

18 MR. HICKERSON: We have a special project
19 that relates to rights protection for native
20 allotment applicants. The Bureau of Indian Affairs
21 gives us about \$300,000 to do the work that they

1 would otherwise have to do in the rights protection
2 area.

3 CHAIRMAN MENDEZ: Do you have any problems
4 with terminated or unrecognized tribes?

5 MR. HICKERSON: That is a fairly
6 interesting question. I guess one of the very big
7 legal issues in Alaska is whether there are tribes
8 at all. They have never been terminated. They have
9 been recognized for some purposes. One of the big
10 debates, and it would take us several hours to fully
11 discuss it, but one of the big debates is exactly
12 how do eskimos, Aleuts and Alaskan Indians fit into
13 the scheme that otherwise exists for native
14 Americans in the lower 48.

15 More often than not if you look at Indian
16 legislation, Alaskans are added as a footnote. It
17 tends to throw -- this also applies to eskimos,
18 Aleuts and Indians. They don't normally tend to
19 categorize them as either tribal governments or not.
20 They tend to be called villages. For some purposes,
21 they are called tribes, for other purposes they are

1 not recognized as tribes. But that is one of the
2 continuing debates in Alaska. Hopefully it will be
3 resolved in the next five years.

4 CHAIRMAN MENDEZ: Do you spend any funds
5 on trying to either get them unterminated or to get
6 them recognized?

7 MR. HICKERSON: Again that is a fairly
8 long discussion. I will give you a short answer.
9 We have generally not represented tribal governments.
10 There are IRA governments, some of the villages are
11 organized as IRA's. Our program chose, I think in
12 the early seventies and it is partly because of the
13 Alaskan '80 Claims Settlement Act which recreated
14 corporations out of most of the villages in the
15 regions. Our program chose at that time rather than
16 to follow the tribal model, which was that we would
17 become tribal counsel for tribes, we chose the model
18 of rather continuing individual representation, by
19 and large. The issues that seemed to be most
20 paramount for native people in the state, were
21 individual issues more than they were tribal issues.

1 Part of that is related to this notion that they may
2 or may not be tribes.

3 However in the last three or four years we
4 have gotten increasing demands for service to
5 represent emerging tribal governments. We have
6 taken some of those cases, but in most instances we
7 opted to try to leverage additional resources for
8 them. Along that line, the native American rights
9 fund has recently opened an Anchorage office. They
10 are kind of spearheading that effort, and to the
11 extent that there are other resources available we
12 have not taken on the role of tribal counsel for the
13 village.

14 CHAIRMAN MENDEZ: I have just a couple
15 more questions. Can you tell me what the status is.
16 You have never made any application for migrant
17 funding is that correct?

18 MR. HICKERSON: We never made an
19 application. When I came to Alaska in 1981 the
20 executive director had recently been fired the
21 existing chief counsel had just been elected to

1 the state legislature. We looked first of all at
2 the funding situation because a couple weeks after I
3 got there we suffered a 25 percent cut in our LSC
4 funds and VISTA and CETA programs were eliminated
5 which we were heavily dependent on.

6 We started first at looking at the LSC
7 funding formula and discovered the state had never
8 received any state support funding, that they had a
9 substantial migrant population and never received
10 any migrant funding. I applied for state support
11 funding. I think by then most of it had been
12 allocated. We were able to pick up I think \$22,000
13 from state support. But, in terms of migrant monies,
14 it looked like not only was it all allocated, but it
15 was being competed for very hardly. There was no
16 increasing numbers there.

17 Our notion was that if we were going to
18 get some of that, we would have to take it away from
19 somebody else. To some extent while we do have a
20 fairly large migrant population, Alaska tends to be
21 a pretty good place to immigrate in the sense that

1 there is not a very large ionous presence there, we
2 are on the edge of the Pacific, and a lot of folks
3 come through there.

4 We just chose not to pursue that in the
5 sense that there just didn't seem to be any funds
6 available. I guess every grant writer goes through
7 an initial process of saying what is it worth if we
8 put in this effort. Our notion was that that would
9 be unproductive.

10 CHAIRMAN MENDEZ: I have just one last
11 follow up. Can you explain to us your poverty count
12 and how we determine poverty in your state because
13 it is different than the other states?

14 MR. HICKERSON: Yes. This is the other
15 side of the story. Alaska has 125 percent of what
16 is normally considered poverty guideline throughout
17 the rest of the country. You may notice in your
18 eligibility guidelines that Alaska and Hawaii set
19 our guidelines a little higher and that same number
20 is used in terms of counting the poverty population.
21 Then the funding formula is based in the same way as

1 it is throughout the country, except that we get
2 native American funding and to some extent, to be
3 perfectly candid about it, I think Tom Ehrlich came
4 to Alaska sometime in the late seventies and was
5 exposed to the extreme cost of doing business and
6 the remoteness of the distances and so forth.
7 Somehow our funding formula was set higher than
8 anybody else's. I am not certain if you looked at
9 the record, that you could really figure out how it
10 got to be where it is. Certainly I think I could
11 make a factual justification for whatever that rate
12 is. But I don't know that on the record I could
13 tell you exactly how it got to be where it is.

14 CHAIRMAN MENDEZ: Do you believe that it
15 is appropriate at this time?

16 MR. HICKERSON: Oh, absolutely. You know,
17 I guess that is the point I am making. We can't run
18 a program on what we get from LSC. We can't run any
19 kind of a program. Our notion in '81 was simply
20 that, we have a choice. We could either continue to
21 have a program or we cannot have a program. The

1 only option for us to continue to have any kind of
2 viable service network was to raise one and a half
3 million dollars a year. We have been able to do
4 that since then. But certainly for the foreseeable
5 future, I think that is going to be a very difficult
6 task. Again I am certain that that is probably no
7 different from some of the other testimony that you
8 have heard from other project directors around the
9 country.

10 CHAIRMAN MENDEZ: Does anyone at the time
11 have any questions?

12 MR. SMEGAL: Do you have any Reggie's?

13 MR. HICKERSON: We got one this year. I
14 didn't expect it quite frankly, but we were
15 allocated one from the native American desk in
16 Denver. We have not placed that person yet, of
17 course. We are in that process right now. We have
18 not historically had a large number of Reggie's. We
19 have had a few in the past, but we don't -- we have
20 not had sort of a historical Reggie in the program.

21 MR. SMEGAL: You don't have a law school

1 in Alaska?

2 MR. HICKERSON: No, we don't. We don't
3 have law clerks available to us or that sort of
4 thing. We do have a summer clerk program and we do
5 do a fair amount of recruiting in order to get any
6 lawyers at all in the program. We don't have the
7 luxury of going down to the law school and talking
8 to the student body.

9 MR. SMEGAL: Is there any language problem
10 with any of the natives? Do you have a language
11 problem?

12 MR. HICKERSON: It kind of depends on how
13 old people are and how long they have been in the
14 education system. In 1961, Alaska adopted a
15 compulsory education law and it wasn't until that
16 time that all kids had to go to school. If you were
17 younger than school age in '61, generally folks do
18 speak English.

19 For people my age and up to 50 years old,
20 it is about 50/50. Virtually anyone over 50
21 basically does not have English as a language, not

1 even a second language.

2 The other difficulty is that most of the
3 languages in Alaska, with the exception of Nupack
4 which is the north slope, do not have any written
5 languages. So we hire -- first of all what we do is
6 we hire support staff that are bilingual. That
7 solves most of our problem. But we rely heavily on
8 interpreters, particularly for our older clients.

9 MR. SMEGAL: Is that a significant part of
10 your budget?

11 MR. HICKERSON: Certainly every office has
12 an interpreter line item and it is something that we
13 would have to allocate for. It is significant.
14 Generally, sometimes you can use a grandchild or
15 whatever to interpret certainly for in-office
16 interviews and that sort of thing.

17 If you are going to put anything on the
18 record in the sense of a hearing, you need somebody
19 who is a qualified interpreter and somebody who is
20 recognized by the agency or the court or whatever,
21 as somebody who will legitimately and veraciously

1 testify. We have to pay about \$20 to \$30 an hour
2 for that service. That is the going rate.

3 MR. SMEGAL: One of the things we heard
4 was the fact that with Indian tribes in the west is
5 that the courts are a long way from where the
6 reservations are. Do you have the same type of
7 problem? Are the courts pretty much spread out?

8 MR. HICKERSON: We serve 225 villages in
9 Alaska. Each group of villages has a regional
10 center. So our 11 offices tend to be located in
11 those regional centers. Those centers tend to be
12 where rivers meet the ocean, basically. The
13 villages tend to be scattered along those river
14 systems. As you might suspect, a lot of people in
15 Alaska still do not participate in the cash economy.
16 All of their livelihood comes from fishing and
17 hunting and naturally their settlements tend to be
18 where the fishing and hunting is good. But the
19 courts tend to be in the regional centers for, I
20 guess, you know for somebody to come to court they
21 either have to fly or take a boat to come to the

1 court.

2 Alaska is a little I guess, ahead -- it is
3 kind of odd, it is sort of a strange mix of the 19th
4 century and 21st century. We don't tend to have the
5 things that most of us see in cities and towns like
6 streets and sewers and lights and water systems and
7 that sort of thing. But what we do tend to have is
8 21st century communication technology. So the court
9 system relies heavily on telephone hearings,
10 telephonic hearings, there tends to be satellite
11 television available in places that don't have
12 sewers.

13 You see some pretty ironic things. But we
14 do have to spend a fair amount of our -- most of our
15 money in our travel budget goes to getting our
16 lawyers up and down the rivers, and on planes into
17 the villages and that sort of thing. We spend a
18 fair amount of it getting people to court. But by
19 and large, we either rely on them to get themselves
20 to court, and they do tend to come to the regional
21 centers periodically. The court system is sort of

1 geared to that lifestyle as well, because those are
2 the folks out there. They don't tend to have other
3 business.

4 CHAIRMAN MENDEZ: Any further questions?

5 MR. SMEGAL: I still have one. There
6 isn't a companion system like the Indians may have,
7 a tribal system. You talk about villages, do they
8 have an internal system of justice?

9 MR. HICKERSON: That relates back to the
10 issue of whether we have tribes in Alaska.
11 Certainly for some purposes, tribes are recognized.
12 For Indian child welfare cases the tribes have the
13 absolute right either to intervene in those cases or
14 in some cases to ask for transfer to their tribal
15 courts. There is one real reservation in Alaska at
16 Metlacato down in Southeast, in that island, and
17 there are a couple of old reservations in tiny
18 villages. Those villages have been recognized as
19 having the power to have tribal courts. Most of the
20 other villages are organized as IRA's and in your
21 constitution have the power to create tribal courts.

1 Most of them have not at this point done that. That
2 is one of the issues right now is should they, in
3 fact, develop a duo-system. There certainly is
4 among our clients a varying -- there is a varying
5 debate on that issue, actually. Some people are
6 very strident about wanting tribal courts. Some are
7 saying, you know, we have this other court system
8 here, let's put our resources somewhere else besides
9 becoming judges and lawyers.

10 MR. SMEGAL: Thank you, I appreciate your
11 very informative answers.

12 CHAIRMAN MENDEZ: We appreciate your time
13 and courtesy.

14 MR. HICKERSON: I thank you for your
15 courtesy and to the extent that it is imminent,
16 congratulations on your confirmation.

17 CHAIRMAN MENDEZ: Thank you very much.
18 Let's get back in and look at the minutes from last
19 meeting. Are there any amendments to the minutes?
20 I have something similar to Mr. Wallace's statements
21 this morning. On page 2 it states that Mr. Uddo

1 seconded the motion. Since he is not a member of
2 the committee, I know it wasn't Mr. Uddo. That
3 needs to be corrected. Does anyone recall --

4 MR. WALLACE: Mr. Smegal ruled it was in
5 effect.

6 MR. SMEGAL: I certainly didn't second
7 that motion. (Laughter)

8 CHAIRMAN MENDEZ: Again, Mr. Smegal,
9 because you have less hair than --

10 MR. SMEGAL: I do lose that one. (Laughter)

11 CHAIRMAN MENDEZ: I have reviewed the rest
12 of those minutes. I don't have any further
13 amendments. Does anyone else? Do I hear a motion
14 to approve?

15 MR. WALLACE: So moved.

16 MS. BENAVIDEZ: I second.

17 CHAIRMAN MENDEZ: Let the record reflect
18 that Hortencia seconded and Mike made the motion.
19 Are there any additions or corrections? None
20 appearing, all in favor of the minutes signify by
21 saying aye.

1 (Chorus of ayes.)

2 CHAIRMAN MENDEZ: Opposed?

3 (No response.)

4 CHAIRMAN MENDEZ: We are now back to the
5 agenda. We are on the agenda. The next item to be
6 taken up is reorganization of the office of field
7 services. We should clarify the record at this time.
8 Mr. Valois has joined, Mr. Wallace has joined us,
9 Ms. Bernstein has joined and so has Mrs. Swafford.

10 Now, this is a difficult area and as
11 chairman I always like to buck duties to other
12 individuals. I would move at this time that we
13 forward the consideration of the reorganization of
14 the office of field services to the board as a whole
15 for discussion tomorrow rather than take it under
16 discussion at this time, and focus our attention
17 really on the allocation of 1984 carryover funds.

18 In making my motion, I would state to the
19 board that I would anticipate that we would have
20 complete and thorough discussion of the
21 reorganization of office of field services. Do I

1 hear a second to that motion?

2 MR. SMEGAL: Well, Mr. Mendez, I would
3 like to inquire whether there is anyone here that is
4 particularly here today just for this purpose and
5 won't be here tomorrow and couldn't make the
6 presentation.

7 CHAIRMAN MENDEZ: That is what I was going
8 to do if I had a second?

9 MR. SMEGAL: In that case I second.

10 CHAIRMAN MENDEZ: Is there anyone here
11 that wishes to make any comment about this today?
12 Will you wait until tomorrow?

13 MR. BRAUDE: My name is Jim Braude,
14 B R A U D E. I have no great objection to the whole
15 board discussing the issue, except for the fact that
16 I would think as a general notion, that if a
17 committee were to pass on an issue to the full board,
18 that the difficulty of the issue absolutely is an
19 appropriate --

20 CHAIRMAN MENDEZ: I am sorry?

21 MR. BRAUDE: If the committee is to pass

1 on action and move the issue to the full board, my
2 assumption would be that one of the things at least
3 the committee would try to clear up is some factual
4 confusion, discrepancy in data, et cetera, et cetera.
5 My sense is that if there is an issue, there may be
6 disagreement on the substance on many issues before
7 your committee. If there is one issue where there
8 is probably the greatest lack of clarity, as to what
9 even the basic facts and information are that people
10 are discussing, it is probably this one. I will be
11 brief.

12 As you are aware the last time we were
13 here Mr. Gearan from the New York regional office,
14 Ms. Stainbrook from the Northern Virginia/Washington
15 regional office and myself spoke to and with your
16 committee about the reorganization point. When we
17 concluded, there was agreement that there should be
18 a meeting between representatives of the regional
19 offices and myself at that point with Mr.
20 Broccoletti, Mr. Meyer and Mr. Brooks.

21 In fact, immediately upon the conclusion

1 of that discussion Miss Stainbrook and I met with
2 those three people and they were terrifically
3 forthcoming. We had great hopes for moving this
4 process.

5 As I am sure at least you are aware, the
6 day before that meeting was to happen, Miss
7 Stainbrook was notified I believe by Mr. Brooks, I
8 may be wrong, I believe by Mr. Brooks in person,
9 that there would be no meeting on advice of counsel,
10 and the data which I believe you had said would be
11 forthcoming or should be provided to us would not
12 and could not be given to us. I should say I was
13 notified by no one, except Ms. Stainbrook whose
14 responsibility it is not, that the meeting was not
15 occurring that next day. Mr. Brooks didn't call me,
16 nor did anybody from the corporation staff or board
17 let me know that the meeting to which I was invited
18 was canceled.

19 Yesterday, I received a Federal Express
20 letter from you, Mr. Mendez, explaining, and I am
21 going to paraphrase, I am sure you might want to

1 correct me, that there had been some
2 misunderstanding about this meeting, that there was
3 a concern that the union so to speak was viewing
4 this as a negotiating session and you advised us
5 that the board's position was that we are not the
6 collective bargaining agent for the employees of
7 Legal Services Corporation, et cetera, et cetera.

8 We thoroughly and completely agree with
9 the fact that we are not the NLRB certified
10 collective bargaining agent for the employees of
11 Legal Services Corporation. We knew that a couple
12 weeks ago or a month ago whenever it was that we set
13 up this meeting. I should say for the record there
14 was never any intention, and I am glad to state it
15 affirmatively here again, that this be some back
16 door attempt to get the fact of recognition of a
17 union which should not have been recognized
18 voluntarily by you all nor had been certified by the
19 NLRB.

20 The reason why I am terribly upset about
21 this is two-fold. One, had either you or someone on

1 your committee or someone from the staff called me
2 or anybody involved in this and said there was a
3 concern on the labor management front about this, I
4 believe that I could have given you a totally
5 satisfactory answer then, as I will now, if you are
6 interested, which would have allowed these meetings
7 to take place.

8 I think the fact that to this day, other
9 than from what I understand a few regional directors
10 having submitted written comments on the plan, the
11 fact that to this day you have not availed yourself
12 of the expertise and experience of the vast numbers
13 of people who have been doing this work for years in
14 the regional offices, so that what I call a mutually
15 acceptable resolution be reached, or frankly even if
16 it isn't mutually acceptable a more informed
17 resolution be reached, is a mistake.

18 I can say to you in total candor that of
19 all of the issues that I am involved in, in any
20 capacity before you, the one on which I will say in
21 total good faith there is absolutely the most

1 confusing set of data, the most unjustified and
2 unupportable conclusions reached, is this one.
3 That really is not meant as a criticism of anybody
4 except as a statement of reality. My sense is your
5 committee really would benefit deeply by some honest
6 good faith discussions.

7 One might say, Mr. Mendez, this is a forum
8 and one can say whatever they want here. I think
9 you know as an attorney, I am sure all of your
10 colleagues, attorneys or not, know that the reality
11 of person to person discussions when one can be
12 totally candid and not have to worry about what is
13 going on with the little printer, is dramatically
14 different from making public presentations.

15 Mr. Wallace and his committee have availed
16 themselves of endless hours, I am sure drudgery,
17 with a lot of people in the regulation process. I
18 am one, grossly upset that we were treated in this
19 way; but putting aside the treatment question, I
20 think that it is just a large mistake to not use
21 this opportunity.

1 The last thing I will say on this, the
2 only reason I am saying this today, Mr. Mendez, my
3 apologies, rather than saying it tomorrow, is based
4 on the information that is before you all, based on
5 what I believe to be the honest good faith
6 differences and good faith disputes about the
7 underlying data, I don't have any idea how the board
8 tomorrow, if the committee can't make a decision at
9 the moment, I don't have any idea how the full board
10 can possibly make an intelligent decision. The
11 numbers change from meeting to meeting.

12 The numbers, if you want me to go into
13 them, just are not consistent. You talk about
14 centralization. One more point, you talk about
15 centralization, we believe is for cost effectiveness,
16 we believe is some part of this plan. At the same
17 time that we are advised the new research institute
18 is either going to go to Florida or California.

19 Nothing makes sense to me and I am not
20 alone, but we are absolutely willing to sit down not
21 negotiating, not as union with management, but as

1 regional office staff and concerned people from the
2 legal services community to have this discussion.

3 As I said to your counsel before, I am
4 willing to say here, on the little machine, that we
5 have absolutely no intention nor did we have any
6 intention to use those meetings as a back door
7 attempt to get some legal rights that we currently
8 don't have.

9 If that is the obstacle to these meetings
10 going forward, there is practically nothing that you
11 can ask me to do to assure you of that fact here,
12 that I wouldn't do right now.

13 CHAIRMAN MENDEZ: Let me advise you that I
14 am not a labor lawyer. I have absolutely no idea
15 about any of those ramifications.

16 MR. BRAUDE: We have one over there I am
17 told is a pretty good one.

18 CHAIRMAN MENDEZ: He is a board member.
19 In this case, he is -- he wasn't here last time. If
20 he had been here, we probably wouldn't have had the
21 problems that we have now. I, as a result, because

1 of my background and my experience, I asked -- I
2 didn't even think about the potential ramifications.
3 I assume that you were acting in good faith, I
4 didn't believe that that was the case.

5 We have had our legal counsel who are
6 experts in this area give us advice. Mr. Bagenstos,
7 I ask you to come forward and advise us what their
8 most recent statement and opinion is.

9 MR. BAGENSTOS: They have advised that
10 they would suggest that the board nor any members of
11 the corporation not meet with Mr. Braude, as
12 representative of the union, but that if you desire,
13 they would see no objection to meeting with members,
14 employees of the staff, of the corporation.

15 CHAIRMAN MENDEZ: Thank you.

16 MR. BRAUDE: Can I make one quick comment
17 on that? First of all I disagree with, I assume Mr.
18 Cox, I assume with your counsel's analysis. Just as
19 when the Washington Legal Foundation comes and
20 speaks at these meetings the first sentence is I
21 come here as a tax payer. I am willing to come here

1 as a tax payer and as an interested member of the
2 legal services community.

3 But to be perfectly frank, I believe I
4 have some expertise here. If because of legal
5 whatever you don't want to use it, except here, that
6 is perfectly fine. Meet with the staff. Do
7 something that clarifies this confusion. I urge you,
8 Mr. Mendez and your colleagues, not to leave this
9 open so we all go home tonight wondering whether or
10 not tomorrow the final decision is going to be made
11 when I believe we can help you with this process.

12 You are free, as I have said to some of
13 your colleagues, at the end of our assistance, to
14 totally reject absolutely everything we say and make
15 a decision. But I really don't believe that the
16 full board or your committee is able right now,
17 based on the data your staff has given, to make an
18 informed decision.

19 CHAIRMAN MENDEZ: The buck doesn't stop
20 here. The buck stops with Mr. Durant. I have asked
21 Mr. Durant to handle this issue, and I believe that

1 there will be complete and thorough discussion
2 tomorrow. What we do today, if we vote it up or
3 vote it down, will be revisited tomorrow anyway.
4 This is a particular issue that I wish the board to
5 take on itself.

6 MR. BRAUDE: Could someone explain to me,
7 assuming that the meeting raised legal problems,
8 could Mr. Bagenstos or anybody advise me and us what
9 it is that was the legal obstacle to data being
10 given to us or anybody who asked for it?

11 CHAIRMAN MENDEZ: Mr. Bagenstos, do you
12 know the answer to that?

13 MR. BAGENSTOS: I only know that it was
14 the advice of our counsel that that not be carried
15 out.

16 CHAIRMAN MENDEZ: Mr. Bagenstos, I will
17 ask you before tomorrow, to check with counsel and
18 find out, get a little bit clearer definition.

19 MR. EAGLIN: I would like to ask Mr.
20 Bagenstos a question also. As I understood what he
21 just said, he was suggesting that board members not

1 talk to Mr. Braude. Now when I see him around in
2 the hallway, if I got something that is on my mind
3 that I would like to ask him, I have done it.
4 Unless I hear some very strong counsel right now, or
5 advice from Mr. Bagenstos, I would like to
6 understand why I should not continue to speak to Mr.
7 Braude?

8 CHAIRMAN MENDEZ: I agree with you. I
9 want to know why he is telling us not to. I have
10 never been involved in union negotiations. I am
11 just a small town lawyer.

12 MR. WALLACE: I have been pulling that
13 line for years.

14 CHAIRMAN MENDEZ: I have no idea. Please,
15 you are a Washington lawyer, tell us.

16 MR. BAGENSTOS: I spoke with Mr. Cox and
17 who is also a Washington lawyer who said he has no
18 objection to that, you speaking to anyone in a
19 private capacity.

20 MR. VALOIS: Mr. Cox probably has not had
21 the advantage of hearing what Mr. Braude said today

1 which is he disclaims any attempt to appear as a
2 representative, certified, uncertified or otherwise
3 of his union. He has now said that he wants to
4 speak as a private citizen, a member of the public
5 and as a tax payer, to members of our staff. Now,
6 Mr. Cox apparently does not know that position.
7 Because I heard what he read as Mr. Cox's opinion it
8 was that he thought it unwise for staff to meet with
9 Mr. Braude as representative of our employees,
10 because indeed he is not. I think we now have a
11 different situation in view of Mr. Braude's
12 disclaimer?

13 MR. BRAUDE: On this issue, and -- I am
14 absolutely coming to these board meetings absolutely
15 and without any doubt speaking from my position as
16 president of the National Organization of Legal
17 Services Workers. I absolutely will say
18 affirmatively what I said, rather than use the words
19 you suggested, Mr. Valois.

20 We are making no contention that I am
21 speaking as the legal collective bargaining agent in

1 any fashion for the employees of Legal Services
2 Corporation. I may, if I take positions on the
3 issues that effect not only Legal Services but some
4 of the employees of Legal Services Corporation, they
5 are as a matter of fact I hope generally
6 representative of the people of that, but there is
7 no attempt nor will there be an attempt until
8 something happens to change it that that be in a
9 legal context.

10 MR. VALOIS: Let me ask you two questions.
11 Who do you want to meet with and how long will it
12 take?

13 MR. BRAUDE: We started last week with Mr.
14 Meyer and Mr. Broccoletti and Mr. Brooks. As the
15 three of us, Ms. Stainbrook and I discussed with
16 them, we felt to have those meetings be successful
17 it would be helpful if we had some underlying data
18 so we can participate honestly, not just argue with
19 each other.

20 They suggested to us and admittedly I am
21 not blaming them, and admittedly on direction at

1 that point from the board, that they would provide
2 the data. So if the data was provided in response
3 to questions that we have, I assume that we could
4 probably move this relatively rapidly. Without the
5 data, looking down the computer printout on these
6 financial figures that supposedly support this
7 consolidation, I have absolutely no idea what some
8 of the numbers mean. I have no idea from having
9 read all of this stuff why the numbers decrease.

10 So the answer to your question, Mr. Valois,
11 is I believe it would be speedy, very speedy if it
12 turned out we were provided basic information. My
13 concern frankly here is I don't have any problem
14 with this being passed on by the full board. I
15 don't want to be in a position, as a matter of fair
16 treatment for everybody concerned with this issue,
17 for people to go home tonight not having an idea
18 whether or not the issue is just going to be passed
19 tomorrow for the committee to meet or tomorrow Mr.
20 Durant is going to instruct the staff to meet. I
21 don't understand why that piece can't be told to us

1 now. This is a matter of fairness, but obviously I
2 can't say in advance without seeing things how long.
3 The attempt is not to draw this out ad nauseam.

4 We said at the last meeting, I believe in
5 answer to a similar question from Mr. Mendez, we
6 believe we could either come back saying we had an
7 agreement or come back saying we had no agreement
8 but understood our positions by the next meeting.
9 That was only three or four weeks away. My
10 assumption is we could make the same commitment if
11 there was an open process that we talked about, by
12 Detroit we would know we can't come to any agreement
13 or we would have. Obviously the board makes the
14 final decision, not the staff and us.

15 CHAIRMAN MENDEZ: We will have to have a
16 slight consultation.

17 MR BRAUDE: I know a little bit about
18 labor law, if you want me to consult, I will be
19 happy to help you.

20 (Discussion off the record)

21 CHAIRMAN MENDEZ: Do I hear a motion to

1 table this answer for about an hour or so to consult
2 with legal counsel?

3 MR. WALLACE: So moved.

4 MS. BERNSTEIN: Second.

5 CHAIRMAN MENDEZ: All in favor.

6 (Chorus of ayes)

7 CHAIRMAN MENDEZ: Hearing none opposed, it
8 passes. We will check and once we find out --

9 Next on the list is allocation of fiscal
10 1984 carryover funds. Are there any -- we have
11 taken comments last meeting on this. Are there any
12 further comments from the field? Please?

13 MR. OGLE: Is it all right to talk on the
14 reorganization thing?

15 CHAIRMAN MENDEZ: No, it has been tabled.
16 The issue is now 1984 carryover.

17 MR. OGLE: I thought you were going to
18 reopen that for people who wouldn't be here tomorrow?

19 CHAIRMAN MENDEZ: You are not going to be
20 here tomorrow?

21 MR. OGLE: I can't be here tomorrow.

1 CHAIRMAN MENDEZ: Okay. We will take you
2 now.

3 MR. OGLE: My name is Milton Ogle, I
4 direct the legal services program in West Virginia.
5 I have been there 15 years. As I look around the
6 room I feel like I could probably lay claim to being
7 the oldest person here without anybody trying to
8 contradict me. That is not worth a heck of a lot
9 but it may be worth something.

10 On the reorganization thing, I think the
11 committee has been provided with comments from Mario
12 McDermott and Mr. Simmons from Seattle. I think
13 that they have expressed basically the sympathies
14 that we have in West Virginia.

15 But during the period of changes in the
16 corporation structure, the regulations, the
17 reorganizing of our boards, the vehicles for
18 compliance with the regulations, we have had a very
19 good experience with the regional office and found
20 them to be very effective. I think the reason why
21 this is is that it has been -- region four is the

1 region that serves West Virginia. It has been a
2 stable region.

3 In the reorganization proposal, I think I
4 notice several times that it was pointing out the
5 limited number of staff in regional offices, and it
6 said things like seven of the 14 are in region four.
7 The stability of that office has enabled them to do
8 an effective job of enforcement which is one of
9 their responsibilities, of looking at our programs,
10 of monitoring parts, because they can come in and
11 they have a background of knowledge against which to
12 judge us and to determine whether or not we are
13 living up to the new requirements that are coming
14 down, and what kind of good faith effort we are
15 making.

16 Now I wouldn't suggest that there should
17 be no changes in the regional office structure. But
18 I think that to have effective and useful contact
19 with field programs, you don't want superficial
20 contact it would seem to me. To have that useful
21 contact you need to have stable offices and you need

1 to have experienced people. I think that the way to
2 get that is through regional offices that do get to
3 know the programs, that get to know some of the
4 individuals in the programs and know what their
5 style of operating is so that they can really
6 determine how effective their delivery systems are
7 and how efficient they are and really what their
8 program is all about. I do appreciate your letting
9 me go ahead. I guess I misunderstood your earlier
10 statement.

11 CHAIRMAN MENDEZ: Okay. Does anyone have
12 any questions for Mr. Ogle? None apparent, thank
13 you. Let me just touch, is there anybody else who
14 has any comments about the reorganization of the
15 office before we take the next item. Terry, I will
16 ask you to make comments on both, then to the
17 reorganization from the field offices first then do
18 the other ones.

19 MR. SMEGAL: I am looking at some of the
20 material in our board book, I notice the upper
21 peninsula of Michigan is not in any territory. Is

1 that intentional or is that a mistake?

2 MR. EAGLIN: It is in Northern Virginia
3 region.

4 MR. SMEGAL: That is not four? Okay.

5 MR. ROCHE: My name is Terry Roche. I am
6 not going to go through quite elaborate claimer as I
7 heard, but I would like to draw your attention to
8 some stuff on the regional office proposal as one
9 country lawyer to another. (Laughter)

10 I have not really studied this one in the
11 detail that I sometimes study issues, but, I started
12 looking at some numbers, and I don't have the
13 answers. But I do have the questions and I think
14 they are questions that you all ought to be
15 interested in. They come out of primarily page 43
16 of the orange board book, which is an exhibit
17 comparing some budgets which quite frankly, I don't
18 entirely understand because, as Jim said, not a
19 whole lot of information is put in a way that you
20 can compare apples and apples oranges and oranges.

21 MR. EAGLIN: In our book it is the next to

1 the last page.

2 MR. ROCHE: I am referring to the exhibit.

3 MR. EAGLIN: The inside last page of our
4 section. The number 41 appears on my page.

5 MR. ROCHE: In this book it is at least
6 right after the map showing the four regions and the
7 headquarters region. It is just simply entitled
8 "exhibit", proposal for a regional office or
9 organization. Four columns, the first one expense
10 group, the second one current budget, the third one
11 proposed budget and the last one increase/decrease.

12 CHAIRMAN MENDEZ: I think we are on the
13 same page.

14 MR. SMEGAL: The numbers are -- we don't
15 use even numbers in this particular set.

16 MR. ROCHE: There may be some fairly
17 simple answers but I couldn't figure them out as I
18 was looking at this. Part of the problem -- first
19 of all, let me tell you what my understanding of the
20 proposal is, and my understanding may be incorrect.
21 That is that the objective is to get more thorough

1 and frequent monitoring of legal services programs
2 than is going on now for total cheaper than at least
3 what it would cost to operate the regional offices
4 at their fully staffed levels. I think that is what
5 is going on here.

6 Consequently, I think that the figures
7 under current budget reflect what the budget is this
8 year for regional office and the monitoring
9 evaluation unit of the office of Legal Services.
10 Now it is a little hard to figure out how many
11 people they are talking about because you have to
12 read back very carefully through the text.

13 But the way I figure it, is that what is
14 authorized right now as we sit here, is nine staff
15 in the monitoring and evaluation unit, 59 staff in
16 the regional offices. The slots filled at the time
17 this memo was written were five in the monitoring
18 and evaluation unit and 32.5 in the regional offices.
19 What is proposed and what I think the proposed
20 budget line of this table refers to, is a
21 configuration that would have 19 people in the

1 monitoring and evaluation unit, and 29 in the
2 regional offices.

3 That is a total under the proposal of 48
4 permanent staff, what is authorized right now is 68
5 permanent staff. I assume that the current budget
6 figures refer to that 68 number, they may not.

7 In any event, as between the two lines,
8 current budget and proposed budget, you are
9 reflecting a permanent staff decrease of 29.4
10 percent. Between an employee, personnel
11 compensation and employee benefits you are looking
12 at a 1.3 increase in cost for those 29.4 percent
13 fewer permanent staff. Obviously there is some
14 shifting going on here around consultants and
15 temporary personnel, because there is a fairly
16 dramatic decrease in those lines -- in that line.
17 Apparently the same in monitoring consultants and
18 travel expenses.

19 So to try to figure out where the apples
20 and the oranges are all totaling out, if you add the
21 second line, temporary personnel et cetera to the

1 first and compare that, what you get is a 15 percent
2 decrease. If you also add the third line to the
3 second and the first and compare those you get a 14.7 per
4 increase.

5 What seems to be happening is that though
6 you have fewer people in some sense, somehow, who
7 are going to do more monitoring, you are paying more
8 for it per person in the proposal because you are
9 not getting as much of a decrease in those line
10 items as you are in the personnel that are coming
11 out.

12 To make matters even more confusing, if
13 you have got fewer personnel, stationed more distant
14 from the field programs that they are monitoring,
15 why is it that other travel and transportation costs
16 decrease by 51.5 percent. It doesn't make a whole
17 lot of sense. It is a lot cheaper to go from Boston
18 to New Hampshire than Washington to New Hampshire
19 unless of course you are using People's Express.

20 Similarly, communications costs, it seems
21 to me you are going to have to have more phone calls,

1 if that is part of that line. Yet it decreases by
2 32.9 percent. I don't know what the other operating
3 cost figures reflect, they obviously go down
4 dramatically. But the picture which this table
5 presents to me, and I would think logically would
6 present to anybody who is as unsophisticated in
7 looking at these things than I am, is that you have
8 fewer people at a higher cost to do more monitoring
9 with less phone calls and less travel. That, folks,
10 doesn't make a great deal of sense to me.

11 Consequently, before you adopt this
12 proposal, I would think you would want to ask about
13 that and get, perhaps, some more detailed data, and
14 probably the same kinds of things that Jim Braude
15 has been asking about.

16 That is my comment simply, actually more
17 question than comment on the regional office
18 structure. That is a personal comment, by the way.
19 I do not have an FCC position, a PAG position, even
20 a personal one on the merits of where to go with the
21 regional office question. It is simply that the

1 numbers don't add up and if numbers are a major part
2 of the justification, you ought to look closely at
3 them.

4 CHAIRMAN MENDEZ: Does anybody have any
5 questions of him on the comment?

6 MR. SMEGAL: You stopped at item five on
7 that sheet on page 43. What about item 6? Is there
8 something in our materials that would indicate we
9 can get out of these leases at these various
10 regional offices?

11 MR. ROCHE: I didn't say that. It is
12 consistent with the theory of the thing. If you
13 have fewer regional offices, you will have lower
14 rental costs.

15 MR. SMEGAL: Assuming you can get rid of
16 leases.

17 MR. ROCHE: It is the real simple country
18 lawyer approach to this one. I have two bad habits,
19 smoking and using a calculator and I did both coming
20 up on the plane this morning.

21 MR. SMEGAL: What about Item 8?

1 MR. ROCHE: I don't know what is in there.
2 I don't know what is in there. My own sense, a lot
3 of our miscellaneous and other costs in our own
4 budgets are heavily tied to the number of personnel
5 we have got. I would expect some decrease if you
6 decrease personnel but I don't know why that large
7 of a decrease.

8 I guess my bottom line is to suggest to
9 you that trying to hash all of that through in the
10 full board meeting tomorrow and convince yourself
11 that you really are getting what you think you are
12 paying for is maybe not the best idea, like some of
13 the used car ads on our late night television.

14 CHAIRMAN MENDEZ: Any further questions on
15 this issue?

16 MR. UDDO: I would like to answer some of
17 the questions. I don't know if you want to wait and
18 do that at the board meeting.

19 CHAIRMAN MENDEZ: I want to wait and see
20 what Mr. Valois and Mr. Durant come up with before
21 we address those issues.

1 MR. SMEGAL: Are the answers to some of
2 the questions that we asked, is it in the material
3 that we have in front of me. I am sorry, Peter?

4 MR. BROCCOLETTI: No. Not all of it is in
5 there.

6 MR. SMEGAL: Is it the kind of thing that
7 can be pulled together by tomorrow?

8 MR. BROCCOLETTI: It is pretty simple to
9 explain. David and --

10 MR. SMEGAL: David said no, he is shaking
11 his head know.

12 MR. EAGLIN: It is not simple to explain.

13 CHAIRMAN MENDEZ: Before we interact with
14 this, I want to see what counsel says.

15 MR. UDDO: It wouldn't hurt for Mr. Braude --

16 MR. BROCCOLETTI: The answers are pretty
17 simple.

18 MR. UDDO: We will want it either today or
19 tomorrow.

20 CHAIRMAN MENDEZ: I invite your attention
21 to the next issue. I enjoyed your letter, by the

1 way.

2 MR. ROCHE: Thank you. The purpose of my
3 getting up at all is just simply to check to see if
4 you all got it?

5 MR. WALLACE: I have not been in Jackson
6 in two weeks. It is probably there. So I look
7 forward to being educated on it.

8 MR. ROCHE: I apologize for 14 pages and
9 four tables.

10 MR. WALLACE: Oh, I have not seen this.

11 MR. ROCHE: The overall thrust of it, much
12 of it is what I said at the last meeting, but the
13 overall thrust of it is that everything which staff
14 has presented to you other than a few requests for
15 equipment purchase which I suggest come out of the
16 Marie Antoinette School of Management, can be done
17 without using a penny of carryover. It is quite
18 easily done.

19 Probably the rejoinder would be, well, we
20 shouldn't make commitments this year which would
21 carry over to next year without setting aside the

1 money to do it. Yet, historically we have been
2 doing that in Legal Services and particularly in
3 field programs for years whenever we get into a
4 lease or any kind of a contract. We must put
5 disclaimers in there that would get us out of the
6 contract in the event of defunding. But that is
7 really the same issue for management as it is for
8 field programs.

9 Similarly, the fund balance regulation
10 under which field programs operate limit fairly
11 strictly the amount of money that can be set aside
12 as a fund balance for work in progress. I guess
13 really all I said in this 14 pages was that you
14 ought to look at management suggestions for
15 management grant administration and program
16 development suggestion for use of money the same way
17 Legal Services corporation policy looks at the way
18 field programs spend their money. You simply ought
19 to conserve the present for present needs, pay in
20 the future for those things which happen in the
21 future.

1 If you take that approach, then you need
2 not spend a penny of any of your 5.4 million dollar
3 fund balance for program development projects for
4 management and grants administration. You still can
5 get done all of the things those folks want to get
6 done.

7 The tables that I have provided you
8 attached to the memorandum show you how you do it.
9 So you don't give up anything. You simply free up
10 fund balance. You free up fund balance to be used
11 for direct services to clients. I think that is
12 pretty important. I think you agree it is pretty
13 important. Many of you have said that is your first
14 priority when you have made various statements
15 publicly and to the Congress.

16 Finally, I would have to tell you that the
17 projections that I made about fund balance out of
18 current year appropriation for management grants
19 administration were conservative. About, as I
20 recall, something like twelve percent variance, a
21 lot lower than happened last year.

1 Looking back through past budgets to all
2 of the way to 1983, I note the Legal Services
3 Corporation has never spent as much as \$10 million
4 on management and grants administration. It may
5 have done so in a year earlier than that, but I kind
6 of doubt it.

7 You're working on right now, in my outside
8 estimate, pretty close to 2.5 million dollar
9 carryover just in that area. The big part will come
10 out of the regional offices. In the table which I
11 gave you, I predicted an 18 percent variance at the
12 end of the year which would generate \$612,000 just
13 by itself. Yet the information which staff has
14 given you in the context of the regional office
15 reorganization says that, at the time that
16 memorandum was written, the vacancy rate in regional
17 offices was 45 percent. 45 percent positions
18 unfilled. That is into the third quarter of -- you
19 are working in the third quarter of your fiscal year.
20 If that continues, 45 percent on the 3.4 million in
21 regional offices is going to generate something

1 about 1.5 million, not \$615,000. They don't need
2 that extra 1.7 million in management grants
3 administration because they are not going to spend
4 everything that is allocated to them out of the '85
5 appropriation.

6 I will make Chairman Mendez the same bet I
7 understand a couple of board members have on the
8 ultimate budget mark, whether it is a steak dinner
9 someplace or not. If the management and grants
10 administration spends \$10 million this year, we will
11 go to whatever the best place in Denver is the next
12 time I visit there. Last time I was there was five
13 years ago.

14 MR. WALLACE: Who has a bet on the budget
15 mark? I am not in on that.

16 MR. ROCHE: That is a very quick summary.

17 CHAIRMAN MENDEZ: I don't know how you
18 found out about this bet on the budget mark.

19 MR. ROCHE: In public affairs everything
20 ultimately becomes public.

21 CHAIRMAN MENDEZ: I didn't know food was a

1 public affair.

2 MS. SWAFFORD: I have a question to ask.
3 It has to do with your comment about at least 45
4 percent, did I understand you to say, of the
5 positions are not filled?

6 MR. ROCHE: This is one of the interesting
7 kinds of questions in this whole monitoring piece.
8 The way I read that presentation that is in your
9 book, about what is budgeted for regional offices,
10 what is billed, what is going on. I read, and I
11 have to look back in a minute to get the page
12 references, that in this year's current budget, 59
13 regional office slots are authorized. That at the
14 time the memorandum was written, and I imagine that
15 was April, I think, 312.5 were filled. My
16 calculation is that that is a 45 percent vacancy
17 rate well into the third quarter of the year. That
18 means that in that budget line, that portion of your
19 budget, you are going to have probably a very
20 substantial unused portion of money unless it is
21 shifted someplace.

1 One of the things that I don't entirely
2 understand, to be candid with you, an I don't know
3 what is happening on my back there, but my program
4 requires, my board requires me to provide them
5 monthly cost figures, expended, unexpended and
6 variances. We do it without a computer.

7 Obviously management grants administration
8 is a much larger organization than my own local
9 program but they have computers as I understand it.
10 You all could keep a whole lot closer track of this
11 stuff if you knew what was going on month to month.
12 I don't see why it is not possible to give you that
13 data fairly quickly, say the 15th or the 20th day of
14 the following month. I think that would assist you
15 a lot.

16 What I am saying is that I think you are
17 looking at -- the history has been there. One of
18 the major points in the paper is that of the 5.4
19 million carryover you are addressing this year, 4.7
20 of it is directly traceable to exactly the same
21 lines out of 1983. That, what you are being

1 proposed by the staff now is that over four million
2 of that go into those same lines this year. Now
3 that doesn't make a great deal of sense. I don't
4 see more people out there doing more things. In
5 other words, I don't think the leopard has changed
6 any spots in two years.

7 Just the other day, for example, on some
8 of these IOLTA grants and the South Carolina private
9 bar project, I saw the Federal Register
10 advertisement, 30 day advertisement they were going
11 to have it.

12 Folks, this is late in the third quarter
13 of your fiscal year. Those things may be going out
14 by grant, I think they are, I don't know why they
15 are not going out by contract but they may be going
16 out by grant so they will get expensed, or at least
17 obligated, they won't necessarily get all expensed.
18 You are building the fund balance. You have been
19 doing it for two or three years. It won't be as bad
20 as it looked like off the projections of your first
21 quarter COB, that is why I gave you that table

1 comparing last year, your first quarter and making a
2 fairly educated guesstimate of what the year end
3 variance is going to be. But that is where you are.

4 The thrust of the memorandum, the thrust
5 of the tables is to point out to you that you don't
6 need to spend a dime of 1984 carryover on anything
7 except direct service to clients, through field
8 programs. To close, I would note, I meant to bring
9 with me the Charlotte Observer this morning. I
10 understand the same article was in the Washington
11 Post, front page said that more children are in
12 poverty now than at any time in the last 20 years.
13 That over 20 percent of the children in the United
14 States are in poverty. We can get that money out.
15 We can get services from field programs, more
16 experimentation, more management is not necessary to
17 get services to poor children whose numbers are
18 increasing daily. That is what I have to share with
19 you.

20 CHAIRMAN MENDEZ: Terry, I have got a
21 couple of questions. Does anyone else?

1 MR. WALLACE: Go ahead.

2 MR. SMEGAL: Did you get the answer to
3 your question?

4 MS. SWAFFORD: I am not sure.

5 MR. SMEGAL: He is saying there are 59
6 slots allocated and only 32 filled in the third
7 quarter and therefore, by time you divided it you
8 leave 45 percent vacant. Terry is assuming either
9 those 27 have been vacant all along or that you
10 could go either way from that, less have been vacant
11 or more have been vacant. But at the end of the six
12 months, 27 out of 59 slots were vacant, 45 percent
13 of the spots were vacant.

14 MR. ROCHE: That is what the staff's data
15 says. Tom is right in saying they were probably not
16 vacant all of the time. I will grant you some of
17 them are going to get filled, maybe, given the
18 controversy over regional offices I am not certain
19 people are beating down the doors to get employed
20 there. But nevertheless, there it is.

21 The tables which I gave you predicted

1 basically from my own experience as to what happens
2 when you run a 6.9 percent variance in the first
3 quarter of a year with a highly personnel intense
4 budget line. I predict at the end of the year 18
5 percent of the funds allocated to the regional
6 offices will be unspent because that line item is so
7 large, that results in a \$615,000 carryover, money
8 not used.

9 However, take the other extreme. If, in
10 fact, the vacancy ratio that staff reports to you in
11 this document did, in fact, exist during the entire
12 year, and will, in fact, continue to the end of the
13 year, you are talking roughly about a 45 percent
14 variance which is \$1.5 million. So someplace
15 between those two figures is what you are going to
16 end up with, in that sub line, which is one of
17 twelve, in the management and grants administration
18 line.

19 MR. WALLACE: Can I ask a question that
20 sort of relates to the charts? If, you know, I
21 apologize for my ignorance but having been away from

1 my office I didn't see any of this stuff until I got
2 to Washington. I didn't see some of it until you
3 started talking. What you are saying about regional
4 offices makes sense. And the common sense that you
5 don't pour extra money into something that is under
6 spent the last two or three years makes sense, too.

7 But I do understand that we want to hire
8 more people to do monitoring, and they may not be in
9 the regional offices, they may all be here. We are
10 way behind on monitoring. It seems to me like we
11 need more people somewhere to do this job. Now you
12 can point out to me in the charts, if you want,
13 where to find it, but it looks like a matter of
14 common sense. If we are umpteen months behind on
15 monitoring, whether we spent the money or not last
16 year, we should have spent it because the job wasn't
17 getting done. We want to get it done. If we have
18 to hire people, we need to do it. That is my
19 concern without looking at --

20 MR. ROCHE: You know, I don't disagree
21 with you at all.

1 MR. WALLACE: I am not sure I agree with
2 me. I am not sure what I said.

3 MR. ROCHE: You want more monitoring, you
4 want to be reliable. But what I did in that paper,
5 and if you want me to show it to you quickly out in
6 the hall, I gave you a budget for that. I appended
7 a budget into the paper for doing all of the
8 monitoring they wanted to do without using a penny
9 of carryover. It is there, it can be done.

10 MR. WALLACE: I will read it as we go
11 along. I will trust you that it is there, because I
12 want to get it done and if there is another way to
13 get it done, I am willing to take --

14 MR. ROCHE: I think I was actually being a
15 little conservative. There are some things you may
16 want to question whether you want to do or not. But
17 other than purchasing some equipment that frankly I
18 would love to have, and we have been around that
19 particular ground before, you can get everything
20 that is proposed done by just reaching into the
21 current appropriations and using '86 appropriations.

1 You don't need to use a penny of carryover to do it.

2 CHAIRMAN MENDEZ: Terry, lets, in our last
3 meeting you said that you weren't speaking to
4 committed funds, they were not part of it and that
5 we were obligated to do committed funds. Is that
6 your position today?

7 MR. ROCHE: No, it is not. What I said at
8 that time was really in reaction to your question
9 because I had not given it the level of analysis
10 that I gave you later. Thank you for asking me to
11 give it to you in writing because that gave me a
12 chance to do that.

13 I was assuming, for the purposes of my
14 comments last month that committed funds were
15 committed funds and that there was really no way of
16 substituting for them, because I really hadn't had
17 the opportunity to scrutinize that very carefully.
18 After that, what I did was sit down and see what
19 they wanted to use me for, and think about ways that
20 the corporation has dealt with those kind of things
21 in the past, that I have dealt with those kind of

1 things in my own office, that I dealt with those
2 kind of things when I was a program officer for the
3 U.S. Agency for International Development. There
4 were alternatives. Consequently the table you see
5 before you, you have in that package, is a much
6 better analysis than I was giving you off the top of
7 my head last month.

8 CHAIRMAN MENDEZ: I just wanted to make
9 sure our record was clear. Are there any other
10 questions of Mr. Roche? None appearing, thank you,
11 Terry.

12 MR MOLA: Just a point of clarification
13 perhaps. I have been asked to address the committee
14 on behalf of the supplemental field programs. I
15 believe you and other members of the committee have
16 received some correspondence from them about the
17 fact that they were one of the budget lines to be
18 affected by a 21.6 percent budget cut and basically
19 operate as field programs. Is that an appropriate
20 topic to address in terms of the carryover
21 allocation, or is that properly addressed perhaps in

1 the context of the '86 allocation?

2 CHAIRMAN MENDEZ: You obviously thought it
3 was an appropriate topic to address in terms of the
4 '84 carryover. I am interested in hearing what you
5 have to say.

6 MR. MOLA: I think it is more appropriate
7 to talk about it in terms of the '86 allocation.

8 CHAIRMAN MENDEZ: That is not in front of
9 us right now.

10 MR. MOLA: Has a decision been made
11 because the expenses or the cut or the restoration
12 of the cut is an annualized funding item, which if
13 to be resolved in the most efficient way, would be
14 resolved in terms of allocation of the '86
15 appropriation.

16 CHAIRMAN MENDEZ: We have visited this
17 before. We are on another issue now. I would like
18 you to address your comments to the issue that is
19 before us at this time.

20 MR. MOLA: If it is the committee's intent
21 to restore some of that money, as you know there are

1 ten supplemental field programs like the volunteer
2 lawyers project, like the New Hampshire pro bono
3 project and others, that provide direct services to
4 eligible clients. Because I think primarily of the
5 change in the COB format, those previously DSS
6 programs were broken out onto a different budget
7 line as supplemental field programs and as a result
8 were cut in the '86 budget by 21.6 percent, is my
9 understanding. Further that historically the DSS
10 programs have been treated by the corporation in
11 every major or significant way, including grant or
12 documents, as basic field programs. There really is,
13 other than the placement on the COB, there really is
14 little difference between those entities and between
15 the direct delivery of services to clients if they
16 are compared to basic field programs. The reason
17 for treating them differently in terms of funding
18 allocations has never really been made clear, I
19 think in large part because we never addressed the
20 issue.

21 It is our feeling that those programs,

1 many of which are bar association programs, Judicare
2 programs and others, programs in addition to
3 delivering services have done very successful work
4 in terms of private attorney involvement. It is our
5 position that they should be treated the same.
6 Probably, as I mentioned before, the most efficient
7 way to do that is to treat them the same in terms of
8 the '86 appropriation allocation. But if that is
9 not possible, we would ask that the funds necessary
10 for restoration of the 21.6 percent reduction and
11 any increase to 4.6 percent or whatever that is
12 going to be given to basic field programs also be
13 applied to the supplemental field program.

14 CHAIRMAN MENDEZ: Do you have anything
15 else you wish to state?

16 MR. MOLA: No, I don't.

17 CHAIRMAN MENDEZ: Any questions? None
18 appearing, thank you, sir. Are there any other
19 comments concerning the allocation of 1984 carryover?
20 None appearing, I would ask Mr. Thimell to come
21 forward for just a moment. Mr. Roche made several

1 comments that need some clarification, would you
2 address these.

3 MR. THIMELL: My name is T H I M E L L. I
4 would ask that David Gessner, G E S S N E R and John
5 Meyer M E Y E R address the specifics.

6 CHAIRMAN MENDEZ: The question I asked Mr.
7 Roche was you previously stated that carryover funds
8 was committed, now he said that you could allocate
9 them in a following year or in something similar.
10 Is that in fact the case under an accounting system,
11 or what is appropriate?

12 MR. GESSNER: I didn't understand exactly
13 what Mr. Roche was saying.

14 CHAIRMAN MENDEZ: Well, Mr. Roche, let me
15 see if I can rephrase it. I believe he was stating
16 that even though we have stated that these funds are
17 committed, that these funds may be committed but
18 some of them may not be used this year and therefore,
19 can be used in another year and therefore are not
20 committed.

21 MR. ROCHE: May I try in a way that won't

1 be so confusing? When you obligate funds, when you
2 obligate funds by grant or contract in a fiscal year,
3 you for sure have a legal duty to cover that grant
4 or contract unless you have made some reservation
5 that can get you out of that and that the other
6 party agreed to. That is why field programs are
7 required, when they get into leases going more than
8 one fiscal year, to have a hold harmless clause in
9 the case of defunding. How you cover those
10 obligations, however, can be a matter of budgeting.

11 Now a conservative approach, and I think,
12 Mike, it is the one that Congress has tended to take,
13 although it is really crazy and different now than
14 it was 20 years ago when I was at AID, is that if
15 you obligate money, even on the last day of the
16 fiscal year, that is a commitment of that year's
17 funds. If you therefore have fund balance over, you
18 got to use that year's fund balance against that
19 obligation. But as a practical matter, and
20 particularly this is true in contracts, that is not
21 necessarily so if you put your budget together for

1 the following fiscal year to cover those obligations.
2 That is why I responded to you as I did last month
3 and changed this month. As a technical legal point,
4 an obligation needs to come out of the old
5 appropriation. But, in fact, as long as you cover
6 your obligation out of something, it doesn't
7 necessarily have to come out of that fund balance.

8 CHAIRMAN MENDEZ: You and I are on the
9 same wavelength. I am not quite as articulate in
10 expressing your position as you are. I only have
11 one question, you say that that -- that what
12 Congress generally does is use the obligated funds
13 from the prior year?

14 MR. ROCHE: There may even be some
15 legislation someplace that I have not looked at that
16 requires grantees to structure it in that fashion.
17 But it is ultimately when you are sitting as we are,
18 down into the third quarter of the fiscal year, a
19 reshuffling game.

20 In discussing this particular point with
21 some folks that have been involved with the LSC

1 budget, there was raised a question of the effect of
2 the 1.8 million dollar limit, as I recall, on
3 experimentation for 1985. Whether that foresaw
4 within that 1.8 million dollars use of fund balance
5 coming out of '84, versus simply \$1.8 million out of
6 the '85 appropriation. What I am suggesting to you
7 is that as a matter of law, as a matter of policy
8 and as a matter of getting money out to the field
9 and therefore to clients, probably you ought to
10 honor the 1.8 million dollar limitation and shuffle
11 the peas, so to speak, so that you cover your
12 obligation from last year, yes, but you don't use
13 fund balance to do it.

14 CHAIRMAN MENDEZ: Mr. Gessner, the
15 question I have for you is, is it normally accepted
16 accounting standard that you appropriate funds, that
17 you use the funds that are obligated -- even though
18 it may be carried over, or can you reallocate them
19 at a future year? Do you understand what the
20 question is that I am asking?

21 MR. GESSNER: It is an acceptable practice

1 for management to set aside funds in one year in
2 order that the funds available in the next year can
3 be used to initiate new projects.

4 CHAIRMAN MENDEZ: What I am talking about
5 right now are committed 1984 carryover. This is the
6 issue that I am addressing at this point, the
7 committee's 1984 carryover. Can we, as a generally
8 accepted principle, I think Mr. Roche said that we
9 should, I think insure that we have some method of
10 assuring that these items are paid? Do all of these
11 funds, are all of these committed '84 funds to be
12 paid out this year or in the near future? So that
13 we are all on the same page and wavelength, what I
14 am going to be referring to is page 55, the attached
15 one, revised -- it is broken out into -- it says 1,
16 2, 3, 4 and 6 columns. I am looking at column three,
17 the committed FY '84 carryover.

18 MR. WHITE: Charles White. I think from
19 the -- the board has, I think the choice here to
20 make the decision on the question concerning the
21 committed funds balance as indicated in the proposed

1 allocation of 1984 carryover. In the past, it has
2 been customary that funds are set aside just for
3 good management and fiscal position that the
4 corporation normally keeps those funds that are by
5 contract in the same category.

6 However, there is, from an accounting
7 standpoint, or from a legal standpoint, generally
8 there is no reason why the board can't change the
9 priorities and borrow in essence against the FY or
10 future fiscal year.

11 But I would suggest that what we should do
12 is set aside those funds that we had, that is the
13 board has previously indicated as a project, until
14 they are completed instead of borrowing against
15 those funds until the next fiscal year where there
16 may be certain types of restrictions and constraints
17 against those fundings.

18 CHAIRMAN MENDEZ: Does anybody on the
19 board have any further questions of either Mr. Roche
20 or Mr. White? As chairman, I will carry this motion.
21 I move that we allocate under the committed FY '84

1 carryover \$1,584,377 as the committed funds and that
2 is based on the committed funds, column three.

3 MS. BERNSTEIN: I will second that.

4 CHAIRMAN MENDEZ: Any discussion?

5 MR. EAGLIN: Mr. Mendez, one thing that
6 concerns me on this matter is the carry over
7 discussion that a few minutes ago I was talking to
8 Mr. Gessner and just then got a response to PAG, PAG's
9 written proposal. There has certainly not been
10 sufficient time for me to look through the 25 pages
11 here. I only learned that this thing existed today.
12 We are beginning to propose action on this. It
13 concerns me a lot that this kind of thing again is
14 put to us at the last minute. I think it would
15 effect perhaps the way I might want to judge your
16 motion, if I had had a chance to know of this before
17 we had and to go through it. I might even be in a
18 position to ask some questions here.

19 CHAIRMAN MENDEZ: Why wasn't this tendered
20 earlier?

21 MR. THIMELL: The staff received the PAG

1 analysis of the staff recommendation late last week.
2 We then prepared our response to it as quickly as
3 possible within about a day and a half. It was
4 prepared and this was the soonest it could be
5 provided to you. If we had had their material
6 sooner, it would have been provided sooner for the
7 board as well.

8 CHAIRMAN MENDEZ: When did you receive the
9 PAG proposal?

10 MR. THIMELL: Thursday night, that would
11 be I think the 15th --

12 MR. WALLACE: I am not interested in
13 laying blame to anybody, especially since I have
14 been hard to find for the last two weeks, but I kind
15 of agree with Paul whether it is anybody's fault or
16 not it would be nice to know what is in here before
17 we vote.

18 Is there something in the PAG letter, is
19 there something in your memo that helps explain to
20 me this counting business on allocating committed
21 funds? If you can point me to page such and such

1 and I can look at it -- I sort of understand the
2 accounting question you are dealing with. I don't
3 know a practical way to deal with it. If there is a
4 paragraph in here, where is it?

5 MR. GESSNER: It is really beyond the
6 question of an accounting principle. It is a
7 management principle, and one that should be
8 directed by the board. If the board determines that
9 these funds should be set aside for projects and new
10 projects begun with current years appropriation,
11 then that is what we are recommending. The board
12 can --

13 MR. WALLACE: Is this a practical question
14 or does it just show my ignorance in bookkeeping?
15 But we have got a million and a half, one and a half
16 million dollars that are committed from last year.
17 Do we take that million and a half dollars and put
18 it in the bank and let it sit there and then pay out
19 of it, or are we shuffling numbers around on paper?

20 I certainly don't want to spend funds so
21 that we can't pay our debts as they fall due. On

1 the other hand, I don't want to have a million and a
2 half dollars sitting in the bank doing nothing but
3 drawing interest when there are other uses to which
4 those funds can be put. I think that is what this
5 discussion has been about, but if it isn't, then
6 maybe somebody can tell me what it has been about.

7 MR. GESSNER: First the money isn't
8 sitting in the bank drawing interest. It is in the
9 U.S. Treasury.

10 MR. WALLACE: Okay.

11 MR. GESSNER: We draw down the money on an
12 as needed basis.

13 MR. WALLACE: I think it is in U.S.
14 Treasury not drawing interest.

15 CHAIRMAN MENDEZ: I think this is a good
16 time for us to really explain our relationship with
17 the U.S. Treasury. When I first came on, that was a
18 question that I had about when we get our funds and
19 how these funds are allocated. I would really like
20 the board to hear this because, I thoughts it was a
21 fairly interesting revelation. Mr. White?

1 MR. WHITE: Yes. The corporation, based
2 on the cash requirements for various types of
3 disbursements, whether they are grant disbursements
4 or regular general disbursements, payroll
5 disbursements, we submit a letter of credit to the
6 Treasury to draw down funds on an as needed basis.
7 That is done so that the federal government doesn't
8 have to go and borrow money in order to borrow money
9 only on an as needed basis instead of having to -- at
10 one point, the corporation used to draw all of its
11 money out and put it into U.S. T bills. In a sense
12 the government had to borrow money to pay us and in
13 turn pay us interest on the money that they had
14 given us. So, we had an agreement with Treasury to
15 only draw down on an as needed basis, and which we
16 would help them in their cash flow situation, in the
17 sense that they wouldn't have to borrow the money.
18 So that is basically the reason why we followed
19 their policy versus drawing all of the money out and
20 investing it. We only take out what we need for the
21 disbursements that we have.

1 MR. WALLACE: As long as there is enough
2 money sitting in our account, maybe account isn't
3 the right word, but as long as there is enough money
4 sitting in our account in the Treasury to cover this
5 one and a half million dollars, then why do we have
6 to -- I mean why do we have to separately allocate
7 it for next year? If there is enough money in the
8 bank to cover what we owe, why do we have to set
9 aside a separate account. I am not sure I even
10 understand what we are doing.

11 CHAIRMAN MENDEZ: Let me see here, on page
12 57, Mike.

13 MR. WALLACE: Thanks.

14 CHAIRMAN MENDEZ: Page 57 reflects what we
15 are committed to do, the various activities that are
16 committed. If you look down at the very bottom
17 right-hand corner that matches -- the 1,584,367
18 matches the committed '84 funds of page 56, which is
19 together.

20 MR. WALLACE: With you so far.

21 CHAIRMAN MENDEZ: Each one of these

1 programs, we have entered into a grant or commitment
2 to do that. So these funds are not free. In fact,
3 some of these funds have already been expended,
4 given to these groups, under the contract that we
5 previously have given, even though it is used out of
6 carryover funds.

7 MR. WALLACE: Okay. I understand that it
8 is -- I may be a bit hopelessly ignorant about how
9 monies in these quantities work, but I understand we
10 owe the money, I understand we have to keep enough
11 cash on hand someplace to pay the money. I guess I
12 am not sure I understand the magic of whether we say
13 it is coming out of 1984 carryover, or whether it is
14 coming out of 1985 appropriations. If it is just
15 sitting there not being used and we know there is
16 going to be more money sitting there to pay it when
17 it comes due, why don't we use the money on
18 something else now?

19 MR. GESSNER: Because we are not talking
20 about cash. We are talking about spending authority,
21 the authority to spend available cash on prior year

1 commitments and spend existing cash on current year
2 commitments.

3 MR. WALLACE: I mean this is statutory
4 somehow, that we have got to -- okay. I mean does
5 this deal with our appropriation? If we have one
6 spot of cash in the Treasury marked 1984 and another
7 pot of cash marked 1985 and we have to go see our
8 appropriations committee when we mix them up? Or is
9 there just one pot of cash up there? I know it is
10 not cash.

11 MR. GESSNER: It is and it isn't. As far
12 as what is sitting in the Treasury, yes, it is cash.
13 What is before you is not cash. What is before you
14 is the authority of the corporation to spend money
15 on commitments of 1984 and to set aside funds out of
16 our available or total pot of available cash to pay
17 1984 obligations in order that we might have 1985
18 money, cash if you may, to spend on current year
19 commitments, or commitments that might start this
20 year and go into next year.

21 CHAIRMAN MENDEZ: Let me ask you this

1 question -- I will get with you in just a second,
2 Terry.

3 Are all of these obligations 1984
4 obligations?

5 MR. GESSNER: Yes, sir.

6 MR. ROCHE: No, sir. Three of the PLF
7 projects started after October of 1985 though they
8 were programmed with 1984 money, they technically
9 are 1985 costs.

10 Further, Mr. Chairman, at the risk of
11 being ruled out of order and not being able to talk
12 to you again, what you have just gotten is a lesson
13 in how you run a five million dollar carryover three
14 years in a row.

15 CHAIRMAN MENDEZ: Carry on.

16 MR. WALLACE: I don't even understand
17 enough to know whether that was -- if all we are
18 doing in voting on this motion, is authorizing the
19 corporations to pay its debts, I am for that. But I
20 am not for squirreling away money when it needs to
21 be used. I don't know if that is what we are doing.

1 MR. SMEGAL: I am with Mr. Wallace and I
2 would like to ask a more specific question. I see
3 on page 57, for example, private law firms, \$431,658.
4 If I understand everything that has been said since
5 I came back in the room, is that was a fiscal year
6 1984 allocation for private law firms that did not
7 get expended, we cannot go back to fiscal year 1984
8 and develop those programs. We are now into fiscal
9 year 1985 and we are about to be at fiscal year 1986;
10 is that right?

11 MR. GESSNER: That \$431,000 is for
12 contracts for private law firms that were started in
13 fiscal year 1984. There was a portion of that paid
14 during 1984, the balance is money that is due on
15 those contracts as a result of the 1984 commitments.

16 CHAIRMAN MENDEZ: Tom, do you recall that
17 the contracts that were let, we took testimony on
18 this, that approximately a third was paid up front
19 and the remainder was being paid as they were closed,
20 as the cases were closed? That money is the money
21 that is based on the overall contract when these

1 people close and give us closure reports, then we
2 pay those funds. They have been committed already.
3 We are under contract for those.

4 MR. SMEGAL: Some day we are going to have
5 to pay those?

6 MR. GESSNER: Yes. So we are setting
7 money aside.

8 MR. SMEGAL: It is in the mattress.

9 MR. GESSNER: So that we can use funds
10 that are available currently to expand the types of
11 projects, for instance in the private law firms.

12 MS. BERNSTEIN: Correct me if I am wrong,
13 but what this comes down to is that decisions are
14 made in a fiscal year to expend monies on certain
15 projects. Not all of those projects get finished
16 within that fiscal year, but we have made an
17 obligation to do those projects.

18 However when the next fiscal year comes
19 around, we may or may not want to continue those
20 projects and therefore we should have an opportunity
21 to spend that fiscal year's money on different

1 projects, whether it is more money to staff programs
2 or more monitoring or whatever we make the decision
3 to spend our money on, but when we get a new fiscal
4 appropriation we do not get that fiscal
5 appropriation with the idea we are going to use it
6 to pay last year's bad debts that we reneged on
7 putting enough money aside to pay out those debts.

8 Therefore this whole question of carryover
9 is a red herring from the standpoint that we simply
10 are finishing paying our mortgage. We have made a
11 contract to pay the money, and it so happens that we
12 don't draw the money down from the Treasury and
13 cause the taxpayers to have to pay interest on it
14 until we are ready to use it.

15 We don't pay out the money to our
16 attorneys or whichever contractees we have obligated
17 ourselves to until they perform their services
18 because we would like to have some sort of
19 accountability as far as that is concerned and
20 therefore, we are simply in a situation of finishing
21 up what we have as a board or another board has duly

1 voted on as its projects for that year. No more
2 should we expect to not set aside the money to
3 finish the obligations that were duly voted on, than
4 we should expect next year's board to renege on our
5 contracts or our obligations, whether they are to
6 field programs. We don't send out the money to our
7 field programs all up front in January. We send it
8 out on a month to month basis.

9 Yet that money is annualized, it is
10 obligated for the year, and we would not be -- that
11 is protected in a special way by Congress, but there
12 is still the same kind of obligation involved. Am I
13 wrong?

14 MR. WHITE: That is absolutely correct.

15 MR. GESSNER: That is absolutely correct.

16 MR. VALOIS: Why didn't you tell us that
17 before?

18 MR. WALLACE: Well, I think I understand
19 that.

20 MR. SMEGAL: Why didn't they explain this
21 before?

1 on this, if I read this line correctly over in
2 column 1, \$81,940 has already been paid with fiscal
3 year '85 funds, so who is that \$81,940 to go to, our
4 left pocket rather than our right pocket, and carry
5 that on, I get to the bottom, down here I see where
6 \$860,000 of that money has already been expended
7 with fiscal '85 dollars, so who owes what to whom?
8 It says payments made?

9 MS. BERNSTEIN: It does not say with '85
10 funds.

11 MR. GESSNER: Because of the contractual
12 obligation some of that money has been borrowed
13 against '85 money. In the case of the private law
14 firms, as the reports came in from the private
15 attorneys for the cases closed.

16 MR. SMEGAL: Why did we borrow from '85
17 when we had the funds from '84 to pay it?

18 MR. GESSNER: Because the board had not
19 allocated this out of the carryover.

20 MR. WALLACE: This 861,290 has been paid
21 out of 1985 line item money subject to reimbursement

1 once we allocate the 1984 carryover?

2 MR. THIMELL: Yes.

3 MR. WALLACE: I understood that.

4 MR. SMEGAL: So what are we going to do
5 with the \$860,145?

6 MR. GESSNER: Use that for '85 projects.

7 MR. UDDO: That is going to come out of
8 the '84 carryover?

9 MR. GESSNER: Well, you are now mixing
10 cash with spending authority.

11 MR. UDDO: I thought we didn't have cash.

12 MR. GESSNER: Checks have gone out in the
13 amount of \$860,000.

14 MR. UDDO: But how does the '85 budget get
15 that back?

16 MR. GESSNER: By your allocation of the '84
17 carryover.

18 CHAIRMAN MENDEZ: That will reimburse '85.

19 MR. WALLACE: Let me say I understand Ms.
20 Bernstein's explanation to be able to vote to
21 support this motion. Subject to somebody

1 re-explaining it before we get to the full board to
2 say I don't understand it. I think I got a handle
3 on it at this point. I hope to learn more.

4 CHAIRMAN MENDEZ: Is there any further
5 discussion on this?

6 None appearing, all in favor of my motion
7 to for 1,584,377 as committed funds to allocate the
8 1984 carryover to debt figure; all in favor say aye.
9 All opposed?

10 MR. SMEGAL: No.

11 CHAIRMAN MENDEZ: Were you in favor,
12 Hortencia?

13 MS. BENAVIDEZ: Yes.

14 CHAIRMAN MENDEZ: Let the record reflect
15 that Hortencia, Mendez, Bernstein and Wallace were
16 in favor, and Paul Eaglin and Tom Smegal were
17 opposed.

18 Now, before we turn to the next item,
19 since it is almost 4:00 and the Chair has been
20 sitting here for a long time, we are going to take a
21 15-minute break.

1 MR. VALOIS: Mr. Chairman, could I clarify
2 the matter we discussed with Mr. Braude earlier?

3 CHAIRMAN MENDEZ: Mr. Braude, would you
4 please come forward? I assume we need to have him
5 here on the record.

6 MR. VALOIS: The matter of this discussion
7 between Mr. Braude and anybody else arose when I was
8 not here. I came in a little late and I think I am
9 now somewhat advised of the circumstances and facts,
10 and for the record I think the board has made it
11 clear that it does not recognize Mr. Braude in any
12 representative capacity. He has essentially
13 consented to that. In addition to what we have
14 earlier said before, that there is not to be any
15 "negotiation" at this meeting but that the staff
16 will meet with him to exchange information, to
17 listen to any views he might have, and he certainly
18 can listen to any they might have, and that neither
19 our staff -- our staff is not authorized to
20 negotiate with Mr. Braude or anybody else on the
21 matter that comes before the board such as the

1 reorganization discussion. Mr. Braude is a member
2 of the public and he is going to be invited to talk
3 with the staff in that capacity of exchange
4 information.

5 MR. BRAUDE: That's essentially correct.
6 I want to clarify a thing or two. When Mr. Valois
7 said not in a representative capacity, we are now
8 talking law, I assume, as lawyers and obviously not
9 in a legally representative capacity and vis-a-vis
10 the LSC staff, you don't mean the broader legal --

11 MR. VALOIS: It is a fact that the
12 Corporation does not recognize you as a
13 representative and therefore it is not meeting with
14 you as a representative of the LSC staff or anybody
15 else.

16 MR. BRAUDE: I want to be clear, that
17 doesn't at all speak to my status vis-a-vis other
18 people whom I may legally represent even though, as
19 you and I discussed, you are not the employer for
20 those people?

21 MR. VALOIS: Who are they?

1 MR. BRAUDE: A paralegal in the Bronx
2 Legal Services.

3 MR. VALOIS: Does Legal Services
4 Corporation have any duty to recognize you in any
5 capacity?

6 MR. BRAUDE: I am sure you recognize me, I
7 am Jim Braude; no, I am sure not.

8 MR. VALOIS: So the question is academic.
9 We have no duty to give you anything or refuse to
10 give you anything. That is the duty of some other
11 Corporation, some other Corporation to give you or
12 not --

13 MR. BRAUDE: I think we are in agreement.
14 I assume I will be speaking --

15 MR. VALOIS: We can neither grant or
16 withdraw recognition of you from some other
17 organization over which we have no control.

18 MR. BRAUDE: That's right.

19 Now that we have resolved the legal
20 question, so what happens next?

21 MR. VALOIS: Well, we don't have to do

1 this on the record. We will take care of it.

2 MR. BRAUDE: Fine.

3 MR. UDDO: I would suggest that the
4 decision on this matter be delayed until the next
5 board meeting which is in Detroit the end of June
6 sometime, because it will not give you sufficient
7 time to meet and exchange information, I don't think,
8 if we try to do this tomorrow. I would suggest that
9 we put it off until the next board meeting.

10 CHAIRMAN MENDEZ: I can't commit the board
11 to do this. Our committee cannot commit the board
12 to do that, but I want this committee to certify
13 this question and with the request to continue it to
14 the board, but I want the board as a whole to
15 consider the matter. I do not want this committee
16 to consider the matter.

17 MR. BRAUDE: As a followup to the point
18 which is what I was going to ask, the only problem --
19 and I understand you are not the full board --
20 without some reasonable assurance there won't be a
21 vote tomorrow.

1 CHAIRMAN MENDEZ: I can give you a
2 reasonable assurance.

3 MR. BRAUDE: Does that mean we are
4 recognized as a collective bargaining agent?

5 MR. VALOIS: No, actually we just withdrew
6 recognition from you as representative of General
7 Motors.

8 (Laughter.)

9 MR. BRAUDE: Can we at least understand
10 that it is the recommendation of the committee that
11 it not happen tomorrow? Is there a problem with
12 that?

13 MR. SMEGAL: I will move that.

14 CHAIRMAN MENDEZ: That is what the motion
15 is.

16 MR. WALLACE: I will second the motion. I
17 think that is fair.

18 CHAIRMAN MENDEZ: It is a two-part motion.
19 One is the board as a whole will act on it, and two --

20 MR. WALLACE: We will recommend to the
21 board that they not act tomorrow.

1 MR. BRAUDE: Fine. Then we will discuss
2 off the record the mechanics of this.

3 THE COURT: It has been moved and seconded.
4 All in favor say aye. All opposed?

5 MR. BRAUDE: Thank you.

6 CHAIRMAN MENDEZ: We are going to break
7 now for seven minutes.

8 (Recess taken.)

9 CHAIRMAN MENDEZ: A quorum being present,
10 let the record reflect that Hortencia Benavidez is
11 present, Mr. Eaglin, Mr. Wallace, Mrs. Bernstein are
12 all present, and we have Claude Swafford and Mr.
13 Uddo present from the board.

14 At this time we are going to take up the
15 uncommitted funds. I would ask the same group that
16 was up here before to return.

17 (The panel comes forward.)

18 CHAIRMAN MENDEZ: Now, since I am the
19 Chairman and have had a little bit of conversation
20 with the board members outside, the question was
21 raised where do these funds come from, and if we

1 look at -- well, probably the best way to do it is
2 to ask Mr. Thimell and Mr. Gessner, where do these
3 funds -- approximately \$3-1/2 million -- \$3.8
4 million, these are also 1984 carryover, on the
5 uncommitted funds?

6 MR. GESSNER: I'm sorry, I missed the
7 first part of your question.

8 CHAIRMAN MENDEZ: Where are the funds, how
9 do we get these funds to allocate. Are they from
10 1984 carryover?

11 MR. GESSNER: Yes.

12 CHAIRMAN MENDEZ: What line items are they
13 from?

14 MR. GESSNER: In the book there is
15 attachment 3, source and application of '84
16 carryover. The second column totals the 5 million
17 385 and identifies the source of each dollar of the
18 carryover. Next to that is the proposed application
19 of the carryover. The application column is a
20 combination of committed and uncommitted.

21 Does anyone have any questions about

1 specifically where they come from?

2 MR. UDDO: I might just ask this question.
3 I see where they come from. How do they accumulate?

4 MR. GESSNER: Well, I can run down and
5 give you --

6 MR. UDDO: Just some examples.

7 MR. GESSNER: For example, in technical
8 assistance during 1984, a contract was signed with
9 an organization called Management Assist,
10 Incorporated to install computers and financial
11 management systems in 39 field programs. Rather
12 than making that amount a grant and giving all the
13 money to the contractor up front and thereby losing
14 control of the money, the program was set up as a
15 contract. I believe the contractor was given a
16 little bit of money up front, and as the systems
17 were installed in the field programs, that money --
18 he is billing us and that money is expensed.

19 MR. WALLACE: But that is committed money.
20 We just voted to spend that.

21 MR. GESSNER: You are talking only about

1 uncommitted?

2 MR. WALLACE: Yes.

3 MR. UDDO: The 3.8 million.

4 MR. GESSNER: 1 million 7 of the
5 uncommitted is management administration. There is
6 a breakdown on the second page of that attachment
7 that details the amount generated from each line
8 item within the management administration budget.
9 In general, the carryover for the most part was
10 generated from personnel lapses, slowdowns in hiring,
11 virtually a nonexistent monitoring effort in 1984,
12 some items of expense that weren't recorded until
13 1985, a number of reasons, and program development,
14 there were some problems in getting the experimental
15 program started. \$431,000 is committed. Some of it
16 isn't, and that is simply because the programs
17 couldn't get off the ground.

18 MR. UDDO: There is almost \$2 million in
19 program development.

20 MR. OSTERHAGE: There is more to the
21 explanation rather than saying programs not being

1 able to get off the ground. The previous board or
2 boards, Lea Anne would have a better history than I
3 do, allocated a pot of money, if you will, a
4 programmatic allocation for experimentation, and
5 Dave and people in budget went back and did some
6 research for me, and on January 27th of '84 there
7 was a meeting at which time \$3 million was purposely
8 allocated for ongoing experimentation. That was '83
9 carryover.

10 Now, the board at that time from my sense
11 of the proceedings there and their intent with those
12 funds was not, on January 27th, to say "get the
13 money all out the door." They merely said for
14 purposes of experimentation, looking at new models,
15 we are going to allocate this money programmatically.
16 Much research activity ignores the artificial
17 boundary of the fiscal year. This money could lapse
18 across the years. There is a learning curve there
19 just as there was on the PAI thing we discussed this
20 morning. We got a number of projects, a half dozen
21 private law projects out the door. We funded IOLTA,

1 we funded ACCA, we funded a lot of other studies and
2 small Bar grants. We got a lot of money out the
3 door for purposeful projects. However, we did not
4 get it all out the door. Given the conditions in
5 the Corporation at that time, it was not possible or
6 prudent to push the money out the door for the sake
7 of pushing it out the door to alleviate the
8 so-called carryover problem. We thought it would be
9 more prudent to spend it wisely, control it wisely
10 and account for it wisely. That is why the money is
11 not expended to date.

12 MS. BERNSTEIN: Okay, this is just a
13 clarifying question. Is it not the case that in the
14 year that the board made the commitment and whether
15 or not it was a contract commitment or whether it
16 was simply a decision of the board that we would
17 give a certain amount of our efforts as a
18 Corporation in doing some of this research and
19 alternative delivery experimentation, that that kind
20 of commitment to that purpose was made, and as you
21 say, irregardless of the fiscal year. But is it not

1 also the case that it was during that same fiscal
2 year that the representation to Congress was made in
3 the budget request that a much greater amount of
4 money would have been requested for that, and that
5 was not provided by Congress, and therefore the
6 commitment in terms of that money is the -- it was
7 the board's decision regarding the ability to
8 provide additional information just as the delivery
9 system study had done about the mandate in the Act
10 to continue to explore alternative delivery methods.

11 MR. OSTERHAGE: To my sense of
12 recollection that would be correct. What I hear as
13 we discuss this with other people and other parties
14 in the public have commented is sometimes I believe
15 the failure to put things in that context, and I
16 just feel it is inappropriate to be labeling that as
17 bad management of funds when staff feels that we
18 have taken extra pains and we have deliberately
19 managed the funds in a superior manner because we
20 just did not push the money through arbitrarily.

21 MR. UDDO: But it is still a lot of money

1 to have sort of hanging around.

2 MR. OSTERHAGE: I agree, and for this
3 board, the 2.4 million carryover, in terms of that
4 leg of the carryover, we went back in a purposeful
5 exercise this spring and provided to the board first
6 of all the existing budget with the 2.4 carryover.
7 Then we identified projects in progress where we
8 were developing or negotiating to do a solicitation
9 or to issue a contractor grant. We estimated with a
10 more finely-tuned eye the costs, we prioritized all
11 those projects, we totaled them up and we realized
12 that was the best we could do in one fiscal year, we
13 cut our carryover requests and we revised our budget.
14 We provided that cutting our carryover requests by
15 25 percent, and we presented that to the board for
16 your consideration because we were still concerned
17 about the issue of carryover even though we have an
18 explanation as to why it is there. It is a one-time
19 event, not as an ongoing way of doing business. We
20 thought it was still prudent to prioritize and
21 reduce that carryover amount but we're sensitive to

1 the situation.

2 MR. UDDO: But you are still suggesting 1.8
3 million be applied to program development?

4 MR. OSTERHAGE: At this point we are.
5 Within 30 days we will conclude part 1 of the
6 voucher agreement to allocate monies that the board
7 has been briefed on in the past. 5 will be
8 announced in the final cost for five more PLF sites.
9 The third or fourth quarter we will be expensing by
10 grant or allocating by contract a significant number
11 of those funds.

12 MR. UDDO: How much money has been
13 allocated in the FY '86 budget aside from this
14 carryover amount in the budget?

15 MR. OSTERHAGE: Our program development
16 budget in '85 is about 1.8. We are taking a cut
17 down to, I believe, 1.6.

18 CHAIRMAN MENDEZ: That was a 21 percent
19 cut.

20 MR. UDDO: 1.6 plus 1.8.

21 MR. OSTERHAGE: For '86 all we are asking

1 for at this time is the straight '86 funding. What
2 we are talking about here is allocating '84
3 carryover that we will be committing in '85.

4 MR. WALLACE: All right now, 1985 funds,
5 looking at attachment 1 is 1,829,000. That is from
6 the '85 budget.

7 MR. THIMELL: Right.

8 MR. WALLACE: I guess we just voted to
9 commit this 466 because we owe it to somebody, and
10 we are saying we ought to commit an additional
11 1,365,000 of uncommitted funds program development
12 during 1985.

13 MR. GESSNER: That is the recommendation.

14 MR. OSTERHAGE: That is correct, and on
15 page 84 there is an attachment B that we provided in
16 April that identifies not only the project areas but
17 project sites and the cost estimates to expend all
18 those funds or to commit those funds through
19 contract awards in fiscal '85.

20 MR. UDDO: What page?

21 CHAIRMAN MENDEZ: 84.

1 MR. OSTERHAGE: Page 84, program
2 development.

3 MR. WALLACE: This tells us how you are
4 going to spend all of the money.

5 MR. OSTERHAGE: Both our '85 funding plus
6 the carryover request we are asking for '85. This
7 was the exercise we did to identify project specific
8 sites and cost for project development to get these
9 up and running.

10 MR. WALLACE: If we don't give you the
11 whole --

12 MR. OSTERHAGE: We will revisit that, of
13 course.

14 CHAIRMAN MENDEZ: Let's revisit it right
15 now.

16 MR. WALLACE: That was going to be my
17 question because looking at attachment B, I don't
18 give you the whole 1.3, what is on that list that
19 doesn't get done. I'm not asking you to commit
20 yourself to saying this is the project we are going
21 to kill, but give me an idea of your order of

1 priorities on this attachment B.

2 CHAIRMAN MENDEZ: You are getting a little
3 ahead of me.

4 MR. WALLACE: I'm sorry.

5 MR. OSTERHAGE: I would be prepared to
6 hear first of all some sense where the board --

7 CHAIRMAN MENDEZ: I have gone through this
8 and I asked several individuals to go through this
9 and check this. I am prepared today to suggest to
10 my committee that we reduce the carryover funds from
11 private law firm projects from phase 2 from 600- to
12 \$300,000.

13 MR. WALLACE: Say that again, Mr. Chairman
14 so I can get all the numbers straight.

15 CHAIRMAN MENDEZ: To cut the phase 2 --

16 MR. UDDO: Where is this?

17 MS. BERNSTEIN: Page 84.

18 MR. OSTERHAGE: It is labeled attachment B.

19 CHAIRMAN MENDEZ: Is everybody on the
20 committee on the same --

21 MR. UDDO: Yes, phase 2. PLF phase 2.

1 CHAIRMAN MENDEZ: Cut that from \$600,000
2 to \$300,000. I am also prepared to suggest to my
3 committee a reduction of carryover funds for the
4 private bar involvement category of \$105,290 by
5 eliminating renegotiating or substituting other bar
6 grant projects.

7 MR. WALLACE: Say that again, sir.

8 CHAIRMAN MENDEZ: 105,290 cut out of
9 private bar involvement.

10 MS. BERNSTEIN: That is just the E section
11 of it.

12 MR. WALLACE: What is that subtotal is
13 going to be on E. You have got \$290,950 there.
14 What is it going to read under your proposal?

15 CHAIRMAN MENDEZ: It would be 185 and
16 change. How is that?

17 MR. WALLACE: That is fine.

18 MS. BERNSTEIN: 185,660, I think.

19 MR. WALLACE: Okay.

20 CHAIRMAN MENDEZ: And then out of the PDSS
21 target over budget, reduce \$255,000 which is the

1 amount equal to receivables due to the Corporation,
2 and you will recall that that was -- we discussed
3 that on the last board meeting.

4 MR. WALLACE: Right.

5 MR. OSTERHAGE: Excuse me, what is that
6 figure, 255?

7 CHAIRMAN MENDEZ: 255. I don't know if
8 all of you recall, but that is the receivables that
9 we had before and we discussed that before.

10 MR. WALLACE: What line item is that on,
11 that is total PDSS FY '85 budget and we are taking
12 200-some-odd out of that?

13 MR. GESSNER: You are allocating the
14 receivable --

15 MS. BERNSTEIN: We are making it a
16 receivable rather than --

17 MR. OSTERHAGE: It is another way of
18 reducing the carryover request.

19 CHAIRMAN MENDEZ: Let's go through the
20 explanation again to refresh everyone's recollection.
21 Mr. Gessner, would you please explain the IRS

1 carryover, \$255,000.

2 MR. GESSNER: On our books at the end of
3 FY '84 is a receivable from IRS, approximately
4 \$255,000. The staff had recommended that that and
5 other smaller receivables be allocated to basic
6 field programs. My understanding now is that part
7 of your recommendation is that -- that total amount
8 or just the IRS part be allocated to program
9 development?

10 CHAIRMAN MENDEZ: It is my understanding
11 the IRS portion is \$255,000 or is that the total
12 amount?

13 MR. WHITE: That is correct.

14 CHAIRMAN MENDEZ: Whatever, it is \$255,000.

15 And corresponding to that, if we go back
16 to page 53 -- excuse me, page 54 where it says
17 \$699,130 to go to basic field programs, all of those
18 funds that I just spoke of, approximately \$660,000,
19 would be added to the \$699,000.

20 MR. GESSNER: Within that \$699,000 there
21 was an allocation of the receivables. That would

1 then just be a cash allocation rather than a
2 receivable allocation, is that correct?

3 CHAIRMAN MENDEZ: Yes.

4 MR. WALLACE: So we are not counting it
5 twice. We would be getting an extra -- instead of
6 adding \$600,000 to this 699 we would be adding
7 400,000, and we would be getting the cash now
8 instead of waiting for the IRS to pay us.

9 MR. OSTERHAGE: That's right.

10 MR. WALLACE: Was this a motion, Mr.
11 Chairman? Is there more to it?

12 CHAIRMAN MENDEZ: There is some more
13 discussion. We are in essence giving right around
14 \$1.1 million to the field programs, and part of -- I
15 just want to have some discussion so everybody
16 understands that at this time. Does everybody
17 understand what my suggestion is about cutting these
18 various items?

19 Now the question I have for the staff and
20 Mr. Broccoletti, I have had some conversations with
21 you, can you people live with this?

1 MR. BROCCOLETTI: We will live with it
2 because we have to.

3 MR. WALLACE: Well, you don't have to if
4 we don't vote for it. My inclination is vote for it.

5 MR. GESSNER: The staff will live with it.

6 MR. WALLACE: The reason I'm going to vote
7 for it is that a lot of this, a lot of what is being
8 cut is for private bar involvement and various sorts
9 of things, and my committee is busy mandating or
10 guidelining that all of our regular recipients spend
11 money on this anyway, and I think a lot of this
12 program development is going to be done program by
13 program around the country.

14 I hope there is going to be some thought
15 and innovation going on in the field and this looks
16 to me like a good place to cut it at a national
17 level, that if you tell me that the development of
18 innovative private involvement delivery services is
19 going to be absolutely crippled by this motion, let
20 me know, I want to hear it, but I think we are
21 allocating a lot of money from each of our local

1 programs into this line.

2 MS. BERNSTEIN: Before you answer, Mr.
3 Wallace, let me just ask, too, public relations has
4 never been one of the Corporation's real strong
5 points, and I guess one of my questions would be to
6 follow up what Mr. Braude said, is have we reached a
7 point in any of these research or experimentation
8 projects where we are going to be, if not crippling,
9 then severely handicapping our relationships with
10 the Bar because we have gotten to the negotiating
11 stage where they think we are going to get off the
12 dime and then we are doubling back on ourselves
13 again. I think consistency works not only in the
14 staff programs, but also in relationships with
15 private bar.

16 MR. BROCCOLETTI: No, we won't as long as
17 you don't cut us any further. There is a listing of
18 a grant we announced to Charleston, South Carolina
19 to handle child abuse cases. We list a grant to Ann
20 Arbor, Michigan to handle dispute spouse relations.
21 These people would be devastated, but if you don't

1 cut me any further, we can live with that.

2 MR. DURANT: On your attachment C in your
3 memo dated April 4th, 1985, that is page 85 of our
4 board book, I just want to make sure I understand
5 one column, on the carryover which is next to the
6 last column, the bottom line says 1.831 million
7 under proposed grant contract area; is that money
8 that would be available effective October 1st of
9 this year in terms of the carryover since you are
10 talking about carryover for '85?

11 MR. OSTERHAGE: That is the carryover I am
12 waiting for the board to decide to give or not give.

13 MR. DURANT: That is the number that would
14 be affected?

15 MR. OSTERHAGE: Right, based on the motion
16 by Mr. Mendez that amount would be reduced --

17 MR. DURANT: Just so I understand it, that
18 is money -- I want to get my right years as far as
19 the carryover goes. Is that carryover --

20 MR. OSTERHAGE: '84.

21 MR. DURANT: Not from '85.

1 MR. OSTERHAGE: There is no '85 carryover.

2 MR. DURANT: You have made no projections?

3 MR. OSTERHAGE: I am confident based on
4 the exercise we went through, based on our previous
5 year's experience we will be severely reducing, if
6 not eliminating, the large carryover situation that
7 we had.

8 MR. DURANT: What do you anticipate?

9 MR. OSTERHAGE: Coming within 5 percent of
10 that mark plus or minus. We will, based on the
11 latest motion, reduce the projects, but coming on to
12 the mark of having the funds either expensed from an
13 accounting perspective or having the funds
14 programmatically committed because they are
15 committed contracts.

16 MS. BERNSTEIN: Can I clarify from the
17 board's standpoint because I know where program
18 development came from in terms of its inception and
19 creation and so forth, but the board may not know
20 that prior to approximately June of 1983 there was
21 no such thing as the Office of Program Development.

1 The staffing of that department or that division was
2 not really complete until -- or it wasn't even
3 approached being staffed until midway through 1984,
4 and therefore the fact that there was '84 carryover
5 is partly reflective of the idea that this was a new
6 project for the Corporation at that time. Correct
7 me if I am wrong, but that part of what we are
8 seeing is the fact of gearing up, and again just as
9 in the private attorney involvement reg, as far as
10 the programs are concerned, the first year may not
11 be as effective as they may be later, and that is a
12 process of getting the ball rolling. You are saying
13 right now the ball is rolling.

14 MR. OSTERHAGE: Yes.

15 CHAIRMAN MENDEZ: Mr. Roche.

16 MR. ROCHE: I simply want to get some
17 clarification of my own confusion on that last point.
18 In fiscal year 1983 which ended I believe September
19 1983, there was allocated to delivery research and
20 experimentation \$3.65 million.

21 CHAIRMAN MENDEZ: What page are you on?

1 MR. ROCHE: This is the 1983 report on
2 reprogramming, it is not in your book. It is
3 delivery research and experimentation coming out of
4 1983 where there was a 3.65 million dollar budget.
5 Funds carried over was 2.861 million out of that
6 line item in 1983. Consequently, I assume that
7 prior to June of 1983 there was something similar to
8 the Office of Program Development and it had the
9 same problem that the newly organized one did.

10 MR. UDDO: Again I am not on this
11 committee so I would have to beg your indulgence,
12 but I would like to make a suggestion to that
13 committee and that is these figures strike me as
14 large figures to be carried over, and I understand
15 some of the problems, but I think this committee
16 might want to approve a motion to suggest that there
17 is a committee out there that has not met yet, and
18 that is the committee on provision of legal services
19 might want to become a little more active and look
20 at this program development and what has been
21 happening and has not been happening and how maybe

1 we can avoid large carryovers, so from your
2 perspective as a budget committee you can feel there
3 are no glitches in the operation causing a big
4 carryover.

5 CHAIRMAN MENDEZ: I will take your advice
6 to heart and we will suggest that to Chairman Durant,
7 that the program committee start on this --

8 MR. DURANT: Now directed to Mr. Valois.

9 MR. WALLACE: I don't mean to say in
10 defense, but it was what, \$4 million and something
11 in 1984. It is down to 1.8 in new money in 1985 and
12 how much new money is in program development in 1986?

13 MR. GESSNER: 1.4 million.

14 MR. WALLACE: So we decided to go in with
15 a bunch of money up front and it has been tailing
16 off ever since and I can see how this kind of
17 problem could have existed.

18 CHAIRMAN MENDEZ: I tell you also just as
19 a help to us, I would like to have you come in next
20 meeting with a statement about what the budgeting
21 and what you anticipate for '85 so we are assured

1 there is not --

2 MR. OSTERHAGE: There will not be a
3 carryover situation come October 1.

4 CHAIRMAN MENDEZ: We want to see where you
5 are expending your funds so we can be assured there
6 is no carryover.

7 MR. OSTERHAGE: Okay, we will provide that
8 to you.

9 CHAIRMAN MENDEZ: Now, the Chairman moves
10 that based on the cuts as stated previously by the
11 Chairman and as noted by the board, that the
12 carryover funds of approximately -- \$669,130 plus
13 the approximately \$405,290 be allocated to basic
14 field programs and that the funding be -- basic
15 field programs make -- that request for proposals be
16 developed immediately by both the field programs for
17 the use of these funds. Do I hear a second to my
18 motion?

19 MS. BERNSTEIN: Second. I understand what
20 you mean.

21 MR. DURANT: Now you are two up on me.

1 CHAIRMAN MENDEZ: Let's go through and
2 have a brief discussion. What I want to have is the
3 basic field programs come in with some requests for
4 proposals and I want to have the offices -- excuse
5 me, not RFPs, I want to have the Office of Field
6 Services come in with a presentation of what they
7 think is appropriate, and I want the basic field
8 programs to come in with presentations about what
9 they want to use the funds for. We want to make
10 this competitive.

11 MR. MOLA: Is this money that is going to
12 be made available sometime before the end of the
13 fiscal year? PAG's recommendation to you is to put
14 the money out immediately. Here we are almost in
15 June. By the time an RFP is developed and it is
16 responded to by field programs we will be well past
17 the fiscal year. We need the money now.

18 CHAIRMAN MENDEZ: Do you have any
19 discussion?

20 MR. WALLACE: I am for you on moving the
21 money from line item to line item. I think moving

1 all this money out of program development and into
2 direct delivery, the field programs is a good idea.
3 I would like you to elaborate on what you expect to
4 be done with the money. If the motion is just to
5 move the money, I am for it, and if the motion is to
6 say what the money does when it gets there, I want
7 to hear a little more about what you expect to
8 happen.

9 CHAIRMAN MENDEZ: Well, in terms of what
10 the field programs -- the supplemental funds for the
11 field programs, I believe what we really want to do
12 is give some good thought to creative type programs
13 from the field to help expend that. I'm not sure
14 that I want to just give one dollar to the lowest
15 funded programs or a certain percentage to the
16 lowest funded programs, but I am willing to sit and
17 listen to what other members of the board of
18 directors have, ideas that they have.

19 MS. BERNSTEIN: Can I suggest that rather
20 than the board making this kind of a decision which
21 is we are not in a relationship with the field

1 program to know what is available, I understand the
2 concern in terms of getting the money out
3 immediately, and that it is also my concern, and I
4 would simply say that whether -- if we should direct
5 the Office of Field Services to get requests for
6 proposals or announcements or whatever is
7 appropriate, and get in contact so that within -- I
8 don't know if you want to give it a 30-day limit or
9 whatever is appropriate to get this money out within
10 a reasonable amount of time to those programs that
11 feel they can utilize it and get some direct
12 delivery going this fiscal year. That would be my
13 sense of the motion, it would be my concern that
14 once again this is not our position on the board
15 level to make this decision, but to get it done.

16 CHAIRMAN MENDEZ: Mr. Broccoletti, how
17 long would it take you to get an RFP or something
18 like that to get the monies out?

19 MR. BROCCOLETTI: I think in terms of
20 developing the RFPs, I think around three months.

21 CHAIRMAN MENDEZ: That's too long.

1 MR. DURANT: Mr. Mola, when you say to get
2 the money out now --

3 MR. MOLA: We have already given the board
4 two extensive memoranda on what our view was for the
5 use of the entire carryover. This amount of money
6 we are dealing with now is a very small percentage
7 of the total amount that we believe should be going
8 to field programs. Our formula is to distribute it
9 according to the appropriation allocations. There
10 has not been a lot of new money or discretionary
11 money in field programs, and the needs are going to
12 be different program by program. I may have a
13 capital replacement need. Terry may have some
14 special project that he would like to start a few
15 months early. We are talking about one-time money
16 here, and I think you should allow it to go out
17 based on the allocation and leave the expenditure
18 decisions to local programs. We have not had any
19 new money for so long, and from my perspective that
20 money is going to be well spent according to the
21 decisions of the board of local directors.

1 MR. WALLACE: I have got a question for
2 Mr. Broccoletti and to anybody else who is sitting
3 up here as to what the staff believes would be a
4 better use than that of this million dollars that we
5 are talking about. Are we just waiting to see what
6 proposals come in and see which ones we like or the
7 specific things that we expect to solicit by a
8 request for proposals. I mean what are we going to
9 get --

10 CHAIRMAN MENDEZ: What is the most
11 efficient way to expend this money?

12 MR. BROCCOLETTI: Well, it is awfully
13 difficult to give you a complete opinion on it
14 because we have not circulated amongst the staff
15 this idea. I am very much in favor of promoting
16 private bar activity and assisting the field
17 programs in doing that, but I can't answer that at
18 this point. I think the idea about competitive bid
19 is very appealing to me because I think it will
20 stimulate the programs to come up with something
21 innovative on their own, but it is going to take a

1 while to put it together.

2 MR. DURANT: Mr. Broccoletti, could you
3 respond directly to the points that Mr. Mola raised,
4 how would you in a competitive situation have the
5 questions of whether or not you needed new capital
6 equipment as opposed to maybe you needed an
7 additional attorney or paralegal or whatever. How
8 do you see that conceptually working?

9 MR. BROCCOLETTI: I really can't see that
10 conceptually working out rather than a direct grant
11 to the program, but to make it competitive I think
12 you need to set up a list of criteria, put a lot of
13 time in the draft solicitation, request for
14 proposals, list what you are trying to get at with
15 the solicitation, what are you trying to promote.

16 MR. WALLACE: What do you expect to do
17 with the 699,130 that is already in the staff
18 proposal? Does the staff have a proposal of how to
19 get that out between now and the end of the fiscal
20 year?

21 MR. BROCCOLETTI: No. We were going to do

1 whatever the board told us to do. We expected the
2 board to tell us how to do it.

3 MR. DURANT: That answers that.

4 MR. MOLA: If I may, with this amount of
5 money, total pot, if it were to go out according to
6 the allocation formula, for most of the programs I
7 would venture to say you are talking about a very,
8 very small amount of money, \$3000, perhaps \$5000,
9 \$6000. Again let me stress this is one-time money.
10 With that little bit of money available, you heard
11 from the gentleman from Alaska, we are not going to
12 try to put a lot of effort to understand grant
13 criteria under an RFP. The other thing that needs
14 to be understood, 3- to 6000, even 10,000, can't be
15 used to start a project that is going to incur
16 expenses on an analyzed basis because once those
17 funds are expended there is no new money to keep
18 them going.

19 CHAIRMAN MENDEZ: Joel.

20 MR. THIMELL: Mr. Mola has hit on a very
21 key point. We had a similar problem last fall when

1 we allocated 1.2 million to the field programs. The
2 decision was are we going to give it to everybody or
3 spread it so thin it had no impact, and at that time
4 we decided to give it to the lowest funded programs
5 because they had the greatest need, and when we
6 projected it out using the funded formula with the 1.2
7 million, there would be a lot of programs getting \$50
8 checks. They couldn't do much but hold an office
9 party with it.

10 MR. WALLACE: What did you do?

11 MR. THIMELL: We gave it to the lowest
12 funded programs to bring them up. I think that is a
13 reasonable alternative instead of spreading it wafer
14 thin.

15 MR. WALLACE: Any way you cut it, there
16 are people that can use the money. Just the time
17 and effort involved in taking requests for proposals
18 on \$1 million to see where it goes, it seems like
19 our staff could be doing other things with their
20 time. Everybody needs to buy yellow legal pads and
21 if that is all this money gets us around the country,

1 that is probably better than going through a whole
2 big proposal request.

3 CHAIRMAN MENDEZ: John, or Terry, would
4 you please comment about the idea of funding the
5 lowest funded programs.

6 MR. MOLA: The 1.2 million went out to
7 lowest funded programs. I think again there is a
8 basic fallacy that you brought them up. You may
9 have given them some extra resources they could use
10 within a year. Nobody else got any money. I mean
11 there were programs like mine that could be
12 described the new poor of Legal Services. None of
13 us have enough resources to deliver the services
14 that we have. I agree that this amount of money is
15 not going to go very far, but I would personally
16 rather see more programs benefit than just the lower
17 funded.

18 CHAIRMAN MENDEZ: There are several
19 different ways of doing this. We can take it by
20 poor persons. We can divide it among the programs
21 equally. There are various alternatives. Given

1 this pot, you two talk, figure out what you want to
2 do. Give us some sort of suggestion.

3 MR. WALLACE: Do we have to --

4 MS. BERNSTEIN: No, we don't. That was my
5 point.

6 MR. WALLACE: Part of your motion --

7 CHAIRMAN MENDEZ: We want to get the money
8 out as soon as possible.

9 MS. BERNSTEIN: I said whether it is a
10 request for proposals or an announcement or
11 negotiation or whatever it is, I think our role as
12 the board is to allocate the carryover and to say to
13 Field Services we want it out within X days for
14 direct delivery. That is the sense of what I would
15 be voting for.

16 CHAIRMAN MENDEZ: If we can get some sort
17 of input from the field, something that they would
18 really like to have.

19 MR. WALLACE: I understand that, but I
20 guess we are going to vote in a little bit on the
21 allocation of next year's funding to the field

1 generally, and it would be my predilection that
2 whatever we decide -- whatever formula we decide to
3 use for allocation to the field for 1986 is probably
4 a pretty good way to allocate this million dollars,
5 too. I don't see why we need to run up a whole
6 special show for a million dollars. I understand it
7 is analyzed but we are going to divide it up in such
8 a way, and I don't understand why the same
9 percentages apply to this million that we are
10 applying to \$250 million next year.

11 CHAIRMAN MENDEZ: If we applied it to the
12 other, could you add this million dollars into it or
13 would you have to write separate checks?

14 MR. GESSNER: To what?

15 MR. WALLACE: I am saying my predilection
16 at this point. I am ready to be talked out of it.
17 I am ready to vote now on moving the money around
18 the line items.

19 CHAIRMAN MENDEZ: The Chair will modify
20 the motion to take out the provision concerning what
21 the -- how we will fund the basic field programs,

1 but the Chair -- the Chair will rephrase its motion.

2 MR. SMEGAL: Are we still talking about
3 the 300,000 in receivables? Give them real money?

4 MS. BERNSTEIN: The receivables have been
5 moved to permanent development.

6 MR. WALLACE: 400 more on top of the
7 receivables. It will be 1 million 1.

8 MR. GESSNER: Approximately.

9 MR. WALLACE: Approximately.

10 MR. MOLA: Mr. Chairman, I would reiterate
11 that we would like to see the money to go out
12 immediately to be used by the program at its Board
13 of Directors' discretion for whatever the needs
14 might be within that locality, and as to how the
15 money should go out, if you would bear with us, we
16 could have a recommendation at the full board
17 meeting tomorrow.

18 CHAIRMAN MENDEZ: That's fine. We will
19 separate out that portion of the motion.

20 MR. MOLA: Thank you.

21 CHAIRMAN MENDEZ: Dennis.

1 MR. DAUGHERTY: Back in 1983 --

2 CHAIRMAN MENDEZ: For the record,
3 introduce yourself.

4 MR. DAUGHERTY: Dennis Daugherty, acting
5 secretary.

6 In 1983 the Corporation did solicit
7 proposals almost exclusively from existing grant
8 committees, although I think we received a few
9 applications from legal services providers not
10 currently financed with our funds. They were very
11 thoughtful proposals to meet particular needs that
12 had arisen. We were never able to fund those
13 applications, the funds we were going to recover
14 from programs that had 50, 60, 70 percent fund
15 balances as a result of the adverse decision in the
16 east Arkansas case, but those applications reflected
17 some careful planning and thought as to how the
18 programs planned to spend those funds, and I think --

19 MR. WALLACE: How much total money were
20 you talking about in 1983?

21 MR. DAUGHERTY: I think we received about

1 \$2 million in proposals. We received a lot of
2 proposals, and I would think some thought should be
3 given to allow the Corporation to review those
4 proposals to see if there are some that should be
5 considered for funding.

6 MR. SMEGAL: What is the Chair's motion?

7 CHAIRMAN MENDEZ: The Chair is going to
8 restate its motion.

9 The Chair moves that we grant basic field
10 programs \$699,130 plus the previously stated
11 \$405,290, and that we provide program development --
12 provide the staff its request for program
13 development subtracting out the phase 2, and that we
14 provide the private bar involvement subtracting out
15 its category and the PDSS category.

16 MR. OSTERHAGE: To clarify, you are
17 subtracting out the 405,000, not all the dollars in
18 those categories?

19 CHAIRMAN MENDEZ: Just the \$405,000.

20 MS. BERNSTEIN: I seconded it before.

21 All right, I will second it.

1 CHAIRMAN MENDEZ: Any further discussion?
2 Not appearing, all in favor? All opposed?
3 The motion carries.

4 Now we are turning to the line item on
5 management and administration. The staff has
6 suggested a million dollars for one-time projects,
7 catch up on monitoring and auditing, and the
8 question I have for the staff is, is that sufficient
9 money. Can you make do with that to get it done by
10 April of 1986?

11 MR. MEYER: That is an interesting
12 question. We have been discussing that. Originally
13 we wanted 1.3 but that was to do a quicker crash
14 program and finish up by December 31st. We felt
15 that much of a crash program was uneconomic. By
16 stretching it out to April 1st we believed we could
17 do it with a million dollars. Since then we ended
18 up with a total of a couple hundred thousand less
19 than we thought we would have in the basic
20 monitoring. We are also a month behind schedule.

21 Nonetheless, we are optimistic with some

1 of the work we have been able to get done, even
2 though we have four professionals in M&E, we can
3 meet the April 1st target if we get our full million.
4 We would like more, but we believe everybody has got
5 to tighten their belts, and with this money we
6 believe we can get the 18-month monitoring cycle,
7 and with the remaining money we believe we will be
8 able to sustain that, 18 visits a month, we will
9 have to get up to 25 or maybe more, probably 27 or
10 28 because of the loss of time to get this cycle.
11 We believe that we can do it. One of the things
12 that we think can improve the situation is we have a
13 lot of plans for computerizing our records, our
14 sending people out, our consultant bank and so on.
15 We think we can get some efficiencies, more than we
16 originally expected. I think we can make the April
17 1st, 1986 deadline.

18 CHAIRMAN MENDEZ: Terry, before I ask you
19 to address I will go through each one of the lines.

20 The second item on the line is \$300,000
21 for special studies and research. What is that for?

1 MR. THIMELL: That is the set-aside monies
2 for the board to enable the staff to carry out
3 various projects which the board has requested and
4 will be requesting the staff to carry out in the
5 future. There is no money in the management
6 administration, but currently for such studies we
7 feel \$300,000 is a very conservative figure. That
8 will enable us to do the migrant study which has
9 been discussed. There is also an institutionalized
10 elderly study, support services study and a variety
11 of other studies which have been discussed. That is
12 the purpose for that request.

13 CHAIRMAN MENDEZ: What about the \$170,000
14 for reserve for general counsel's office?

15 MR. GESSNER: I can speak generally to
16 that. As you know, the litigation expenses are very
17 much unpredictable. I think I'd better let Mr.
18 Bagenstos speak to it.

19 CHAIRMAN MENDEZ: I will tell you that
20 accountants can't explain to lawyers legal expenses.

21 MR. WALLACE: Let me ask a question on

1 these studies, and maybe I am backing up, but we are
2 all talking up here. There are some of these things
3 -- I have not been to all the committee hearings
4 that other folks have had the opportunity to go to.
5 I get the idea that we are getting requests from
6 Congress that we ought to have more data about what
7 we are doing. Is this \$300,000 going to satisfy
8 what Congress wants to know as well as what we want
9 to know, or what are we going to use it for?

10 MR. THIMELL: That is a good question. It
11 is very hard to predict just what Congress will ask
12 us for next.

13 MR. WALLACE: Is what have they asked us
14 for so far projected to be covered in here?

15 MR. THIMELL: To my knowledge there are no
16 outstanding requests from Congress that cannot be
17 met through the monitoring effort or through this
18 study or some other areas of the current budget.

19 MR. WALLACE: What other outstanding
20 requests are there from Congress?

21 MR. THIMELL: I am not aware of any

1 specific requests other than more facts and figures
2 about what the programs are doing.

3 MR. SMEGAL: Are there some plans for
4 studies based upon those general requests?

5 CHAIRMAN MENDEZ: Let me just go -- Mr.
6 Uddo has a commitment this evening and he is very
7 interested in the funding formula. I would like to
8 just touch base on this and see if we can wrap this
9 up fairly quickly in the next 5 or 10 minutes.

10 MR. SMEGAL: I think my question should be
11 answered fairly quickly.

12 MR. MEYER: I would say this: I don't
13 have a specific request, but I went to a number of
14 the hearings, and there was very strong questioning,
15 are you going to monitor people, both specific
16 programs and generally, and I believe that there is
17 two things that we can do with monitoring obviously
18 if we get the extra push to get caught up. One is
19 we will be able -- we couldn't be quite through the
20 monitoring cycle and have all the people monitored.
21 We will have two-thirds to three quarters monitored

1 completely in the 18-month cycle and the others will
2 be close by the next Congressional round next March.
3 And secondly, I plan to computerize and try to do
4 what I call a key word system for monitoring reports
5 so we can pull out 37 people had questions on lock,
6 22 had excess fund balances, 35 had fiscal problems,
7 and if somebody wants to know which ones we will be
8 able to recover them, so we will be able to give
9 people 10 or 15 examples of anything we want to say
10 and if we don't have that many, we won't say it, so
11 I believe in that way a lot of questions will be
12 answerable, particularly the next round of hearings,
13 if we can get the monitoring money and get our
14 system up. We are not in the computer age at all in
15 monitoring. We have to not only monitor, but we
16 have to recover the information and get it to you
17 and our Congressional affairs people. There are a
18 lot of answers there but they are buried.

19 CHAIRMAN MENDEZ: Let me tell you a couple
20 of things. One of the nice parts about going
21 through Senate confirmation is you get a lot of

1 questions and you think about your answers. One of
2 the questions I got repeatedly was what do we know
3 about migrants, and we are going to do a study on
4 that. There is a question of how much that is going
5 to cost. We have some issues about national support
6 service. We have some issues about state support.
7 We have various other items that we need to do these
8 studies for. Whether they are directed by Congress
9 or not, these are the issues that we want to direct.

10 MR. WALLACE: Okay.

11 MR. SMEGAL: So we do intend to do some
12 studies. That was my question.

13 CHAIRMAN MENDEZ: I definitely told the
14 Senate that I was going to do a study and that every
15 piece of information that I got about migrants from
16 now on out is going to be delivered to you people
17 and you are going to be inundated.

18 MR. WALLACE: Okay, if that is a
19 commitment that we have made, I want to fund it.

20 CHAIRMAN MENDEZ: Let's turn, briefly, to
21 \$170,000.

1 MR. MOLA: Briefly historically, the
2 original budget for litigation for general counsel's
3 last year was \$120,000 that was cut to \$300,000. A
4 request was made of our office that we estimate to
5 the best of our ability what we feel current
6 litigation was going to cost us. It was our best
7 judgment that it was going to cost us approximately
8 this amount. It is hard to say because we don't
9 know what is going to happen to certain items of
10 litigation, and there are great variances depending
11 on what happens.

12 CHAIRMAN MENDEZ: The \$266,000 for the
13 Office of Information Management for a main computer
14 system.

15 MR. GESSNER: I guess Mr. Frye isn't here.
16 \$150,000 of that is to upgrade the corporation's
17 main computer system. Essentially to support what
18 is going on right now and what is planned for the
19 near future. Mr. Eaglin was concerned that he
20 didn't get a copy of our response to the PAG
21 recommendation. One reason for that is because when

1 this was being typed, the day before yesterday, the
2 system went down. The typist lost ten pages. That
3 is an example of why the main system has to be
4 upgraded.

5 The request also includes allocation
6 identified in page 80 of the book to different
7 divisions for one and two work stations each, either
8 word processing work station or computer work
9 stations. As we move into a more sophisticated
10 environment in the corporation, as more people
11 become computer literate, more and more need
12 develops, as more and more applications are
13 identified.

14 CHAIRMAN MENDEZ: Are these work stations?
15 Are they to be used essentially for the monitoring
16 and that aspect?

17 MR. GESSNER: There is a separate
18 identification of equipment in the monitoring budget.

19 CHAIRMAN MENDEZ: Does the board have any
20 questions?

21 MR. WALLACE: My question is where is Mr.

1 Frye? I mean I will go ahead and support this
2 because I don't know anything about computers and I
3 want us to be able to get our job done. At the same
4 time, one of the questions I with ask Mr. Frye if he
5 was here --

6 CHAIRMAN MENDEZ: We will have him here
7 tomorrow.

8 MR. WALLACE: Is this goal equating? Are
9 we trying to get the absolute best system there is
10 in the whole world or are we trying to get the
11 system that we need to get the job done. He is the
12 one that can answer that question, an he is not here.

13 CHAIRMAN MENDEZ: Any other comments?

14 MR. ROCHE: Terry?

15 MR. ROCHE: Terry Roche, Funding Criteria
16 Committee again. I think I can talk loud enough to
17 be picked up.

18 CHAIRMAN MENDEZ: I don't know if the
19 people behind you can hear or not.

20 MR. ROCHE: A range of comments, and
21 forgive me if they are in my paper. I understand

1 that that paper probably was confusing.

2 First as to Mr. Frye and the equipment.
3 Mr. Wallace, I would like a PC. I would like to
4 have a second CPT for my ll lawyer office. I don't
5 have either, I can't afford either, one time money
6 could buy some of that.

7 I think if you read Mr. Frye's proposal
8 you will see that what you are talking about is
9 increasing the number of stations for PC's by
10 something like a third. That is the way I analyzed
11 it. I have the exact stuff in my paper. Because
12 they are increasing these numbers they have to buy a
13 more expensive piece of equipment to support it. It
14 just outrages me. That is why I called it the Marie
15 Antoinette school of management.

16 The computer age for the monitoring, \$350
17 for desks, \$250 for chairs. Mr. Wallace, we don't
18 spend that kind of money in the field. That is on
19 equipment.

20 CHAIRMAN MENDEZ: I appreciate your
21 comments, and if that is the reason we are going to

1 have him in here tomorrow.

2 MR. ROCHE: Beyond that, \$300,000 are
3 asked for studies, one of which relates to the
4 institutionalized elderly. There is \$2 million
5 going out for RPF's in elderly asking for studies,
6 development of materials and the like. Why can't
7 \$100,000 out of that two million be used for that
8 institutionalized study? One.

9 Two, if there is not at least \$200,000
10 worth of carryover in the management and grants
11 administration line at the end of this year I will
12 come up and eat the microphone at the fourth quarter
13 COB?

14 MR. WALLACE: Hubert Humphrey said that
15 about the congressional record and it didn't stop
16 the Supreme Court.

17 MR. ROCHE: But Mr. Humphrey had talked
18 even more than I did. My point is this: You are
19 now two-thirds of the way into your fiscal year.
20 The only information you have at the moment, and it
21 is incredible to me that it is the only information,

1 is the budget performance of your -- of those lines
2 over which you have direct control, through the
3 first quarter.

4 If I were sitting in your chair, I would
5 be asking folks to give me the latest fiscal
6 information through April, which is the latest they
7 have got, which will show you how much extra money
8 there is out of the '85 appropriation that is not
9 being spent.

10 It is absolutely there. You do not have
11 to allocate a dime of '84 carryover to do any of the
12 studies that they have requested, or additional ones
13 that Mr. Mendez would like to have done. I swear to
14 you that that is there.

15 Now on monitoring --

16 MR. DURANT: David, can you have an answer
17 on that tomorrow?

18 MR. GESSNER: I can answer that right now.

19 MR. WALLACE: Let's hear it then, excuse
20 us a second.

21 MR. GESSNER: One, the budget is put

1 together as a plan at the beginning of the year.
2 The budget was very tight as we spread around the
3 available dollars. As the year is progressing, we
4 realize that there will be surplus money in some
5 categories. There will be requirements for
6 additional money in other categories.

7 The budget process that exists generally
8 now provides the mechanism, I choose to call it a
9 fluid budget, where we would move money in and out
10 of divisions as the requirements change, as the
11 projections change. It is quite possible that there
12 will be \$200,000 or \$300,000 at the end of the year.
13 But I am not willing to sit here now and say that.

14 In our response to PAG's recommendations,
15 I indicated that while we spent 17.9 percent of the
16 management administration budget in the first
17 quarter, we spent close to 20 percent in the second
18 quarter. With the additional hiring that has been
19 going on in the third quarter, and at the end of the
20 second quarter, we could hit very close to 30
21 percent in the third quarter. I don't know right

1 now how much we are going to have. I venture to
2 guess that Mr. Roche is speaking off the top of his
3 head when he purports to tell you what we are going
4 to have. Because I have got better information than
5 he has.

6 MR. ROCHE: If that better information is
7 there, Mr. Chairman, I don't know why it has not
8 been shared with you. My projections are
9 conservative ones coming out of 13 years of doing
10 much the same thing on a much smaller scale. If it
11 was a 20 percent in the second half, in the second
12 quarter, that about tracks the estimates that I was
13 using when I gave you the table attached to my
14 memorandum which you will notice estimates
15 significantly lower year end variances from those
16 which would be produced by simply multiplying the
17 first quarter by four.

18 The information is there to be given to
19 you. All you need to do is look at it. If, in fact,
20 it is a question of moving stuff from line to line,
21 within management, fluidly, wouldn't you think that

1 the board's priorities ought to have some kind of
2 influence over where that money goes? What I think
3 I hear you saying is that money gets moved around
4 within this budget without any consultation with you
5 all, which may or may not be the case.

6 MR. GESSNER: That is hardly the case.

7 MR. ROCHE: I misunderstood it then, but
8 that is the way it sounded to me. Secondly, I am
9 not sure how staffing runs you to a 30 percent, if
10 you have got to support that staff over the next
11 year. But that is another question.

12 Let me get back however to the point about
13 monitoring. Page -- I had it a minute ago, 85, I
14 think, just to nail down that point. The
15 information is there, you can look at it, you can
16 make your own decisions, you don't have to guess and
17 I don't have to guess just out of the first quarter.
18 The first quarter ended a long time ago. Page --
19 wrong page, 85, where is it; 66, at least in mine.
20 Total projected cost for the intensified monitoring
21 which is a project to run over nine months beginning

1 originally in, I believe, something like July of '85,
2 now one month off schedule is \$1,949,330, less the
3 amount budgeted of \$1,008,600. I presume that that
4 amount is budgeted out of existing and appropriated
5 annualized funds. Consequently, what happens to
6 that \$1,008,600 next year in '86. Where does it go?

7 MR. WALLACE: I presume we keep monitoring,
8 don't we?

9 MR. ROCHE: But this is a nine month
10 project, described as such in this book. Nine
11 months additional, but one million is already
12 budgeted for that. So where does the million go
13 next year? That is not answered in this book.

14 CHAIRMAN MENDEZ: Have the staff responded?

15 MR. GESSNER: This is on top of the normal
16 level of effort.

17 MR. ROCHE: But it is in the annualized
18 budget.

19 MR. MEYER: We work for hours and hours
20 trying to figure out what was meant and it is the
21 same thing we heard there. Essentially, we came up

1 with one of two alternatives looking at the PAG SEC
2 proposal. One alternative was that, yes, we take
3 money from '85 and from '86, pour it all in there,
4 meet our goal, but there wouldn't be a darn thing
5 left. We would be run out of money April 1, 1966 to
6 have no monitoring for the next six months. That is
7 one possible alternative.

8 Other possible alternatives we stretch out
9 our plan. Sure we can finish the whole plan if we
10 stretched it out long enough. But we will still be
11 on a 24 month or worse monitoring cycle. This money
12 does not exist. It is made up out of thin air.

13 Our money, the nine month planning, nine
14 months, we will spend approximately \$2 million. One
15 million you give us, and about one million that we
16 have. Budget figures have changed a bit since then,
17 but fundamentally it is taking nine months on our
18 average expenditure on monitoring. Some of the
19 money they are trying to spend has already been
20 spent because we have had three quarters locked in
21 for '85 because we have already scheduled our trips

1 for the next month, we couldn't change them if we
2 wanted to.

3 So in '85, a lot of that money can't be
4 juggled, it is already gone.

5 MR. WALLACE: Where does this \$1,008,600
6 come from? Is that regular FY '85 budget, is it
7 regular FY '86, is it both?

8 MR. MEYER: Our estimate was both because
9 the project stretches over both years. We thought
10 we had about \$1 million that would exist in there
11 anyway, one million on top of that we can do the
12 mission.

13 MR. WALLACE: When you get off into FY '87
14 you are basically going to be able to function on
15 this -- if this is annualized funding, you will be
16 back to us in 1987 and say we want a million dollars
17 in the regular budget we will keep on track? I mean
18 is this million in carryover you are asking for to
19 catch us up and then we can keep caught up on a
20 million dollars a year that is in the annualized
21 budget?

1 MR. MEYER: Let me actually answer that,
2 because we have thought a lot about this, because at
3 the time it looked like we had more like a 1.2 or 1.3
4 annualized level. What we can do with this program,
5 we will catch up solidly by April 1. We can go
6 through the rest of that year on the estimated
7 \$500,000 which would be half of the million we have
8 left. When we get to '87, you are going to
9 gradually fall behind if you stay at a million, but
10 we will see what things look like, what we can do
11 with the fish in the sea. We will never have to ask
12 for another one time million. We might have to ask
13 for and argue for a higher budget allocation in
14 fiscal year '87 than one million, I would expect and
15 intend to. I would not go in an ask for two million.

16 MR. WALLACE: I think I understand that.

17 MR. ROCHE: I certainly don't. Is he
18 talking about 500 grand out of '85 and 500 grand out
19 of '86 going into intensified monitoring on top of
20 regular monitoring, or a million out of the '85
21 budget going to intensified monitoring on top of

1 regular monitoring, in which case that is a million
2 that is not spoken for next year, and this is a
3 program that starts for two or three months this
4 year and continues for six or seven months next year.
5 The staff slots that are in here, this money is
6 asked for, are temporary positions. They only go
7 for nine months. You are either getting incomplete
8 or incorrect or unclear staff work, or there is
9 another pea game going on here.

10 MR. MEYER: None of the above. In the
11 first place, I have to repeat, much of the '85 money
12 is already spent and nothing on earth can recover it.
13 It is already gone because we do have some
14 activities. In fact we have considerably more
15 monitoring activity already in '85 than what we were
16 doing in '84 when, as Mr. Gessner said it was
17 totally inadequate. We really -- but, okay.

18 There is some '85 money left. I agree. I
19 can't give you an exact number until we finish the
20 budget review. But our assumption was that we made
21 a simplifying assumption of a smooth expenditure of

1 the normal monitoring money. That is if you have a
2 million you spent \$250,000 a quarter. We actually
3 thought that was somewhat more than a million. We
4 had three quarters.

5 We assumed about a million, actually it
6 would be a little less if you assumed a smooth
7 expenditure through '86 of 250,000 a quarter. In
8 order to catch up from this totally inadequate
9 situation that we have we need a million incremental
10 one time funding. With that, by April 1 we will
11 have caught up, then we will \$500,000 a quarter left
12 out of our '86 money.

13 We have two categories, one is regular
14 monitoring, the other is a million extra over nine
15 months. You put those two together, and we have our
16 two million over nine months. Then we will be
17 caught up, we will do all right through the rest of
18 fiscal year '86 and we will discuss it in '87 but we
19 will never have to come back for a total of two
20 million. It might be 1.3, it might be 1.4, I can't
21 project to '87 yet.

1 MR. WALLACE: I think I understand that.
2 Let me say my position, at this point, is that I am
3 ready to support my chairman, who has had a lot more
4 time to look at this than I have, and let it go to
5 the board tomorrow. Since I didn't see some things
6 that are in front of us until today, I am going to
7 reserve judgment to make sure I understand it before
8 I vote on it at the board level. I think I
9 understand what you are doing. I think it makes
10 sense to me. But I am willing to be educated.

11 MR. ROCHE: All I would say is that the
12 staffing pattern shown here that adds up to the
13 numbers doesn't make sense if Mr. Meyer has
14 articulated it correctly. My point, however, the
15 conclusion point is that I think the \$1 million is
16 there, next year, out of '86 money. You don't need
17 it to get the intensified monitoring. Moreover, I
18 am not sure what sense any of this makes unless and
19 until you have answered the regional office question.

20 Finally, I reiterate a point I made
21 earlier in the day, that you have got 11.4 million

1 dollar budget out of 1985 annualized funds, and this
2 corporation has not spent even \$10 million for
3 administration and monitoring in any past year. I
4 suspect that you are going to find you have got that
5 money at the end of the year. If you look for the
6 information through April, which they have got to
7 have, you could make a better projection.

8 MR. MEYER: Could I just --

9 CHAIRMAN MENDEZ: Tom.

10 MR. SMEGAL: I want to go back to what
11 Dave said earlier. If I understand you correctly
12 during the first quarter 75 percent rather than 20
13 percent, you are projecting in this third 30 percent
14 instead of 25. I don't understand how you can do
15 that?

16 MR. GESSNER: I am not projecting. I am
17 saying that it is a gut feeling that we will be well
18 over 25 percent. I won't go on record as saying as
19 I am projecting.

20 MR. WALLACE: Why do you have the gut
21 feeling?

1 MR. SMEGAL: Are you going to hire more
2 people than you are allotted?

3 MR. GESSNER: There are a lot of temporary
4 appointments on board at this time. The monitoring
5 has picked up substantially. Staffing is reaching
6 the levels which it budgeted.

7 MR. THIMELL: Program development is also
8 going to be letting a lot of contracts and grants.

9 MR. WALLACE: That is a different line.

10 MR. SMEGAL: To get to budget under the
11 fourth quarter if I understand, you will need 33
12 percent, you will have to go over budget by 8
13 percent.

14 CHAIRMAN MENDEZ: Let's make sure we are
15 all saying the same thing. The budget, you do not --
16 you do not in a budget expand 25 percent in each
17 quarter, that is not necessarily the way these
18 things work.

19 MR. SMEGAL: I understand that.

20 MR. GESSNER: Let me give you an example,
21 Mr. Smegal.

1 MR. SMEGAL: That is why I suggested that
2 you have to spend 33 percent in the last quarter.

3 CHAIRMAN MENDEZ: That is for overall,
4 approximately, yes.

5 MR. GESSNER: Let me give you an example.
6 The board of directors in the second quarter spent
7 ten times the amount that was spent in the first
8 quarter.

9 MR. SMEGAL: Because there was no board of
10 directors the first quarter.

11 MR. GESSNER: Precisely, that is precisely
12 the point.

13 MR. SMEGAL: We will spend 100 times in
14 the third quarter.

15 MR. GESSNER: I know the third quarter
16 will be substantially higher than the second quarter.
17 That is a small amount, but it is the point I am
18 trying to make.

19 MR. BRAUDE: Two very brief things, not
20 only --

21 CHAIRMAN MENDEZ: Please.

1 MR. BRAUDE: On the last point Terry made
2 before he finished a moment ago, it seems to me to
3 make total sense that the question about the
4 reorganization of the regional offices is something
5 that should probably be resolved before there is a
6 decision as to whether or not a million dollars is
7 needed or not. I really can't say honestly right
8 now that I know for certain that the cost will be
9 dramatically different in a one office, four office
10 or eight office, since transportation makes up other
11 things. It seems to me clearly that is the first
12 thing that should be decided is what is this
13 structure that is going to do this work look like
14 before you can throw a million dollars at it.

15 Secondly just one quick piece of what we
16 are proposing, which I assume will have a major
17 impact on the dollars here, which has not been
18 discussed yet here today, I am sure will be or hope
19 will be today or whenever, is the notion of using as
20 was done years ago using field people instead of
21 consultants on these monitoring matters not only

1 because we believe it is a dramatic savings in cost
2 but, frankly, there is nobody that knows better how
3 a program should work than people that work in the
4 programs now.

5 I think for those of you who had some
6 connection with Legal Services for more than the
7 past few years, that was the monitoring picture more
8 often than not for years and years and years. Even
9 were it not a cost saving, I think that is a much
10 wiser way to go in the monitoring process. I would
11 assume that is one of a large number of points that
12 is going to grow out of the discussion, not only
13 some of your regional office staff but amongst
14 yourselves in terms of what this figure is going to
15 look like come June or whatever when you make the
16 decision of the regional offices and monitoring
17 generally.

18 CHAIRMAN MENDEZ: Thank you. Any further
19 discussion? None appearing, the chair will -- the
20 issue is before the board now. Management
21 administration staff's recommendation of \$1,736,430

1 to go \$1 million to a one time project to vote on
2 monitoring auditing, \$300,000 for studies and
3 research, \$170,000 for reserve for the general
4 counsel's's for litigation related expenses,
5 \$266,000 for the Office of Information Management to
6 upgrade the main computer system and expand the use
7 of the computer technology throughout the
8 corporation. The chair moves the staff's
9 recommendation.

10 MS. BERNSTEIN: I second it.

11 CHAIRMAN MENDEZ: It has been moved and
12 seconded.

13 MR. EAGLIN: May I offer a substitute
14 motion, Mr. Chairman?

15 CHAIRMAN MENDEZ: You may offer.

16 MR. EAGLIN: Mr. Chairman, I would like to
17 make the motion that the total money sought by the
18 staff in the presentation you have just made,
19 \$1,736,430, be allocated not as recommended but to
20 basic field programs to be added to the \$1,104,420
21 that was allocated previously from uncommitted funds.

1 CHAIRMAN MENDEZ: Is there a second?

2 MR. SMEGAL: Second. Wait, what was the
3 amount?

4 MR. EAGLIN: My motion was not to follow
5 the staff recommendation as moved by the chairman,
6 but instead to allocate to the basic field programs
7 the \$1,736,430 that is presently being sought by the
8 staff for their purposes and to add that money to
9 the \$1,104,420 that we previously allocated to basic
10 field programs from the uncommitted funds from
11 fiscal year '84 carryover.

12 MR. SMEGAL: That has got a second.

13 MR. VALOIS: Don't you have two motions on
14 the floor?

15 MR. EAGLIN: Mine is a substitute motion.
16 I asked to offer such an amendment.

17 MS. BERNSTEIN: I will call the question.

18 CHAIRMAN MENDEZ: All in favor of Mr.
19 Eaglin's substitute motion?

20 (Two hands raised)

21 CHAIRMAN MENDEZ: All opposed?

1 (Four hands raised)

2 CHAIRMAN MENDEZ: The no's have it. All
3 in favor of the chair's motion signify by saying
4 aye.

5 (chorus of ayes)

6 CHAIRMAN MENDEZ: All opposed?

7 MR. SMEGAL: No.

8 MR. EAGLIN: No.

9 CHAIRMAN MENDEZ: Let the record reflect
10 that the motion passed four to two. At this time,
11 the chair will take up the issue of the allocation
12 formula for fiscal year 1986 basic field grants.
13 The chair has spoken to Mr. Uddo concerning the
14 matter, and Mr. Uddo and the chair are negotiating
15 and attempting to arrive at some sort of
16 accommodation between the two prior motions. The
17 chair is interested in some other alternatives and
18 at this time would ask Mr. Daugherty to please come
19 forward and advise us if there are any other
20 potential alternatives to funding other than the
21 Peterson formula that he previously expressed.

1 MR. DAUGHERTY: Thank you, Mr. Mendez. I
2 did focus, perhaps too exclusively at your last
3 meeting, on the question of attempting to introduce
4 into your funding formula in future years some more
5 current demographic data than the 1980 census data
6 or historical funding patterns. That issue, I hope
7 you will leave that issue open for future years.

8 But today you are confronted with making a
9 decision based largely on a question of how you wish
10 to weight the factors of arbitrive population
11 historical funding or hold harmless and the cost of
12 living factor for field programs. Your allocation
13 is by shifting other categories in the judgment, you
14 have increased the funding of basic field by 4.5
15 percent which is what we are projecting inflation
16 would be.

17 So if you wish to hold programs harmless,
18 Mr. Uddo has a proposal that a portion of that
19 increase be used to provide all programs funded
20 below the 1357 level, some measure of protection
21 against inflation, some increase.

1 You have proposed that the funds be
2 allocated largely to the programs at the bottom of
3 the scale. I have, in my memo, outlined to you that
4 you either have \$11 million to use for that purpose,
5 if you allocate only the increase you have allocated,
6 or you have the possibility of not holding the
7 programs harmless for fully 100 percent for '85
8 funds, but in light of the fact that funding has
9 increased, not necessarily in relation to current
10 need, that you might hold them harmless for a
11 smaller amount, say 90 percent of the grant, 90
12 percent of their first \$10, some smaller percentage
13 of the higher amount.

14 These factors can be combined in a
15 different way that Mr. Uddo proposed. There is no
16 necessity that they each be given a third of the
17 weight, a third for bringing programs up from the
18 bottom, a third for across the board increases, or,
19 in order to provide increases based on some lofty
20 minimum access goal of 1357.

21 If all of these factors we are talking

1 about are strictly factors of measurements of need,
2 taking into account the program's cost and program's
3 performance.

4 In the past the corporation has allocated
5 funds -- reserved some of its budget for special
6 needs, funds that were allocated on a competitive
7 basis. They have allocated reserved funds for
8 extraordinary costs in remote areas, such as the
9 gentleman from Alaska spoke about.

10 You also have the consideration Mrs.
11 Bernstein raised earlier, some programs other
12 funding puts them in a better posture.

13 I think in any case you ought to give some
14 thought to not strictly allocating all of your funds
15 on the basis of a formula, but to give people a mark,
16 a target, about which they come in and submit an
17 initial application to you showing how they plan to
18 spend the money.

19 Mr. Roche and others have told us in the
20 past, major shifts are not feasible, people can't
21 absorb a lot of new money. There are programs that

1 are in place that could really use that money better.
2 Let them -- give those programs that have increasing
3 need an opportunity to show if they have a plan for
4 spending that money, and if they don't, at that
5 point, consider the reallocation to well established
6 programs in areas of diminishing poverty population.
7 I would strongly encourage you to consider
8 introducing some performance criteria --

9 CHAIRMAN MENDEZ: What I want to do is we
10 have considered this before, I don't want to take
11 any action on this today. I want to think about it.
12 But one of the things that has really been appealing
13 and the reason I want to consider this further, and
14 I want the staff to run some figures because I
15 really feel strongly about having a floor, using at
16 least half of the funds for the -- to raise the
17 floor.

18 I also feel like we should use some funds
19 for measuring performance and competitiveness and I
20 also feel like in my discussions with Mr. Uddo, that
21 he wants to insure that all of the programs are at

1 least helped by the inflation factor and let's look
2 at about a third for the inflation factor to all
3 programs. I would like to have some sort of program,
4 for you to develop, and I would like to have PAG
5 make some comments about how we can measure
6 performance and competitiveness for the last
7 approximately 16 or 17 percent. I would like to see
8 what that looks like.

9 Once we have those numbers, we will go
10 back to Mr. Uddo again and suggest to him to relook
11 at it, hopefully I can sell him on something other
12 than the numbers that he presently is looking at.

13 Yes, Mr. Roche?

14 MR. ROCHE: Mr. Chairman, can you give me
15 a little more specific idea of what you mean by
16 performance on competitiveness?

17 CHAIRMAN MENDEZ: One of the things we can
18 look at under performance is the cases closed.
19 There are various aspects.

20 MR. ROCHE: That is the kind of analysis
21 that troubles me a little bit because are we talking

1 about 2,000 divorces versus one major --

2 CHAIRMAN MENDEZ: I understand. That is
3 the reason I want you to give some thought about it.
4 I want to see if there is any way we can measure
5 this.

6 MR. WALLACE: Same question I asked of Mr.
7 Houseman this morning when we talked about using
8 case closure as a measure. I understand what you
9 want to do is to pump some of this money into
10 programs that are doing an exceptionally good job.
11 I think that is a good ideas if you can figure out a
12 way to determine which programs are doing an
13 especially good job.

14 If PAG has got some ideas about how to do
15 it, I would love to hear it.

16 MR. ROCHE: Let me tell you why over the
17 years people have embraced this. Certainly if you
18 look at the Legal Services Corporation Act and take
19 the notion of high quality legal services seriously,
20 you could fairly quickly hypothesize that meant you
21 ought not have a whole lot of cases closed by advice.

1 You ought to be trying to do something more than
2 simply talking to people. That therefore, programs
3 with the lowest case loads and the lowest CSR
4 numbers are higher quality and therefore showing a
5 greater performance, which obviously cuts totally
6 against the idea of total numbers as forced by
7 advice and divorce.

8 I think that you may be asking us some of
9 those biblical philosophical questions and though
10 certainly I am willing to take a shot at it with
11 John and others, I think inevitably you come back to
12 dollars per poor person as best measure of need.

13 CHAIRMAN MENDEZ: We would just like to
14 have you examine it and see if you use your wisdom
15 of Solomon. Based on --

16 MR. ROCHE: By tomorrow?

17 CHAIRMAN MENDEZ: No.

18 MR. MOLA: Is it my understanding this
19 will be put off at least until the Detroit meeting?

20 CHAIRMAN MENDEZ: Yes. Does the board
21 have any other questions?

1 MR. SMEGAL: Your proposal is 36 for the
2 floor, 2.6 for the cost of living and 1.6 for this
3 incentive plan?

4 CHAIRMAN MENDEZ: Yes.

5 MR. WALLACE: We will try it if it works.

6 CHAIRMAN MENDEZ: Only if we can figure
7 out some method for doing that. Because I think
8 that we are all in understanding what we would like
9 to reward those groups that are the most efficient
10 and operating the best in the service to poor people.
11 Do I hear a motion to adjourn?

12 MS. BERNSTEIN: I will make one.

13 MR. WALLACE: I will second that.

14 CHAIRMAN MENDEZ: All in favor.

15 (Chorus of ayes)

16 CHAIRMAN MENDEZ: Opposed? Thank you for
17 your courteousness and your endurance.

18 (Whereupon, at 5.40 p.m., the hearing was
19 adjourned.)

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