

COPY

BOARD OF DIRECTORS MEETING
LEGAL SERVICES CORPORATION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

* * * * *

Monday, December 5, 1983

Crystal Room
Doral Inn Hotel
541 Lexington Avenue
New York, New York 10022

BOARD MEMBERS:

DONALD P. BOGARD, President

ROBERT E. MCCARTHY, Chairman

DONALD E. SANTARELLI

MILTON M. MASSON

RONALD FRANKUM

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

MR. SANTARELLI: Second.

MR. ROYAL: Excuse me. I have a question.

MR. McCARTHY: Yes, would you please identify yourself and your relationship to this meeting?

MR. ROYAL: Thank you. My name is James Royal. I'm a client in Philadelphia, Pennsylvania; Chairman of Region Three, National Clients Council. I would like to know, is the same tactics going to be taken on all these issues as far as our input? Will we be put into the record so that our views will be reflected, because I understand you are supposed to represent us in your making laws and what have you that govern the corporation.

But I want to know, are we going to be involved in the process, or are we just going to be here just to hear you lay out the process? I would like to know that, sir, on the minutes.

MR. McCARTHY: The answer is the subject matter you have to contribute.

MR. ROYAL: Will be recorded?

MR. McCARTHY: If it's of worth to the secretary of the board.

MR. ROYAL: Excuse me again.

PRESENTATIONS

	<u>Name :</u>	<u>Page :</u>
1		
2		
3	Dr. David Peterson	21
4	Robert Cohen	45
5	Rodney Watts	50
6	Ray Norko	53
7	Marilyn Minor	129
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		

- 0 -

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

1
2 MR. MCCARTHY: The Legal Services Corporation Board
3 Meeting is now in session. First, I want to thank you all for
4 your interest in attending this meeting, and I want to thank
5 the New York people for providing such good weather again.
6 We're grateful of that.

7 The agenda is in your hands, and the copies of the
8 board books, which have been available. There has been an
9 omission in the agenda in that the approval of an executive
10 session, closed session, was omitted from this page. It was
11 in the Federal Register, however. I would solicit from the
12 Board a resolution to amend the agenda.

13 MR. MASSON: I so move.

14 MR. SANTARELLI: I will second it.

15 MR. MCCARTHY: All right, there has been a motion
16 to amend the agenda by including a provision for approval of
17 the closed or executive session. Do I have a motion for
18 approval of the agenda as amended?

19 MR. MASSON: So moved.

20 MR. SANTARELLI: Second.

21 MR. MCCARTHY: By general consent, the agenda has
22 been adopted as listed, with the one amendment providing for

1 the executive session. The first item, then, would be an
2 approval of a closed or executive session. Do I hear one from
3 the Board?

4 MR. MASSON: So moved.

5 MR. SANTARELLI: Second.

6 MR. McCARTHY: It's been moved and adopted by
7 general consent that an executive session will be had. Such
8 executive session will be at noon at the termination of the
9 open meeting. For your information, the executive session
10 will then be the balance of the board meeting, and a report on
11 the executive session will be had at the next scheduled
12 meeting.

13 In connection with the closing of the session, may I
14 have a roll-call vote? Mr. Masson?

15 MR. MASSON: Yes.

16 MR. SANTARELLI: Yes.

17 MR. McCARTHY: Mr. Santarelli. Mr. Frankum?

18 MR. FRANKUM: Yes.

19 MR. McCARTHY: Will our general counsel please
20 certify as to the closing?

21 MR. MEYERS: Mr. Chairman, as general counsel for
22 the Legal Services Corporation and its Board of Directors, I

1 certify that the majority of the members of the Board of
 2 Directors approve closing a portion of its noticed meeting,
 3 which is being held on December 5, 1983. The closing is
 4 approved in order to discuss personnel procedures, personnel
 5 management, investigation and litigation matters. The closing
 6 was approved by all the board members present, and a roll-call
 7 vote was taken during the public portion of the meeting.

8 I hereby certify that, in my opinion, that closing
 9 was authorized by the Government in the Sunshine Act, 5 USC
 10 532 (b)C(2), and the Legal Services Corporation Regulations,
 11 45 CFR, Section 1522.5 (a), (e), (f), and (h).

12 MR. McCARTHY: Thank you, John. Also, for the
 13 record, there is a quorum of the board present and that proper
 14 notice for the meeting has been given.

15 The second item of the agenda as amended is the
 16 approval of minutes of November 7, 1983. These were the
 17 minutes that were of the meeting held in San Francisco, and I
 18 must say our weather there was not quite as nice as the weather
 19 here in New York. The board book contains the minutes. The
 20 Board has had the opportunity of reviewing those minutes. Does
 21 the Board have any amendments, alterations, or suggestions as
 22 to those minutes?

CAROL J. THOMAS
 STENOTYPE REPORTING SERVICES, INC.
 3162 MUSKET COURT
 FAIRFAX, VIRGINIA 22030
 273-9221 --- 273-9222

1 MR. MASSON: I move the adoption of the minutes.

2 MR. SANTARELLI: Second.

3 MR. McCARTHY: Mr. Masson?

4 MR. BRAUDE: Mr. McCarthy, may I be heard on the
5 adoption of the minutes, if I may, please. May I be heard on
6 the question of adoption of the minutes before you take a vote?

7 MR. McCARTHY: What's the reason, Jim?

8 MR. BRAUDE: To make a comment on the minutes.

9 MR. McCARTHY: You may.

10 MR. BRAUDE: For those of us who were fortunate
11 enough to have been in San Francisco, we heard what I believe
12 was a quite eloquent dialogue from the floor on a number of
13 issues pertaining to the future of Legal Services, one being
14 eligibility, one being the funding procedure, another one
15 being private bar. While I think everyone in this room knows
16 we were unsuccessful in urging our positions on any of the
17 board members on any of these issues, the debate was very
18 representative of the feeling of the full Legal Services
19 community.

20 However, on one question, for example -- and this is
21 how it is throughout -- on page eight, under eligibility,
22 while there seems to be fairly extensive reporting of the

1 positions of the staff and the board, there were dozens of
2 comments, as there were on a variety of issues, and the dozens
3 of comments from the floor are summed up in three words,
4 "Public comment ensued."

5 The Board and Mr. Bogard see fit, when it's
6 appropriate, to refer to your predecessors about how things
7 were run before you. Prior to your coming to the Board,
8 Mr. Bogard coming to the presidency, there was full reporting
9 on comments from the floor, at least in summary fashion. This
10 is not summary fashion. Frankly, it's censorship, and we
11 would urge the Board, before adopting the minutes, to reflect
12 what happened in the meeting, not the version that they chose
13 to adopt, and "Public comment ensued" -- several times -- the
14 words are changed a couple of times throughout, but that's
15 essentially it -- is not at all an accurate reflection of the
16 process or what happened at the meeting. So I would ask the
17 Board not to adopt the minutes as printed. I would ask them
18 to be amended to include an accurate reflection of what
19 transpired at the board meeting, including the comments from
20 the floor.

21 MR. MCCARTHY: Thank you, Jim. That's a good
22 presentation. The Board is --

1 MR. BRAUDE: Well, Mr. McCarthy, if I just may.

2 MR. McCARTHY: Yes.

3 MR. BRAUDE: What happened in San Francisco is we
4 made many good presentations, not one of which was responded
5 to on any issue, whether it be process or substance; and I
6 think it would be very helpful if the Board would address the
7 issue of the minutes, rather than doing, as it has done in the
8 past -- hearing comments and then proceeding to vote four to
9 nothing to do exactly what it chooses to do.

10 I should also say in terms of process, as a courtesy
11 to the Board, I have a few concerns which I believe are shared
12 by a large number of people in the room about the process for
13 today. Rather than having some misunderstanding throughout
14 the day, if you'd like me to ask the questions now so they can
15 be answered, so everybody here operates with full knowledge as
16 to how the meeting is going to be run, I think it might be
17 productive for you, as well as for the people who are here, to
18 listen to the decision making today.

19 MR. McCARTHY: Thank you, Jim, but we have a motion
20 pending before this Board. Your comment was applied to that
21 motion, and if I may cut it off at that, unless you have
22 something further about the --

1 MR. BRAUDE: No, as long as you let me be heard on
2 the process question, of course you can cut me off now.

3 MR. MCCARTHY: Thank you. There is a motion pending
4 before the house. In view of Mr. Braude's comments, does the
5 Board have any suggestions to this Chairman?

6 MR. SANTARELLI: Call the question.

7 MR. MCCARTHY: The resolution is the adoption of the
8 minutes of the San Francisco meeting, which was on November 7,
9 1983; moved and seconded. The question. Mr. Masson?

10 MR. MASSON: Aye.

11 MR. MCCARTHY: Mr. Santarelli?

12 MR. SANTARELLI: Aye.

13 MR. FRANKUM: Aye.

14 MR. MCCARTHY: The minutes as in the board book of
15 November 7, 1983, have been approved.

16 We will then move to the item which is on your
17 agenda as Number 3, the approval of the minutes of November 21,
18 1983. To refresh your recollection, I believe that was in
19 St. Louis. Again, the Board has had the opportunity of
20 reviewing the minutes, and I would entertain a motion at the
21 discretion of the Board.

22 MR. MASSON: I move the adoption of the minutes.

1 MR. MCCARTHY: Yes.

2 MR. ROYAL: In response to your question, then, I
3 would just like to know at each time when the secretary deems
4 it substance to the board.

5 MR. MCCARTHY: In answer to your question, we have a
6 transcript of all statements made at this meeting. In addition,
7 we have a recording.

8 MR. ROYAL: But it doesn't go in the minutes?

9 MR. MCCARTHY: I cannot tell you now what will go in
10 the minutes.

11 MR. ROYAL: All right, thank you very much.

12 MR. MCCARTHY: You're welcome. I would move the
13 previous question. Mr. Masson?

14 MR. MASSON: Aye.

15 MR. FRANKUM: Aye.

16 MR. MCCARTHY: Mr. Santarelli?

17 MR. SANTARELLI: Aye.

18 MR. MCCARTHY: The minutes as shown in the board book
19 for the meeting of November 21 have been approved and adopted.
20 The next agenda item is Number 4, a funding panel discussion.
21 We are very fortunate to have some very excellent panelists
22 with us that can contribute a great deal to the education of

1 the public, the board and its staff. I would ask our
2 president, Don Bogard, to please introduce them.

3 MR. BRAUDE: Mr. McCarthy, if I may, please, because
4 if the meeting is about to start in substance, I'm trying in
5 a very, very conciliatory fashion to find out how the board
6 meeting will be run. In San Francisco, it was run one way;
7 in St. Louis, another.

8 I just have a very few questions that I think will
9 help the board run the meeting and help us to participate in
10 the meeting. One, should we assume that at the end of every
11 substantive item on the agenda, the panel, the budget mark,
12 that comments will be entertained from the floor before there
13 is any board action; is that correct? It's fairly confusing
14 from the board book.

15 MR. MCCARTHY: At my discretion, I will determine --
16 and I have determined, subject to any board considerations --
17 that at the conclusion of the discussion, if there is any,
18 from the staff -- and I'm not sure -- on the mark, we will open
19 for a short time public comment, and I would appreciate the
20 public comment from those who did not make contributions at the
21 St. Louis meeting. This has been taken up, but I --

22 MR. BRAUDE: After the panel discussions?

1 MR. McCARTHY: After the panel discussions; that is
2 correct, Jim.

3 MR. BRAUDE: I should just say that I think, in
4 advance, it's inappropriate for you to suggest that people who
5 have spoken at prior board meetings who choose to come again
6 should not be heard.

7 One or two more things, if I may, and then you can
8 proceed with your panel discussion.

9 MR. McCARTHY: Sure.

10 MR. BRAUDE: In San Francisco, you, one, limited the
11 number of people who could speak; two, set time limitations on
12 how long people could speak because you were under such serious
13 time constraints, allegedly. The time constraints caused the
14 meeting to be over on the agenda the next day at 1:00, on
15 Tuesday -- after rushing people and cutting off people on
16 Monday because you had to leave Tuesday at noon. As it turns
17 out, you adjourned the meeting Monday, anyway. So, clearly,
18 there was not the time problem that you suggested.

19 What we would ask in advance is, one, clear informa-
20 tion that whoever wants to be heard on an issue -- this is a
21 public meeting -- will be heard; two, that until you determine
22 that there seems to be a time problem, that you won't

1 arbitrarily cut people off or suggest they have a limited
2 amount of time. It is very difficult, Mr. McCarthy -- we
3 suggested it before -- to participate intelligently in a meeting
4 on issues that matter very dearly to all of us if we don't
5 know in advance what the process is going to be. For you to
6 say in advance "if a comment is worthy" is really not only
7 inappropriate but is also, frankly, a little bit insulting --
8 thank you -- to say the least. And so, all we're asking --
9 all we are asking -- which would be helpful to you, as well,
10 sir -- is for you to explain to us in advance what the
11 procedure will be for comment. I know for a fact that on the
12 panel discussion, the budget mark, and a number of the
13 outrages that you've all perpetrated at prior meetings, we
14 plan to comment today, and all we would like to know is when
15 and what kind of process you plan to enforce so that it isn't
16 done in an ad hoc way based upon how unhappy you are with the
17 comments or how unworthy you deem them to be.

18 MR. McCARTHY: Thank you, Jim. That's a reasonable
19 request, and I think that I have already stated that the public
20 session of this meeting will be completed by lunchtime, so --

21 MR. BRAUDE: If the panel discussion goes until five
22 of twelve, does that mean we have five minutes?

1 MR. McCARTHY: If that's possible, that could be the
2 answer, but I don't believe that it will be conducted in that
3 manner, though. But we have set this to be concluded by
4 lunchtime.

5 MR. BRAUDE: I should just say for the record that
6 I think most of us here expect to be able to comment on every
7 issue as it comes along before there is a vote taken by the
8 board. That's how a public meeting should be run, and we
9 expect it to run that way.

10 MR. McCARTHY: Well, I'm glad you have expectations,
11 Jim, and --

12 MR. BRAUDE: Not much hope, but expectations.

13 MR. McCARTHY: Thank you very much for those
14 comments.

15 MR. BROWN: I have a comment, Mr. McCarthy.

16 MR. McCARTHY: Could we have your identification,
17 please?

18 MR. BROWN: My name is Steve Brown.

19 MR. McCARTHY: Thank you.

20 MR. BROWN: I'm Project Director of the Greater
21 Upstate Law Project in Rochester, New York. I have a press
22 statement, a press release, here that -- a statement that I'd

1 like to circulate. The normal practice in these meetings is
2 for people with statements and information to drop the informa-
3 tion off at a table for people to pick up when they come in,
4 for distribution.

5 I have just been informed that this table, which is
6 half empty, is not appropriate for putting any papers on for
7 distribution. Could I get a clarification of that and a
8 reason for that if that's the policy?

9 MR. McCARTHY: Go ahead and put them on there.
10 That's fine.

11 MR. BROWN: Thank you.

12 MR. BOGARD: The first part of the presentation this
13 morning, involving the funding formula, we'll have a report
14 by Dr. David Peterson and the Vice President of Operations,
15 Dennis Daugherty. Dr. Peterson has been under contract with
16 the corporation to study the funding formula issue, has made
17 a presentation to this board back in July, I believe, and now
18 has come out with the final report, which will be submitted
19 at this time. Gentlemen.

20 MR. DAUGHERTY: Mr. Chairman, as President Bogard
21 indicated, this is a continuation of a discussion that began
22 at your Audit Appropriations Committee meeting in July, and,

1 indeed, a continuation of discussions that have taken place at
2 the staff level in the corporation for some five or six years,
3 since the creation of a Resource Allocation Task Force back
4 in 1978.

5 Our purpose is to attempt to find a method for
6 achieving an allocation of Legal Services Corporation funds
7 that is related as closely as possible to the distribution in
8 the United States of persons who are unable to afford legal
9 assistance -- where are the clients of the Corporation and what
10 is their distribution and to distribute our funds in relation
11 to it. That would seem to be a very important purpose, given
12 the chief objective of the corporation being to bring about
13 equal access to justice, which, in my view, would be not only
14 that indigent persons should have an opportunity similar to
15 that of those who may afford legal counsel, of retaining
16 attorneys, but the poor persons in New York, New Jersey, and
17 poor persons in San Francisco, California, should have roughly
18 equivalent opportunities, access to attorneys to deal with
19 their critical legal needs.

20 In July, I reported to you that we had 105 of our
21 286 grantees who were funded below level of \$6.20 per poor
22 person and 27 grantees that were funded over the level of \$9

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 --- 273-9222

1 per poor person up to a total as high as \$17. This is a result
2 of massive shift in the location of the poverty population
3 since the 1970 census, on which basis we had previously
4 allocated \$6.20 per poor person, as well as the fact that a
5 substantial share of our total basic field funding is
6 allocated not in relationship to the underlying population, but
7 in relationship to historic decisions made by the staff of the
8 Office of Economic Opportunity and Legal Services Corporation,
9 which had the effect of funding some programs significantly
10 above the minimum access level at which the new legal services
11 program has funded in early years to the corporation.

12 As a result of Congressional action on the 1984
13 appropriation, we have seen an increase at both ends of the
14 scale. As a result of the \$34 million increase in the
15 appropriation, fortunately, no program next year will be funded
16 below \$6.79 per person. But, at the same time, the discrepancy
17 among providers remains. We now have 41 providers above the
18 \$9 level, one of them as high as \$18; whereas, 119 of our
19 grantees are funded below what we originally defined as an
20 access level of \$7.

21 We are here today to talk about addressing that
22 problem and to address what formula might be more equitable

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 --- 273-9222

1 than relying solely upon the 1980 census poverty count. As I
2 reported to you at our July meeting, that poverty count has
3 two very serious defects. One, it does not reflect shifts in
4 the location of the poor between decades; and we've seen
5 already in this decade a considerable shift as the auto
6 industry, the steel industry has experienced economic distress,
7 causing the poverty population in places like Birmingham and
8 Detroit to increase significantly. Likewise, in some of the
9 coal fields, in some of the mining areas of the West and the
10 Midwest, these shifts were not reflected. If we are to rely
11 on the 1980 census for another 10 years, as we have relied in
12 the past on the 1970 census, we will not be allocating funds
13 in relation to where our clients now live.

14 The second weakness of the census that we identified
15 at that time was the fact that it did not take into account
16 the fact that the purchasing power of the dollar varies
17 greatly from place to place in the country; and, thus, using
18 the same threshold of income as the basis for determining who
19 is poor seriously understates the ability, the poverty of
20 persons in this city, New York; in San Francisco; Alaska;
21 Seattle; Hawaii -- understates the number of persons who are
22 unable to afford legal assistance, while indicating a probably

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 greater number of persons in rural areas in the South, for
2 example, where the cost of living is low, as being in need of
3 legal assistance.

4 We contracted, as the results of our discussions in
5 July, with Dr. David Peterson to recommend to us a multi-
6 factor formula that would utilize information which was
7 available to us more often than once every 10 years, that
8 would give us an indication as to where economic distress,
9 where poverty existed; secondly, that would take into account
10 variations in the cost of living that affect the level of
11 income that a person may have and still be unable to afford
12 legal assistance. Thirdly, we directed him to avoid bias
13 toward any region of the country; fourthly, to recommend to us
14 formula factors that utilize data that's available at a
15 statistically reliable amount at the county level, since many
16 of our programs -- most of our programs -- are not statewide
17 programs, but are citywide programs that represent counties or
18 groups of counties. Finally, we asked him to look for other
19 factors that were equally indicative of the inability to afford
20 legal assistance for the incidence of legal problems. In
21 particular, we wanted to focus on the problem of unemployment.

22 Dr. Peterson is ready to make his report. He is a

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 person who has made recommendations in this area to others.
2 He has been contracted to the Department of Housing and Urban
3 Development to make a recommendation with respect to their
4 housing and the development of the lot grant program. He
5 worked for a number of years to present a policy which was
6 concerned with these issues. He has spoken at forums sponsored
7 by the Brookings Institution, at the Northeast Midwest
8 Institute. He is a former professor of government and public
9 administration at Pennsylvania State University and American
10 University.

11 I would like to turn the meeting over now to
12 Dr. Peterson for this report.

13 DR. PETERSON: If you will turn, please, to pages 58
14 and 59 in this document, which I assume you have available, I'd
15 just like to point to a few of the highlights. I'm not going
16 to give a complete brief, of course, so that you'll have more
17 time for a question-and-answer session.

18 What you see in here is a statement of major
19 purposes of the study. On page 58, it is saying essentially
20 that we're seeking a formula that can meet the basic needs in
21 all service areas before subsidizing lower priority demands in
22 any service area. The approach that's described on page 59

1 will be detailed in a more academic study, but, essentially,
2 what you see is an effort to identify the potential bias in
3 hundreds of indicators that we had available or developed and
4 to identify the indicators or indexes that best measure overall
5 need, the combination of measures that would have minimal bias.

6 The figure on page 60 gives a simplistic, but perhaps
7 useful, statement of the types of bias that can come about
8 through unsystematic formula development. On the right-hand
9 side of the figure, you see that Southern bias can result from
10 the use of what are called nominal low-income measures, though
11 income measures that do not take cost into consideration,
12 measures such as 1979 poverty; 1969 poverty, reflected in "hold
13 harmless" or low per capita income. If you take two or three
14 measures of this nature, of course, or rely exclusively on
15 nominal low-income measures, you have a Southern bias. On the
16 other hand, if you look only at measures of cost or job lag,
17 certain other economic lag measures, you can end up with a
18 Frostbelt bias.

19 By a balanced selection of indicators, however, you
20 can come up with a measure of overall need or a measure with
21 minimal bias from the national standpoint. I will be glad to
22 address these issues having to do with the merit of alternative

1 formulas, and I hope that we will not spend a great deal of
2 time on who wins, who loses, and I will be available after-
3 wards for informal questions on a number of merit issues if
4 you have questions that you don't have time for in the formal
5 session.

6 On page 61, some of the problems in using only
7 poverty are discussed, because essentially the board has only
8 one objective indicator of need in its current formula. If
9 we're going to involve "hold harmless," which is not an
10 objective indicator of need, you have only one objective
11 indicator of need, and that suffers from two main weaknesses.
12 The first is failure to consider area cost differences. The
13 1979 poverty measure from the '80 census overstates the share
14 of poverty that's in the South. It understates the share of
15 poverty in areas outside the South that have higher costs of
16 living. The second problem with the poverty indicator is that,
17 because it is a 1979 measure from the 1979 income year, it does
18 not reflect important trends that have taken place or that will
19 take place between now and 1985 or subsequent years. We know,
20 of course, that the great increases of poverty in Detroit or
21 Michigan and other areas -- and we see evidence of this in the
22 current population survey and VLS data and PBA data.

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 --- 273-9222

1 Essentially, we can say that the poverty data from
2 1979 misrepresents local shares of national need. There is a
3 need for some sort of adjustment of the poverty data or need
4 to supplement the poverty data by economic measures that look
5 at the history since 1979.

6 On pages 62 and 63, you see additional evidence of
7 failure to address cost and trend problems. In fact, in Table 1
8 what you see is that the poverty rate is very weakly related --
9 almost unrelated -- to a major dimension of need; that is, the
10 trend -- the perverse economic trends that some areas have
11 suffered through the nation, plus high cost relative to income.
12 Poverty is an excellent ingredient for formula development,
13 but what Table 1 says is that it's not a sufficient data
14 element for formula development. There must be something more
15 in a formula if it is to be fair to all states and areas
16 within states.

17 Table 2 identifies some of these states specifically
18 that have suffered more from perverse economic trends.
19 Michigan, Ohio, Indiana, Illinois are well known, and we have
20 additional statistics to support the ones that appear in
21 Table 2, page 63. These states have suffered more since 1979
22 than, say, the State of Texas. If the allocations are to be

1 fair to all areas, there must be some way to take the economic
2 trends into consideration.

3 Most of the rest of the paper is concerned with
4 addressing these issues in measurement of need, addressing the
5 cost issues, which appears on pages 64 and 65. You see three
6 approaches outlined there. All three work better than any one
7 by itself.

8 The first approach for addressing cost issues is to
9 use a measure that simultaneously takes cost and income into
10 consideration, such as the gross rent measure from the census,
11 which considered gross rent as a percent of income for families
12 with less than \$5,000 in income. That measure correlates very
13 highly with a great many need indicators and performs very
14 well in a number of statistical analyses that we performed.

15 Subsequently, you'll see a recommendation that it be
16 included in the formula. It differs from poverty in that
17 poverty is a measure of nominal low income; whereas, this gross
18 rent relative to income is a measure of real income problems,
19 a measure that takes cost and income into consideration
20 simultaneously. If you don't do that, of course, you get an
21 overstatement of need in the low-cost areas of Mississippi and
22 an understatement of need in New York, New Jersey,

1 Massachusetts, Illinois, Ohio, Indiana, and many, many other
2 places; of course, California, for example.

3 Another approach to addressing the cost issues is
4 the addition of formula factors that don't share the bias of
5 the poverty indicator in favor of the South and against high-
6 cost areas. For example, the addition of job lag indicator
7 would address the cost issue because it tends to target to
8 higher cost areas than does the poverty indicator. By diluting
9 the influence of poverty indicator so it's less than 100 percent
10 -- of course, by adding a balance of Northern and Southern
11 indicators -- one can partially address the cost problem. But
12 neither of the first two approaches would be sufficient, nor
13 the two together would be quite sufficient. Special adjust-
14 ments for areas with extraordinary need, such as Alaska --
15 with extraordinary costs, I should say, such as Alaska, would
16 also be required. One approach to making these special
17 adjustments for roughly five percent, let's say, of the service
18 areas would be to use the Bureau of Labor statistics cost
19 estimates in part. A second approach, as you see on page 65,
20 is to use cost estimates derived from regression analyses,
21 using up-to-date data such as fair-market rents. And many
22 other variables, of course, are available, such as heating

1 degree days.

2 I'll be glad to get into the detail, informally,
3 after the meeting, but I don't think it appropriate to address
4 this in detail at this point. You have on page 66 an overview
5 of the three types of cost adjustment factors, and the
6 suggestion that the weights vary over time according to the
7 timeliness of the data. As the Bureau of Labor statistics
8 cost estimates become older and older, I suggest that the
9 weights assigned be less. As the fair-market rents are
10 updated and become more and more favorable for use relative to
11 VLS data, suggested weights increase.

12 On page 67, you see ways of addressing the timeliness
13 of formula data and allocations. One way to increase the
14 timeliness of formula allocations is to weight the poverty
15 data by current conditions, such as unemployment rate. To
16 weight the poverty counts by unemployment rate would be one way
17 of updating. The second way of updating the 1979 poverty data
18 is to weight by trend; say, a five- or ten-year trend, such as
19 in job lag. We tested both of these methods, and they both
20 performed well, particularly the weighting of the poverty
21 counts by job lag.

22 A full approach towards updating the data used in

1 formulas would include updating the poverty data directly
2 through the use of current population surveys, to partially
3 update the poverty data themselves. Composite strategy is
4 described on page 67.

5 On page 68, in Table 3, you see a comparison of
6 alternatives. A three- or four-factor alternative performs
7 very well in targeting to need. You have the factors described
8 there and subsequently in the conclusion of the paper. A
9 two-factor formula using 1979 poverty and 1969 poverty, as in
10 hold harmless, does not perform nearly so well. Its performance
11 would decrease as you get farther and farther away from 1979
12 and 1969. The formulas, of course, that can be updated do not
13 have a decline in performance to match that poverty-based
14 formula. Essentially, the world is very complex, and it takes
15 more than a one- or two-factor formula to address those
16 complexities, to treat all areas fairly. You have in the
17 summary on page 70 a recommendation that in Phase 1 you use
18 1979 poverty data with a roughly 70-percent weight; gross rent
19 or rent cost income ratio for about 20 percent of the weight,
20 and that is the rent cost income ratio for people under \$5,000
21 in income; and that for 7 1/2 percent of the rate you use
22 poverty weighted by job lag.

1 Poverty weighted by unemployment did not perform as
2 well as the job lag measure. It is suggested that, initially,
3 it receive only a two-and-a-half-percent weight. But as the
4 census data become older and older, as we get farther and
5 farther away from 1979 and '80, it would make sense to assign
6 more weight to job lag and unemployment in formula allocations,
7 if you're really wanting to meet need.

8 If the fundamental purpose is the provision of
9 resources, for meeting the most basic needs for justice in all
10 service areas, before expending resources for lower priority
11 demands in any area, then you need a multifactor formula that
12 addresses all dimensions of need, rather than a one- or two-
13 factor formula that contains serious biases against numerous
14 places.

15 Thank you.

16 MR. McCARTHY: Thank you, Dr. Peterson. Dennis, did
17 you have anything to add?

18 MR. DAUGHERTY: I just want to point out that we are
19 talking about a very serious problem. While Dr. Peterson is
20 addressing the need to take into account more than just the
21 poverty level reflected in the 1980 census, we are presently
22 not even taking that into account; but the 80 percent of the

1 weight in our funding allocations is derived from 1969 poverty
2 reflected in the 1970 census. I wanted to give you just one
3 example of what the result of that is. Let's compare the
4 Legal Services of Eastern Michigan, which serves a poverty
5 population of 117,626, with the Legal Aid Society of Alameda
6 County, California, which serves a comparable population of
7 121,651 persons. If funds were allocated directly in relation
8 to the poverty population, both of the grantees would receive
9 approximately \$900,000; Eastern Michigan, \$890,000; Alameda
10 County, \$920,000.

11 One might think that, as Dr. Peterson suggested,
12 Eastern Michigan would even have a higher incidence of need,
13 given the higher unemployment rate in Michigan of 13.1 percent
14 compared to the 9 1/2 percent of California. But, in fact, in
15 1983, we allocated \$600,000 to Eastern Michigan and \$1.2 million
16 -- twice as much -- to Alameda County, or \$5 per person in
17 Eastern Michigan and \$10 in Alameda County. As a result of the
18 partial corrections in the formula contained in this year's
19 appropriation, Eastern Michigan will be funded at \$800,000, or
20 \$6.79 a poor person. But it still falls \$500,000 short of
21 what Alameda County will receive, \$1.3 million or \$10.61.
22 We're talking about quite significant discrepancies in funding

1 levels in areas with similar numbers of clients. That's the
2 problem that we're bringing before you to address and which can
3 be addressed more fully by your next panel.

4 MR. MASSON: Are we ready for some questions?

5 MR. McCARTHY: Yes, if the Board has any questions,
6 please propose them now.

7 MR. MASSON: Dr. Peterson, it would seem, then, in
8 the past, Legal Services has, for the most part, provided its
9 funding based on a single factor, that being the poverty count,
10 with the exception of some discretionary grants and funding.
11 I'm curious, if that is prevalent in other government agencies,
12 in that they use a single factor such as that, what has been
13 your experience or study of that; and, if not, can you tell us
14 what comparable agencies might be doing.

15 DR. PETERSON: For programs that are oriented
16 towards need, such as HUD programs like Urban Development Action
17 Grants and Community Development Block Grants, they use
18 multifactor formulas or multiple criteria because there are
19 many kinds of need, many patterns of need, and all indicators
20 are imperfect; no one measure can address those needs. The
21 same goes for economic development allocations, such as EDA that
22 the Commerce Department and others were involved in, and with

1 the CETA program. Usually, there are multiple criteria because
2 we are in such a complex nation, with many types of need, and
3 to use one indicator means to have numerous sizable errors in
4 allocations. You have, of course, with UDAG, Urban
5 Development Action Grants criteria -- five criteria including
6 the job lag criterion that's referred to here; but poverty
7 also is important, and it's given double weight. With
8 Community Development Block Grants, you have four or five
9 criteria being used over the last eight, ten years; poverty
10 being the key criterion, but not the majority of the weight
11 assigned to poverty.

12 I see no problem in your corporation assigning more
13 weight to poverty than anything else, much more weight; but
14 we would find no way in which to address the needs of all areas
15 if poverty were given 80, 90 percent of the weight.

16 MR. MASSON: If we were to pursue and use the
17 formula that you have recommended, exactly applied it, say,
18 over the next five to seven years, in the manner that you have
19 suggested, if you can simply, briefly tell me what would be
20 the effect on areas that, over the next five years, are going
21 to have expanding economies and more jobs versus the areas
22 that might be contracting and have higher unemployment. What

1 would be the effect on those two areas on the grants?

2 DR. PETERSON: You would find that areas such as
3 Michigan, Ohio, Indiana, Illinois, in the short run anyway,
4 would benefit from the job lag part of the formula because
5 their job lag is so substantial that it's not likely to turn
6 around in the next few, eight years. As far as the late
7 eighties, it may be hard to tell who may benefit because
8 trends can vary so much by area by area; but, clearly, if you
9 start off with seven-and-a-half-percent weight and increase
10 that weight as the census data become older and older, you
11 would have a flexible formula which can address the need
12 wherever it is in the nation. It wouldn't guarantee that
13 Michigan would be the beneficiary in 1989 or in '90, but,
14 surely, many midwestern states would be key beneficiaries in
15 the short run. States that had very favorable trends in 1979,
16 such as Texas, for example, of course, would be yielding some-
17 what to Michigan and other states, as compared with using a
18 purely poverty formula, one factor, the 1979 poverty formula.

19 If there's some other aspect you want me to
20 address, I --

21 MR. MASSON: Just for the record, then, being a
22 westerner, you might say that this formula in the short run is

1 somewhat anti-Sunbelt, discriminatory towards the Sunbelt a
2 little bit.

3 DR. PETERSON: If you don't add in the cost adjust-
4 ment, I would have to agree with you. However, if you add the
5 cost adjustment in there and include Hawaii, California,
6 Alaska in the West, these would be among the major benefi-
7 ciaries. In addition to the data reported on in the paper,
8 data reported on in the California Lawyer and numerous other
9 cost studies, including one of your own, suggest that the
10 legal costs are higher in the West than any other section. So
11 if you would accept the proposal that specific cost adjust-
12 ments be made for areas having especially high costs, then that
13 would help the West more than any other region.

14 One other point: I don't think it's a bias if,
15 let's say, Mississippi gets more than Oregon or Washington on
16 a per capita basis, thinking of general populace. I don't
17 think that bias would be the proper term. Nor do I think it's
18 a bias if Michigan would be given somewhat more in 1985 than
19 one would give it on the basis of the 1979 data. If you're
20 talking about winning and losing, that's one thing. But I
21 don't think it's a bias in the data. It would be a bias if
22 we didn't have a cost adjustment which takes care of the West,

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 --- 273-9222

1 which has the most serious problem.

2 MR. MASSON: Dr. Peterson, I appreciate that. That
3 pretty much takes care of my question. I would like to make
4 a comment to my fellow board members and to Don Bogard and
5 the staff. I'm sure that our chairman, Mr. McCarthy, would
6 agree with me, if we were to adopt in the future this method
7 of funding, I would certainly hope that that 5 percent
8 discretionary funding would have a western bias to it.

9 MR. MCCARTHY: I'll concur with that.

10 MR. SANTARELLI: Am I supposed to defend the east?

11 MR. MCCARTHY: Does the public have any questions
12 they would like to address to Dr. Peterson or to Dennis?
13 Yes, sir? Please identify yourself for the record.

14 MR. ROYAL: James Royal, a Philadelphia client. I
15 understand the technicalities and the various views that you
16 have laid out, not very much -- you know, not as well as you
17 do, but I understand the general principle, and I would ask a
18 question in this regard. Most of the time, clients are not
19 involved at that level of expertise, simply because, you know,
20 no one's had to. But they know that they are the recipients
21 of whatever formula has come out. Do you involve clients
22 directly in your information gathering besides the various

1 tables that you use?

2 DR. PETERSON: We have -- I've been asked to attend
3 meetings where a great variety of participants were in
4 attendance, and I talked with them, of course, after the
5 meeting. I have, over the last decade, been very much
6 concerned with the views of service workers, clients, govern-
7 ment officials. However, I must say in the initial stages of
8 this work, I was primarily concerned with addressing those
9 issues which could be objectively addressed. I've left open
10 some issues or haven't closed in on some of the issues that are
11 less objectively addressed, such as the precise weight once
12 you take political feasibility into consideration. It might
13 be your board members, other members here, could better address
14 those issues. It might be politically more feasible to use a
15 milder version of job lag, for example; one that more areas
16 would benefit from.

17 Those sorts of issues, I think, are not strictly
18 scientific issues, and I haven't tried to close those by this
19 paper. Those are still open for your policy makers in very
20 great degree. I do think that policy science indicates that
21 there are certain formulas that are vastly superior to hold
22 harmless or to the poverty indicator, or a combination of those

1 two. I'd be glad to listen to you subsequently if you have
2 anything to address that I haven't dealt with in the paper or
3 here.

4 MR. ROYAL: In other words, then, in general, say,
5 on a hundred percentile, you might involve clients at a six- or
6 seven-percent involvement in your study.

7 MR. DAUGHERTY: We've contracted Dr. Peterson not to
8 make a survey of opinion, but to do some statistical analysis
9 for us, to inform us on a basis of his experience what data
10 bases were available from various government agencies. We have
11 presented the general problems before a previous meeting of
12 this board and before a meeting of project directors in one of
13 our regions. We had solicited the input and sent copies of
14 the first report to project directors and to board members,
15 including client board members, and solicited their views.

16 But Dr. Peterson's role here was not to interview
17 clients or project directors, but to do the statistical
18 analysis for us.

19 MR. McCARTHY: Yes, sir.

20 MR. WATSON: My name is Kipp Watson, and I'm here on
21 behalf of Disabled National. Whether you are aware or not,
22 according to the figures of the Census Bureau in 1976, 28.7

1 percent of people who are poor are people who have disabilities.
2 Now, there is a varying prevalence of architectural, communica-
3 tional, and attitudinal barriers in the country which prevent
4 people who are poor and who also have disabilities from the
5 receipt of legal services. Now, you have considered in these
6 studies a variety of factors which you might utilize in giving
7 various degrees of weight in deviation from your poverty
8 standard.

9 I am curious as to why there is this notable absence
10 of any regard for the prevalence of disabilities in the popula-
11 tion at large. You may or may not be aware that some regions
12 have a higher incidence of disability than other regions. You
13 may or may not be aware that some regions have a higher
14 incidence of barriers in Legal Services offices and in the
15 structure of the delivery of legal services to poor people.

16 Why is this issue of disability ignored to such an
17 extent when you have other factors of deviation from the
18 poverty norm, unemployment and whatnot?

19 DR. PETERSON: We didn't ignore it. We used more
20 than 500 indicators of need during the initial development of
21 indexes and testing of formulas, and we did get, from HEW and
22 subsequently from HHS, over the years while I was at Duke

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 University and other institutions, data that dealt precisely
2 with the issues that you have raised. There are statistical
3 problems, however, in using these in the final formula. The
4 statisticians have reasons for recommending some other data
5 than these. However, we did have data from Health and other
6 agencies that allowed us to test various indicators related to
7 disability. When I was with Southern Growth, we actively
8 used the evidence on disability to justify certain need
9 indicators that we're using, saying these need indicators also
10 target to where the handicapped are. We know, of course, in
11 West Virginia and certain other states, there are many more
12 handicapped people than in certain other states. So, because
13 something does not appear in the formula does not mean we
14 ignored it. We did have the support from the corporation --
15 in fact, the requirement that we look at many hundreds of
16 alternative need indicators. We did that. In the more detailed
17 report, you'll see more of these laid out. And you're quite
18 right that the sort of indicators you referred to are useful,
19 but they are useful primarily in the initial and intermediate
20 stages and not in the final stages or in formula allocations.

21 MR. WATSON: So if I am to understand you correctly,
22 sir, you are saying that you are not ignoring the incidence of

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 --- 273-9222

1 disability, you are simply not including them in your final
2 statistics.

3 MR. DAUGHERTY: Let me sum up if I can. I think what
4 we're saying is the problems of disability, as the problem
5 that he addresses in his paper of families without children
6 and without -- living with one or more parent -- with only one
7 parent, are social problems that have economic effects. So
8 often, the poverty and the number of persons with low incomes
9 -- it shows up in terms of high housing costs relative to
10 income. It shows up in terms of unemployment. We tested each
11 of the indicators that are recommended and found a very high
12 correlation with significant personal problems such as the
13 incidence of female-headed households, the incidence of
14 disability, and so forth.

15 DR. PETERSON: You can argue that the best need
16 indicator of all has to do with family structure, and we don't
17 have that in the formula; but the formula does target --

18 MR. WATSON: No, I don't want to -- I'm not arguing
19 about that. I --

20 DR. PETERSON: I know you don't want to argue, but
21 the point --

22 MR. WATSON: But the trouble is that Legal Services

1 Corporation --

2 DR. PETERSON: I'm trying to illustrate --

3 MR. WATSON: When you determine what funds -- excuse
4 me. When you determine what funds go to what offices, what
5 I hear you saying, and I haven't heard anything to dispute
6 that, is that there is absolutely no regard given to the cost
7 of removing barriers that have been traditionally in place and
8 have traditionally kept out 28.7 percent of poor people from
9 receiving legal services.

10 MR. BOGARD: If I may, there is a regulation on
11 prohibition against discrimination on the basis of handicap
12 that currently exists with the corporation. It's Part 1624.
13 I think we'll have the staff take a look at that. If you have
14 anything you'd like to suggest, any improvements or changes,
15 why don't you direct those to my attention, and we'll have the
16 staff look at it thoroughly and see if there's any changes
17 that need to be made.

18 MR. WATSON: Fine. We are familiar with that, and we
19 have dealt with the region prior to --

20 MR. BOGARD: Why don't you come directly to us and
21 we'll take a look at it?

22 MR. McCARTHY: Thank you for your interesting point

1 there. It will be considered.

2 Are there any other questions to be directed to
3 Dr. Peterson or to Dennis? Well, thank you very much,
4 gentlemen. We appreciate your information. We have continued
5 panelists, and I'll let Don introduce them. Yes?

6 MS. MARNANDO: I am Michelle Marnando. I am with
7 an agency called "Project Outwardbound" and a coalition
8 called "Federation of Recipients with Activism" regarding
9 disability. What I would like to ask is this: In New York
10 City right now, we literally have no handicap support unit,
11 which I guess you know, and to cut support out would actually
12 be criminal in these times.

13 When looking over the budget, I would like to ask
14 that New York City be able to start a handicap support unit
15 again, at least with a full-time handicapped rights coordinator
16 and a 504 coordinator and a paralegal.

17 MR. McCARTHY: May I suggest at this time the same
18 suggestion as made to this gentleman, that those suggestions
19 and questions be addressed to the president, Don Bogard, or
20 the staff; and under our mandate, under the act, they will
21 certainly be considered, and your suggestions will be
22 appreciated.

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 MS. MARNANDO: Yes, I would like to --

2 MR. WATSON: A quick question with regard to
3 Section 1624: Is it not your view under the nondiscriminatory
4 requirements of that section that there ought to be a sign
5 language interpretor at public meetings such as this?

6 MR. McCARTHY: May I suggest in the viewpoint of
7 time, again, that that question be addressed to the staff and
8 -- probably in writing, and I think that you will get an
9 answer to that. I don't think this is quite the time to
10 consider that response. So with that, may I call on the next
11 panelist.

12 MR. SANTARELLI: May I say, Mr. Chairman, that we
13 don't want to leave the wrong impression here on the
14 procedures that you see going on. If there is insufficient
15 attention in the survey that we have commissioned and in any
16 final position that this board takes -- and you'll be on
17 notice of that -- that has not adequately included a weighting
18 or consideration of the problems of disablement, we are pleased
19 to hear that. It is not our intention to give any short trip
20 or shortened trip to the disabled elements of the legal
21 service community, individuals of the legal services
22 community. Part of the purpose of this public meeting is to

1 catch the slips or to add fertilization that doesn't occur to
2 us. And we do thank you for that. That's the reason why we
3 are saying to please communicate those kind of details to the
4 staff. The indication from the board is that they should be
5 taken up and considered. We can't very well do that as a
6 board, and that's not the way boards operate, you know, to
7 write things in great detail and to manipulate the details of
8 a problem. That's the purpose of the corporation's staff.
9 So it's a good idea. This is a useful function. We want to
10 tell you, as board members, that we are sympathetic to the
11 notion, that we do not wish to discriminate in any way against
12 the disabled, and that if we are inadvertently, we will
13 undertake to do something about it. So thank you for your
14 input.

15 MR. BOGARD: The next panel discussion will involve
16 three people, including Robert Cohen from Legal Aid Society of
17 Orange County; Rodney Watts, who is the project director from
18 Wayne County Neighborhood Legal Services in Detroit; and
19 also Ray Norko, with the Legal Aid Society of Hartford County,
20 Connecticut. These gentlemen represent programs with varying
21 funding levels, Orange County being the lowest funded program
22 funded by Legal Services, and Rodney's is somewhat under the

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 --- 273-9222

1 national average, and Ray's is slightly above the average, as
2 recall.

3 would you like to start?

4 MR. Sure. I was wondering how we received
5 the honor of being the lowest funded program by the Legal
6 Services Corporation, so I tried to do some historical
7 research on this. I asked Pat Herzog, who is a member of our
8 board of directors, who was the first Legal Services attorney
9 in Orange County. She was working for the Bar Association
10 when it solely funded the Legal Aid Society back in 1959. I
11 asked her how the whole funding pattern developed, and it was
12 interesting. She said that, at that time, the County was
13 predominantly rural and that the folks who were running the
14 County had other interests than having a legal services
15 program. As a matter of fact, that was one of the last things
16 they wanted. And there was no interest in the Orange County
17 area in receiving legal services funding or competing early
18 on to become one of those programs that would be one of the
19 first funded by OEO. Because of that, we were funded when
20 everyone else was funded, but we also were subject to fantastic
21 growth from being a rural area some 15, 20 years ago to become
22 an urban area with approximately 2 million persons residing

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 --- 273-9222

1 there. I know we will all have problems here as far as
2 funding is concerned. No program is adequately funded, and
3 I'm certain we all agree that we should be moving toward the
4 two-attorney level per 10,000.

5 But what we have in Orange County, being at the
6 bottom of the barrel -- and right now we're at \$4.23 per poor
7 person -- is nine attorneys for 194,000 legal-services-
8 eligible clients. There's not much you can do with nine
9 attorneys representing 194,000 eligible clients. What we find
10 is that, of course, like everyone else, our phone is ringing
11 constantly. We're getting in our main office, alone, up to
12 200 requests for service a day. We can make approximately
13 100 service appointments in our main office a week. So this
14 scramble for services is just incredible, and I would be less
15 than candid if I didn't say that most of the people who are in
16 need of legal services in Orange County cannot receive those
17 services. We try to do the best we can with the limited
18 resources that are available. We have involved others in
19 funding those services. We have private money or public money
20 from the City of Anaheim, the City of Huntington Beach, from
21 Orange County from their Older Americans Act Program. But
22 still, it doesn't nearly make up for what the difference we

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 should be receiving from the Legal Services Corporation where
2 funding equalized or where funding provided at some multi-
3 faceted basis. It puts us in a most awkward position, and I
4 must say that I have been feeling very terrible about going
5 to the City of Anaheim and telling them of our continued need
6 for funding, and they believe it. They are convinced. They
7 want an office in that area, and they'll do what they have to
8 do to keep an office there, including taking money out of the
9 food program.

10 I just don't like to have to put those kinds of
11 choices to people when we look at a funding formula which now
12 varies between the \$4.23 -- soon to be \$6.79, an improvement
13 -- and, within California alone, \$14.22 in San Francisco. I
14 realize San Francisco is a charming place, but I think the
15 legal service needs in San Francisco probably aren't any
16 greater than the legal service needs in Orange County; and
17 there should be some more equity there.

18 So given that background information, let me say
19 that it's fairly obvious that when I'm asked to look at a
20 funding formula that not only moves programs toward equality,
21 but considers other factors, including the cost of rent, as
22 compared to income that a person receives, I'm going to be

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 delighted with that formula, and the staff, the board, and
2 the clients that we represent in Orange County are going to be
3 delighted with that formula.

4 This may be overstating the case, but I think that
5 we may have bumped into something here which might even not be
6 controversial. I know that doesn't happen very often in Legal
7 Services. I think the controversial thing about it will be
8 the argument of is the data really available at the county
9 level, which I think you'll be able to satisfy, and how fast
10 do we move toward equalization, toward a multifaceted formula.

11 Certainly, while we are terribly underfunded, we
12 would not want an action of the corporation that would cause
13 a transitional problem for existing caseloads at other
14 programs. We don't want attorneys in positions where they have
15 cases and ethical responsibilities and can't meet those
16 responsibilities. Having said that, what we do want is some
17 very serious action toward moving toward equalization as
18 rapidly as reasonably possible. We are tremendously discour-
19 aged when we see things, formulas coming out of Congress that,
20 while partially meeting the problem, don't move the funding of
21 programs closer together, don't move us toward equalization
22 don't move us rapidly toward that level of funding which we all

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 --- 273-9222

1 need to adequately provide services to our community.

2 Now, I think that while a transition to
3 Dr. Peterson's formula will inevitably cause difficulties in
4 some areas of the country, the more heavily-funded areas will
5 find it more difficult than others. I think that as a
6 nationwide service, we will be stronger when we can state and
7 when we fund programs equally so that they can have the same
8 shot at providing the high priority service. Now, it's pretty
9 obvious that -- I would think -- being at a program that is so
10 underfunded; but let me just close with an example of what we
11 did in California in putting together our trust fund program.
12 The funding formula was determined before the stresses upon
13 Legal Services were so obvious as they are today. We weren't
14 talking about actual dollars going out. We were talking about
15 in theory what could we do that would be fair. These were
16 Legal Services programs meeting together to put together a
17 formula that would deal with the whole state in a fair pattern.

18 What we did was not nearly as sophisticated as what
19 Dr. Peterson has come up with. We used poverty, but we used
20 that guide very strictly as far as distributing money through
21 the state. We assured that there would be equalization county
22 by county, based upon the number of poor people within each

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 county. What we have now uses poverty as an indicator, but,
2 in some areas, you take the number of poor people and you're
3 going to be multiplying it by \$6.79. In some areas, you take
4 the numbers of poor people and you're going to be multiplying
5 it by \$14.93. That just doesn't seem fair to us in Orange
6 County, and we applaud what you are doing toward moving toward
7 equality. If there is anything that we can do to provide
8 assistance in that regard, we would be happy to.

9 MR. BOGARD: Thank you, Rob. Rodney?

10 MR. WATTS: I guess I have more questions than
11 answers as a result of having read Dr. Peterson's report. For
12 those of you who have been involved in the struggle for legal
13 services over the years, I have to say that it's rather
14 disconcerting, particularly the last two years, when we have
15 been in a situation where there is no stability in Legal
16 Services. I suppose that the first question I would have to
17 ask is is this approach going to guarantee the field some kind
18 of stability.

19 Certainly, as a project director, it has been damned
20 near impossible to do any kind of long-range planning over the
21 last two years. I became involved in these board meetings
22 last October. At that time, there was an ongoing discussion

1 regarding minimum access and equalization and who was going to
2 get what and whose offices, ultimately, were going to get
3 gored. I was rather pleased to find out that, in the final
4 bill passed by Congress, although those of us who are at the
5 lower end of the funding spectrum will receive fairly
6 substantial gains in 1984 -- I was pleased to see that those
7 that were at the top end got something. My concern at that
8 time, and I think it's the concern of the Legal Services
9 community generally, is as we move from the present kind of
10 formula to a new formula, what effect is that going to have on
11 programs. Are our programs at the top suddenly going to
12 realize a tremendous shift in their funding? Are we going to
13 have to revisit 1982 every year?

14 Another question that I guess I would have is at
15 what point are we talking about implementation. Certainly, I
16 would think Congress has spoken as to 1984. Are we talking
17 about implementation in 1985 or sooner or later?

18 I believe it was the December 6 meeting, 1982, when
19 there was much discussion given to the whole issue of minimum
20 access; and, certainly, one of the things that I raised at that
21 meeting, which apparently has borne some fruit as a result of
22 Dr. Peterson's study, and that is that it's important that we

1 begin to look at factors other than poverty population. But
2 I guess I'm afraid to give this 100 percent, wholehearted
3 endorsement until such time as we get some answers, those of
4 us in the field, to some of these questions.

5 What is the impact going to be on our various
6 programs? Certainly, those of us in Detroit, who, since 1979,
7 have realized a tremendous, if not horrendous, deficit in
8 terms of our funding, a tremendous increase in unemployment,
9 to the tune of 85,000 people since the 1979 census, which on a
10 per capita cost to my program approximates \$552,000 in 1984
11 that I won't get because you can't count it. Certainly, I'm
12 interested in looking at more updated figures more often. But
13 I think that there is going to be an underlying suspicion in
14 the field, an underlying question in the field, relating to
15 stability. Again, how do we bring about this change in a way
16 that does not have the kind of impact on the field programs
17 that the 1982 budget cuts had? Certainly, when you're talking
18 about long-range planning, you have to know over a period of
19 three or five years that your program can, in fact, count on
20 "X" number of dollars and that it's not going to go up and
21 down and up and down every year, because that makes planning
22 absolutely impossible. It jams us in terms of our ability to

1 provide services to clients, and I suppose once I have some of
2 those questions answered -- although I commend the Corporation
3 and Dr. Peterson in terms of the approach it's taken, I think
4 the approach also raises some very substantive issues that
5 maybe the board or the staff are going to have to address at
6 some point.

7 MR. NORKO: Good morning, I'm Ray Norko, N-O-R-K-O,
8 from the East Coast, and I'll probably have to sit here and
9 protect some of the vast funding sources that we are sitting on
10 top of on the East. But, quite frankly, I think there are a
11 couple of points that have to be made about the Peterson study.

12 First of all, this addresses a very important issue
13 that has been addressed to by the previous panelists. It's
14 something that has been bouncing around within this particular
15 corporation for many years. Some of the attachments I received
16 in the mail were from Legal Services people, such as Gary
17 Simpson and Doug Crockett, offering suggestions on how to
18 factor this limited pot we have now in the future. I think
19 that none of us in the field, and I think my two colleagues
20 here are strongly coming out in that particular direction,
21 would want to perpetuate inequities. However, I think one of
22 the underlying concerns that I have is the fact that we're not

1 playing with a full deck. We are playing with a half deck or
2 somewhere within that particular area. I think Dr. Peterson
3 has done a good job. I think he's going in the right
4 direction. I think his factors are very important. However,
5 I do have some particular questions towards the study.

6 One of the concerns I had was with Footnote 8, which
7 I think was one of the more important footnotes, in which he
8 talks about general factor and dimension and principal
9 components, and I think he analyzed a little further here
10 today about different variables he used to come to his
11 conclusions on how to separate one factor from the other. I
12 think those particular analyses have to be available for us
13 and for the board, I would presume, in order to have a better
14 understanding of the particular factors that were excluded and
15 those that were included.

16 I think another important point that bothers me, and
17 the doctor hit on it here slightly, was how did he arrive at
18 the different weighting systems of the different -- the
19 different conclusions. How did he arrive at 70 versus 80? I
20 think that that has to be enumerated a little further, for my
21 understanding at least.

22 I think another question I had was the 20-percent

1 rent income. Is that going to be available on a noncensus
2 source? I think that the only source I saw in the study was
3 the census source data, and I wonder if that would be available
4 throughout the years.

5 I think that between the time of the study, which
6 was in October of this year -- I think some other incidences
7 have taken place in this corporation that have got to be taken
8 into consideration by this board and have to be of concern to
9 the field, also. First of all, as everybody has said here,
10 Congress had decreed what we will be spending in 1984 and how
11 we will be spending it. They also said -- I think the message
12 there was that minimum access was approximately \$13 a head or,
13 if math serves me correctly, would take approximately
14 \$470 million to fill up the cup. I think that brings me to a
15 point. Following me later is a recommendation by the board or
16 the staff to the board indicating a 4.4 increase. I think if
17 we're seriously going to take into consideration moving in
18 this direction of this study that 4.4 percent would be either
19 woefully inadequate or very conservative, and I would say that
20 it's both.

21 I think that this board has to up and come close as
22 they can as possible to that \$470 million to give emphasis and

1 effect to this particular study.

2 Otherwise, we're just shooting in the wind here, and
3 it doesn't really mean anything in relation to -- it means one
4 thing to me. It means that we will be dividing a limited cup
5 among ourselves and causing the consternation and grief that
6 has been with this community for many years, and I don't think
7 that is the direction we want to go.

8 One other thing that bothers me about this is that
9 the board and the administration has seen fit to study this
10 particular question -- and I think that's good. However, at
11 the last meeting the board adopted, without study, a 2.5
12 increase in the private bar involvement.

13 That will probably affect more programs directly
14 than anything that we can talk about today, and I think that
15 the board should reconsider and possibly go back and study
16 that particular point for future endeavors.

17 Since the position is blocked in 1984, I think that we
18 have to reconsider and look at what effect that has on the board
19 and out in the field in the next two years.

20 I think Dennis, in his letter that was sent to the
21 board, suggested a two-year cycle for this particular project.
22 I think that's too soon.

1 I think both project directors have alluded to
2 stability, and let me tell you, if I had to -- and I'm a small
3 program, so I'm not really the person to speak on this behalf,
4 but I can extrapolate. If I was in a major program and having
5 to deal with an 18-month cycle, I can't run the railroad. I
6 mean when you lose a Legal Services person, you lose it
7 completely. They don't transfer from state to state. We
8 don't have Legal Services persons bouncing from Rhode Island
9 to Connecticut, et cetera. They go into private practice.

10 We lose that experience, and I think that's very
11 important. And I think this study has to look at that parti-
12 cular perspective and realize that we have to take that into
13 consideration in any cycle that we adopt. You have to give
14 some stability to the field and work this particular project
15 in.

16 Another thing is I think the hold harmless is a very
17 good point that has to be seized upon by the corporation. If
18 we are going to adopt this study full force, it has to be
19 phased in in a gradual sense. And the best way to do that is
20 very simple in my mind, to take the increased proportions or
21 the increased appropriations every year and phase this parti-
22 cular study in immediately.

1 I would also suggest that, since the data is
2 available that Dr. Peterson has used to draw his conclusions for
3 the last three years, further study be taken by you or by
4 someone, by this corporation, to show exactly what would happen
5 in the country so we would know -- we would have a train to
6 look at. I think that's very important to satisfy the fears in
7 the community on where we are going with this particular
8 project.

9 Another problem I have with the study is there is no
10 addressing the administrative cost of the corporation if we
11 implement this particular program. I think that's important,
12 is it's going to cost us more in dollars, more than the
13 present staff that we have, with the staff costs we have, and
14 is it going to cost more project directors' time, which will
15 take away from service delivery. I think we have to look at
16 that before we adopt this particular study.

17 My final two points, I think, are very simple. There
18 has been studies done by the organizations that represent
19 Legal Services in the field, such as the Project Advisory
20 Group and a subset of the Funding Criteria Committee. I think
21 before this board moves on this particular project, they have
22 to go back and ask their input on the study. The study is

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 very important. I think it's very technical. I think that,
2 possibly, FCC should be able to incorporate the statisticians
3 and sort of look it out, not to doubt Dr. Peterson's statistics
4 but just to have it run across another statistician in the
5 field.

6 Lastly, I come to the firm belief that we are
7 dealing with half a cup here, and I think it's very important,
8 and I cannot overemphasize that particular point to the board,
9 that we need to go for full funding; we can't allow the
10 range wars that exist, and we have to move towards equaliza-
11 tion as quickly as possible, as my colleagues have said. I
12 think those two important points have to be remembered by the
13 board before they adopt this particular proposal.

14 Thank you.

15 (Applause)

16 MR. McCARTHY: We'll take a slight break for our
17 court reporter to get her fingers back in shape.

18 (Thereupon, a brief recess was taken and
19 then the proceedings continued as follows:)

20 MR. McCARTHY: May we resume the meeting, please,
21 and we'll have some questions addressed to the panelists.
22 May we please resume -- please be quiet. May we please resume

1 the meeting.

2 At this time, we will entertain questions of the
3 panelists from the general public, so if you have a question,
4 please so indicate. Yes, sir, and would you please identify
5 yourself for the record and your affiliation?

6 MR. MOLLA: My name is John Molla, and I'm with
7 Rhode Island Legal Services. Mr. McCarthy, some individuals
8 in the field have had the opportunity to look at the corpora-
9 tion's consolidated operating budget for fiscal year 1983.
10 At least at the close of the third quarter -- I understand the
11 books are closed now for the fourth quarter, but we haven't
12 seen those actual figures. I think they are in the process of
13 being audited, if the audit hasn't been done. It appears that
14 LSC headquarters is running a significant fund balance for
15 fiscal year 1983, somewhere in the neighborhood of 38 or 39
16 percent, a figure somewhere -- it's a figure somewhere between
17 \$4 and \$5 million.

18 Those of us in the field, and I think those members
19 of the corporation who have made comments over the recent past
20 about the dire needs in the field in terms of direct client
21 service, realize that resources is the problem, that there is
22 this magnitude of fund balance. Perhaps the amount of money

1 over 10 percent in the LSC headquarters budget could be
2 reallocated for immediate distribution to the field. This
3 formula that seeks equalization -- there's been discussions
4 about other methods of equalization. These experimentations in
5 closing the gap between per capita funding of the various
6 programs might be taken a step further towards achievement if
7 the corporation were to reprogram the fiscal 1983 fund balance
8 of about \$5 million into direct field services, perhaps using
9 this formula or some other formula to achieve equalization.

10 I wonder if the board has given any consideration to
11 the significant fund balance and its reallocation to field
12 programs in the face of the corporation's identification of
13 woefully inadequate resources to meet client need.

14 MR. MCCARTHY: May I answer that question? That's a
15 very valid question. It was asked and answered at our
16 St. Louis meeting. Charles Ritter, our Comptroller, did answer
17 it, and, unfortunately, maybe the figures show that, but under
18 our restrictions from Congress, it is not available, if it is
19 there, in fact. Charles gave a technical explanation, but his
20 bottom line was that it's not available. That is my under-
21 standing of it.

22 Did you have any questions of this panel?

1 MR. MOLLA: No, I don't.

2 MR. McCARTHY: Does anyone else have any questions
3 of the panel? Yes, sir?

4 MR. LIVINGSTON: My name is David Livingston, and I
5 represent the United Automobile Workers. With a variety of
6 reasons for being interested in the subject matter this
7 morning, may I say that we applaud the board for holding a
8 meeting in New York, where so many of our members are and
9 where so many people are who need help. The questions that we
10 want to pose are these: We heard the panel who spoke last,
11 and they highlighted a fact that we all know; that is, that all
12 three of the agencies need more money, and we are confronted
13 with a great problem. We have only -- I think the Congress
14 appropriated \$275 million. That's not enough. The United
15 Automobile Workers asked for more. Unfortunately, the board
16 did not. It asked for slightly less than the \$275 million.
17 You're asking again, for next year, for 4.4 percent more than
18 the \$275 million, and everybody knows that that's not enough.

19 Now, we are going to continue our effort to get the
20 Congress -- and please, Lord, the administration -- to acknowl-
21 edge that people need -- poor people need access to the courts.
22 Our question, above all, is is there some possibility that the

1 Board of the Legal Services Corporation may be counted upon to
2 join us and the whole legal service community in the effort to
3 get the money that the people really need.

4 MR. McCARTHY: Are there any questions of the
5 panelists?

6 I appreciate your comments, Mr. Livingston, but I
7 believe that some of them may want to have some other commit-
8 ments, so, rather than keep them here if they have to go, I
9 would appreciate it if we could exhaust questions to them at
10 this time.

11 MR. MASSON: I have a question.

12 MR. McCARTHY: Oh, yes, Mike's got one here.

13 MR. MASSON: Mine, I suppose, is more an observation
14 than a question.

15 MR. SANTARELLI: That's in fitting with everything
16 we've heard.

17 MR. MASSON: It seems that what we're all hearing is
18 that, although possibly there are some inequities in the funding
19 process as to how monies are delegated -- that problem has
20 existed before and for a number of years, and there has been a
21 lot of different ideas as to how it should be redistributed --
22 that there doesn't seem to be an overriding concern about that

1 right now; although everybody has complimented Dr. Peterson on
2 his studies.

3 It seems that other issues are maybe more compelling.
4 Also, over the past several months, I think one of the over-
5 riding things that I keep hearing is that we can all disagree on
6 a number of points, but that one of everyone's continued
7 frustrations is change and the lack of planning and the lack of
8 knowledge as to what's going to happen to you tomorrow by
9 other sources that you have no control over, and those are
10 important issues.

11 So, based on that, I urge the board and the remainder
12 of the staff to proceed somewhat slowly in this process of
13 coming up with new funding formulas, and Don Bogard -- I
14 would suggest we would continue looking at it, to continue to
15 study it, give everybody here opportunities to put input in it,
16 because as we all know we don't know what they are today.

17 But, as we begin to study those formulas, someone's
18 ox is going to get gored more than the other ox, and there are
19 going to be a lot of concerns about that.

20 I'd just say we ought to move very slowly and very
21 judiciously and proceed with caution.

22 Thank you.

1 MR. McCARTHY: Yes, sir?

2 MR. WATTS: It very well may be necessary to move
3 slowly in terms of the kind of formula that is ultimately
4 developed, but I think the gentleman from UAW raises a very,
5 very important issue, because you have to talk about a total
6 increase in overall funding.

7 At the same time, you're talking about changing the
8 funding formula. Certainly, if you don't do that, then our
9 worst fears may very well be realized, those fears being that
10 somebody is going to get cut out.

11 It seems to me that, certainly, Congress has dealt
12 with the issue of minimum access in terms of what the per
13 capita amount ought to be. I think I heard a figure of
14 \$470 million. I would urge the corporation, while it is
15 considering a new formula, to also consider over what time
16 period are we going to be approaching Congress for \$470 million.
17 You know, if everybody has agreed that that is what minimum
18 access equals, then certainly we have to get about the
19 business of obtaining that, because you don't have minimum
20 access at any point below that. Even if you get absolute,
21 across-the-board equalization, you still don't have minimum
22 access; somebody gets screwed. I think you just have to

1 seriously address the issue of how we get from \$275 to \$470.
2 Obviously, 4.4 doesn't get you there. But, certainly, those
3 of us in the field need to know at what point the corporation
4 is targeting us for that \$470. You just have to do that.

5 MR. MASSON: Mr. Chairman.

6 MR. McCARTHY: Yes.

7 MR. MASSON: I don't want to get into a long debate
8 on that issue, but I, for one board member, would suggest
9 that I can much more easily, as a board member, deal with the
10 two issues separately. When you try to tie the two together,
11 I don't know how you tie them together. Logically, in my
12 mind, I would hate to choose to have to deal with them
13 together, and I think we would probably spend the next five
14 years of our life debating and debating. Of course, I would
15 assume that if we're going to address either of those issues,
16 they really are separate and apart and, technically, are two
17 different issues.

18 MR. McCARTHY: The allocation and the budget?

19 MR. MASSON: The amount of budgeting process and the
20 allocation of budgeting are two separate issues.

21 MR. McCARTHY: Mr. Cohen?

22 MR. COHEN: I can say from long experience in dealing

1 with situations where there's not enough money that it is much
2 easier to equalize things when you're looking at new money
3 coming in than when you're looking at dividing up old money
4 which is currently being used in different areas. It seems
5 like that the legal services problems of this nation could be
6 dealt with in a rather expedited manner, without creating any
7 great deficit in the Federal budget. We're spare change;
8 \$400 million is not a lot of money when you look at it in the
9 national context.

10 In fusing those two issues together, you can deal
11 with the equalization in a relatively painless way. I think
12 all of us here would agree that we should all be equal at
13 \$13. The problem is that when we're not talking about \$13,
14 when we're talking about \$8 or \$9, then we start fighting
15 among ourselves as to how those resources should be developed.
16 You could eliminate a whole part of this problem; the whole
17 equalization problem could be handled without any pain at all
18 just by having a program to move toward minimum access, two
19 attorneys per 10,000.

20 MR. MCCARTHY: Yes, sir.

21 MR. MOLLA: Mr. Chairman, I agree with Mr. Masson's
22 comments.

1 MR. McCARTHY: Could you identify yourself, please?

2 MR. MOLLA: John Molla, Rhode Island Legal Services
3 -- with Mr. Masson's comments that this needs to be a
4 deliberate analysis of a change in funding formula. In that
5 direction, I wonder if Dr. Peterson or the staff of the
6 corporation have taken his formula and done any field program
7 grant runs with it over the last three years.

8 MR. McCARTHY: You can address that to Dennis.

9 MR. DAUGHERTY: We have not done an analysis at the
10 grant level. We have done a very quick analysis at the state
11 level just this last week.

12 MR. MOLLA: Would it be possible to make either the
13 state runs available for our analysis in the field and, if
14 possible, to put it on the computer so that we can get it at
15 the grant level, at the grantee level?

16 MR. DAUGHERTY: It would be misleading to distribute
17 it in certain respects, and we have not yet factored in the
18 cost adjustment that we suggested be made to areas of extra-
19 ordinary high cost. So, in some respects, it would be -- from
20 what we have thus done, it would be understating things. It
21 certainly had been my hope that we would be able to address
22 this issue on matters of agreement on general principle. As

1 Mr. Cohen indicated, it was possible in California several
2 years ago, when there was not a funding shortage and a great
3 deal of competition for the funds, rather than to announce a
4 set of winners and losers and see if rational debate proceeded
5 after that -- I would like -- if I might address one of the
6 other questions that the panel raised, and that was the
7 question of transition and timing. We are about to make 1984
8 grants. We are talking about requesting funds for 1985. It
9 is quite some time since the 1980 census was taken, and the
10 data, the funding base on which we are operating now is 15
11 years old.

12 We had the opportunity. We could have commenced a
13 gradual transition two years ago, but for Congressional
14 restrictions imposing a hold harmless. One of the principal
15 purposes of the formula and making changes more often in the
16 decade that we've represented is to avoid being faced with
17 this dilemma a decade from now. We have postponed this
18 decision for years and years now. Granted, the transition is
19 going to be difficult. The bottom line is should our funds be
20 allocated where our clients are or where our attorneys are.
21 I don't think it's realistic to assume that we're going to have
22 \$470 million next year, the next year, or the year after that.

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 I don't think that Congress is going to provide that
2 to us, and we do need to address the issue of how we meet
3 minimum access needs in all areas of the country in the absence
4 of that funding situation.

5 MR. McCARTHY: Thank you, Dennis. One more question.

6 MR. MOLLA: Mr. Chairman, do I take Mr. Daugherty's
7 comments to mean that he would -- will distribute the run
8 data that he has by state, subject to high cost adjustment and
9 he will also distribute future runs as the formula becomes
10 more precise?

11 MR. McCARTHY: You can address that to Dennis. That
12 is a staff decision.

13 MR. DAUGHERTY: That is Mr. Bogard's decision.

14 MR. BOGARD: We will get together with it and see
15 what we can do and where we are. As we develop these things,
16 we'll certainly make them available.

17 MR. SANTARELLI: It is the position of this board to
18 be as accommodating with the release of information as is
19 humanly possible, because we want to benefit from the kind
20 of interplay that goes back and forth.

21 There is an impression that we are somehow aloof and
22 distant, arbitrary -- so be it. I simply want to say that it is

1 the position of this board, publicly instructing the staff, to
2 be as available and as accommodating to all of the views that
3 we have heard. This panel discussion and the interaction have
4 been helpful. They have certainly been helpful to this board,
5 and there is no effort made to foreclose hearing what we
6 should hear. We may not always understand it or agree with it,
7 but we're willing to listen to it.

8 MR. NORKO: To follow up that, I think there's an
9 opportunity here for the board not just to take strict
10 equalization or nonstrict equalization. I think there's an
11 opportunity to be creative with the funds that we have avail-
12 able to the field without really, I think the project directors
13 are telling you, burning anybody in the field. I think
14 that's very important to us, and we would appreciate your
15 concern with that and all the information available so that we
16 can make what I would consider a weighted judgment in the
17 field on whether we are going in the right direction together.

18 MR. MCCARTHY: Thank you. Yes?

19 MR. SOLOMON: One more comment?

20 MR. MCCARTHY: Yes.

21 MR. SOLOMON: Bob Solomon, South Central Connecticut
22 Legal Services Corporation. Following up on Mr. Santarelli's

1 comments, now that this information is available -- and I think
2 it points out that need may differ from region to region, it
3 seems to me that the same holds true as to individual
4 eligibility guidelines. Now that this information is avail-
5 able and apparently was not considered in determining your
6 eligibility regulations, I ask that the board will consider to
7 review this information and allow more flexibility at a local
8 level for eligibility.

9 MR. McCARTHY: The answer to that question is the
10 board will certainly instruct its staff to consider everything
11 submitted so that we have a full scope. Also, if I may make
12 a statement not as board chairman, but just as an individual
13 board member. I go right along with Mike Masson's statement
14 that this is a very, very intricate question and needs proper
15 consideration, and we will so approach it. And anyone in the
16 audience, we request written submissions with constructive
17 criticism or constructive suggestions, and the staff has been
18 instructed to consider them thoroughly.

19 MR. SANTARELLI: May I clarify something further,
20 Mr. Chairman? The last panelist made some very good summary
21 points on the subject of the multiple factors that need to be
22 considered, and there's no single formula that appears easily

1 ready to apply. I ask you if your reaction to Dr. Peterson's
2 exploratory efforts at finding multiple-factor formulas with
3 weighted considerations is a correct direction to be pursuing.

4 MR. NORKO: I would say yes.

5 MR. McCARTHY: I would like to thank Dr. Peterson,
6 the panelists, and the general public for their very fine
7 questions. I would like to thank you for a very informative
8 panel session, and I know that your information will be
9 considered by the staff, and I can also assure you that there
10 will be no hasty decisions made by this board. Thank you
11 again.

12 Our next agenda item --

13 MR. BRAUDE: Mr. Chairman?

14 MR. McCARTHY: Yes?

15 MR. BRAUDE: Might I ask a question?

16 MR. McCARTHY: Sure, Jim.

17 MR. BRAUDE: You heard several questions before going
18 to the budget mark question which I'm aware is going to come up
19 next.

20 MR. McCARTHY: Yes.

21 MR. BRAUDE: But tying into the thing that
22 Mr. Santarelli said about allegations of aloofness, arbitrariness,

1 et cetera, while I think it is true, as many of you have
2 said, you've heard many, many substantively important comments
3 from the floor at this meeting and preceding meetings, one of
4 the problems I have -- and I think I'm not alone in this -- is
5 we hear nothing in response except that they are good thoughts
6 or they are interesting ones which the staff will consider. I
7 personally feel that, as important as this discussion was --
8 and I think it was very valuable -- to have this board be
9 discussing these issues at the same time that it's about to
10 put on the floor a 4.4 percent increase is really the height
11 of this ingenuineness. I would ask one request which may
12 soften the criticism that I think you hear time and time again
13 and respond to by saying you're open.

14 I, for one, and I think everyone in this room, would
15 like to hear an explanation when the staff report comes out
16 other than rhetoric as to how you or any of your board
17 colleagues feel that 4.4 percent is anything short of an insult
18 to the people who work in this program and to the clients who
19 are supposed to be served. You have heard a lot about two
20 lawyers for every 10,000 poor people and that was our goal.
21 Two lawyers for every 10,000 poor people, Mr. McCarthy and
22 your colleagues and Mr. Bogard, is also sorely inadequate.

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 Rather than hearing all of us here today speak about
2 how horrible it is, how horrible it will be to our lives and
3 to our clients lives, rather than all of you commenting that
4 the staff will take it under consideration and how eloquent
5 the comments are, I think we would all like to hear each and
6 every one of you justify such a pitiful request for funding at
7 a time when poor people are in such tremendous need.

8 The only reason I asked to be heard up front of this
9 issue is because when you're making your report, I think it
10 would be terribly valuable to all of us to hear you justify the
11 frightening request for funds for 1985.

12 MR. McCARTHY: Thank you, Jim. I must say that's
13 very eloquent, too.

14 However, this board will be run by me, as chairman,
15 and the board business will be conducted and the corporation
16 work will be carried on within the precepts that are set.

17 I do appreciate your comments. We will try to
18 accommodate them, but we have board business to carry on, and
19 this is not a debating society.

20 MR. BRAUDE: I have no idea what that meant, but I
21 would just suggest that if you are to adopt a budget for 1985,
22 you surely should be telling us why it is that you are adopting

1 that amount other than a short memo from Mr. Hartley.

2 I would lastly say -- Mr. Daugherty spoke about 10
3 years from now -- the one thing I can say from the bottom of
4 my heart is thank God we will all be here 10 years from now and
5 thank God none of you will be.

6 MR. MCCARTHY: With that, we will now proceed to
7 Item 5, the 1985 Budget Mark.

8 As a preliminary for those of you who were not at
9 the St. Louis meeting, this matter was brought up, the staff
10 report was made, the staff report has been issued, and I'm
11 sure all of you have that.

12 The board entertained comment not only from the staff,
13 but from the general public. The matter was continued to this
14 meeting.

15 I would propose, in conducting this board matter, to
16 at this time suggest that the board might be in order to have
17 a resolution on that.

18 I would then table the question until public comment,
19 and that will be the way it will be conducted. We are expecting
20 Congressman Biagi here any minute. When we do that, we will
21 interrupt whatever we are doing to hear whatever comments he
22 has. Then we will resume.

1 As I stated at the outset of this meeting, this
2 meeting, the general portion, will be terminated at about
3 noontime, so depending on the length of time that the
4 Congressman takes, it will limit the time of public input.

5 I am telling you this so those of you who did not
6 have the opportunity to speak at the St. Louis meeting, I
7 believe should be allowed to speak at this time.

8 So with that, I will then address the board. We have
9 had the staff report. We have had the recommendations. We
10 have heard the public comment.

11 At this time, I would like to ask the board if
12 there is a resolution they care to propose as to the 1985
13 Budget Mark.

14 MR. MASSON: Mr. Chairman, I move the adoption of
15 the budget mark as proposed.

16 MR. SANTARELLI: I will second it.

17 MR. McCARTHY: Thank you. The budget mark, as
18 recommended by the staff, has been --

19 MR. MASSON: Mr. Chairman?

20 MR. McCARTHY: Yes.

21 MR. MASSON: May I also say that I'm recommending it
22 based on the staff's recommendation with some reluctance, in

1 that if, in fact, we were in the process of formulating a
2 budget from scratch as the result of a budget committee, that
3 might be one thing. But we are being asked to approve this
4 based on our staff's consideration of inflation. This is
5 taking one budget from one year to another, assuming that the
6 budgets are in place and placing inflation factors. I, for
7 one, think that 4.4 percent might be high for 1985 in terms of
8 inflation, so I reluctantly do that.

9 MR. McCARTHY: Thank you. The resolution now before
10 the board is the recommendation of the staff, which is the
11 present budget that was for 1984. The appropriation bill
12 allowing \$275 million, I understand, was signed by the
13 President. The staff has added to that an inflation factor;
14 in addition, added a \$7.2 million factor for special purposes,
15 which I believe is the aged and handicapped. That is the
16 resolution that has been proposed and seconded. I will now
17 table that until we have the opportunity for public comments
18 and at this time would solicit public comment.

19 Yes, sir. Excuse me, we'll have this gentleman
20 first.

21 MR. DELEON: I'm appearing today on behalf of the
22 Mayor for the City of New York, the City of New York and its

1 many agencies, and the corporation counsel, Frederick Day
2 O'Schwartz. I bring with me Ninfa Segerra of the Mayor's
3 Office of the Handicapped -- she's a legislative coordinator --
4 Genny Veda, Program Director for the New York Commission for
5 the Status of Women; and Amelio Bydeat, with the Department of
6 the Aging for the City of New York.

7 I want to make one point by way of introduction to
8 these three speakers. New York City and its agencies end up
9 picking up the pieces when people cannot get legal services.
10 New York has 470,000 disabled in households with other people,
11 93,000 disabled whose sole income is public assistance, and
12 95,000 elderly who own their own home. We have commented in
13 the past on the effects of the eligibility requirements. We
14 are now commenting on the proposed 4.4 percent budget increase.
15 The 4.4 percent, as you, I'm sure, know, will not even begin to
16 address the tightening of restrictions and the increasing
17 poverty rate that has been accelerating in New York City.

18 If you want to see the effects of what the budget
19 cuts have had to date and what the further cuts in legal
20 services will have on New York City where you are holding your
21 meeting, I suggest that you go to Landlord Tenant Court in
22 Bronx or Brooklyn and see the people wandering around who

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 --- 273-9222

1 cannot get lawyers to help them with anything but an emergency.
2 I suggest that you visit a shelter -- we'll be happy to escort
3 you through here -- to find people who have not been able to
4 get an attorney to remain on ASCC or on Social Security
5 Disability, and you will see the visible effects of what have
6 been the cutbacks to date in legal services.

7 The speakers that follow, beginning with Ninfa,
8 will address the exact effects of not increasing the existing
9 budget for Legal Services Corporation for Budget Year 1985 to
10 at least some portion near the \$470 million.

11 MS. SEGERRA: My name is Ninfa Segerra. I'm the
12 Legislative Coordinator of the Mayor's Office for the
13 Handicapped. We've seen that in the past few years with the
14 cuts that have been made in legal services the drastic
15 reduction in services to people who are poor. Today, I want
16 to specifically address persons with disabilities. Persons
17 with disabilities are currently striving to achieve self-
18 sufficiency. In order to be able to achieve that goal, they
19 have to be able to acquire access to the courts so that they
20 can secure some basic human services. In the steps to achieve
21 this, they have to be able to get adequate representation.
22 As the Federal, state, and local governments become more

1 complex and make it more difficult to get access to certain
2 services, they need the assistance of legal assistance from
3 different entities. A prime example of this has been of the
4 thousands of persons who were receiving disability who were
5 taken off the rolls and the attempts that were made to
6 reinstate them to the rolls. But there are still thousands of
7 persons out there who were cut from the rolls who are still
8 not receiving services because they were not able to receive
9 legal assistance.

10 To represent our constituency properly, we have to
11 be concerned with both the budget process and the rule-making
12 process, and in that, I refer to a step that was taken by the
13 board concerning the eligibility requirements of clients in
14 order to be able to receive legal services. It seems to us
15 that the budget process and the rule-making process has been
16 designed to remove eligible clients from receiving a service
17 that is vital to their existence, and we are very concerned
18 about the nature of the entire process and not just the budget
19 process.

20 Persons with disabilities, as mentioned earlier,
21 have had a difficult time even getting access to existing
22 legal services, and it has only been in recent time, after some

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 --- 273-9222

1 attempts made by persons with disabilities, that they were able
2 to start receiving adequate services. The combination of the
3 budget and the proposed regulations concerning eligibility;
4 specifically, those addressing group representation of persons
5 who receive income maintenance programs, having to go through
6 an entire new eligibility procedure makes this process even
7 more difficult and prevents persons who should be receiving
8 services from getting access to the courts, which are vital
9 instruments in becoming self-sufficient and independent.

10 MR. MCCARTHY: Thank you. Excuse me, there is
11 another speak that Mr. Schwartz is -- yes.

12 MR. BYDEAT: On behalf of the City of New York,
13 I am General Counsel for the New York City Department of the
14 Aging. I have been in legal services, before coming on to the
15 Department for the Aging, since 1967, and I've seen this
16 history of the legal services program unfold before my eyes,
17 and I must say that, in terms of the impact of what has
18 happened since 1981 and 1982 on the elderly who are entitled
19 to legal representation under Title 3 of the Older Americans
20 Act, the cutbacks in legal services programs that, after all,
21 have to serve the indigent elderly, we do not -- we may not
22 apply means to all the elderly, but we can priority all

1 measures of economic and social disadvantage. The impact on
2 our programs has been that -- our Queens program, for instance,
3 has had to cut intake, just had to cut intake, just refuse to
4 speak to elderly people because each attorney in that office
5 has an excess of 125 cases.

6 While I think that may confuse the issue in mixing
7 budgetary matters with the formula, I think that -- and it may,
8 indeed, take five years if we try to do it that way. I think
9 that the problem is immediate, and you have to see it from
10 the point of view of the impact on the offices serving elderly
11 people. In Manhattan, which has had to cut intake, where
12 real estate is very, very valuable, landlords are trying to
13 evict elderly people from their apartments, and they are liti-
14 gating with Legal Services attorneys for the elderly, and much
15 time is spent on this. Now, with the cutback in the Legal
16 Services Corporation funding, they cannot rely on offices such
17 as MFY, the Manhattan Legal Services, Harlem Associate of
18 Rights, and so on, so that it's a very critical situation that
19 we're in.

20 I'm glad that you came here. I didn't know how to
21 talk to you because I've been reading the history, and I'm just
22 hoping that Mr. Santarelli's spirit, you know, will continue in

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 opening up --

2 MR. SANTARELLI: Ghost.

3 MR. BYDEAT: -- the discussion and the comments.

4 But I think that we have to be very much aware of the problems
5 that a 4.4 increase, which really does not begin to address the
6 problem -- the problems that that raises in the handicapped
7 community, as well as among the elderly. Thank you.

8 MR. SCHWARTZ: We have one more speaker, Mr. McCarthy.

9 MR. MCCARTHY: Yes.

10 MS. VEDA: And I will be brief. My name is Genny
11 Veda, and I'm from the New York City Commission on the Status
12 of Women. We are concerned about the grossly inadequate level
13 of funding that's proposed for 1985. The Commission on the
14 Status of Women is particularly concerned, because nearly
15 70 percent of the clients served by the Legal Services
16 Corporation are poor women, mainly between the ages of 18 and
17 34, many of whom are single heads of households with a minimum
18 level of education. Many of them are displaced homemakers,
19 having been thrust into poverty through the loss of their
20 spouses through death or divorce.

21 These women come for legal aid to help them deal with
22 problems in obtaining public benefits, such as AFDC, food

1 stamps, medical assistance, and unemployment compensation.
2 They also come with landlord-tenant problems, debt collection
3 cases, and a variety of family law problems, such as divorce,
4 custody, support payments, and cases of wife beating and child
5 sexual abuse. The impact on poor women of funding cuts in the
6 legal services program has been truly devastating. In 1982,
7 when funding for a variety of Federal social programs was
8 cut, the Legal Services Corporation suffered a 25-percent cut
9 in its budget, which reduced it from 321 million in 1981 to
10 241 million in 1982 and 1983. This reduction resulted in a
11 30-percent decrease in attorneys funded by local legal aid
12 programs, while at the same time the number of poor persons
13 eligible for services increased by 14.5 percent.

14 As you probably know, a survey conducted by the
15 Washington Council of Lawyers on the impact of the budget cuts
16 revealed that many family law cases are no longer being
17 handled by the legal services programs because of severe case
18 overload. Of 61 programs sampled, 27 were no longer handling
19 divorce cases. Eleven are no longer accepting custody and
20 visitation cases, and six programs were turning away all
21 persons coming for help with cases of abused or neglected
22 children. Two typical examples that have recently come to our

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 attention: a woman who was the victim of wife beating
2 obtained a temporary restraining order on her own and then
3 came to a legal aid office in the Bronx to request help in
4 obtaining a permanent order of protection. The office staff,
5 too burdened with case overload, was forced to refer her to a
6 private attorney. It has now been a month and still no private
7 attorney has been found. Meanwhile, this woman is still under
8 the threat of attack from her husband.

9 In another case, a woman and her child were evicted
10 after the husband left the family. New York City had no
11 shelter that would accept both the mother and the child, so
12 the mother voluntarily placed her child in foster care. The
13 mother kept going from shelter to shelter, until some time
14 later she was finally able to find a shelter for herself and
15 her child. At this point, she was refused custody of her
16 child and charged with child neglect. A Legal Services lawyer
17 is helping this woman, but we know that many similar cases in
18 other localities are being turned away because of inadequate
19 funding.

20 Clients who need actual legal representation are
21 instead being given a few words of advice on how to handle
22 things on their own and are being sent on their way. These

1 people are on the edge of survival. Their suffering is monu-
2 mental.

3 We urge the board to recommend restoration of the
4 funding to the national standard previously set by Congress,
5 which would provide 2 attorneys per 10,000 poor persons. A
6 budget for 1985 of \$470 million would meet this minimum
7 standard. While Congress is unlikely to approve the increase
8 to that amount in one year, we urge that the funding level be
9 raised over the next two or three years until this standard
10 is met.

11 I have copies of this statement available for the
12 press.

13 I would also like to make one further comment. It is
14 ironic that when you see a board of five white men and a panel
15 of all males, and considering that 70 percent of the clients
16 served are women, there is no woman.

17 MR. McCARTHY: I'll call on this gentleman.

18 MR. ROYAL: Thank you. James Royal again from
19 Philadelphia. I understand the proceedings, but as I have
20 talked to our local board, I will also talk to you in like
21 manner. Because of poor people, you are where you are. In
22 order for us to get adequate representation, if you call

1 yourselves our counsel, then basically you work for us, simply
2 because we are poor and without and because the Congress felt
3 it necessary for us to have redress. In order for us to have
4 redress, we have to talk to our counsel and instruct counsel
5 what we want them to do -- you, as the board of the corporation,
6 and I being the client. My fundamental instruction to you is
7 to pass a budget that is adequate under the basic conditions
8 now, and 4 1/2 percent is not it.

9 Reluctantly, it should have been 12 1/2 percent;
10 then, at a later point, it should be 12 1/2 percent again.
11 Let's bring it back to the norm as it was a couple of years
12 ago. It is impossible for us to sit here and listen to you --
13 and I'm saying us because I can speak for millions of people
14 without question, just like you speak for the Administration.
15 I think it's important for you to understand if we can't get
16 certain things done here -- I notice everything is being
17 referred back to the staff -- then maybe we need to come down
18 and sit down and find out who the staff are, because, as it was
19 just stated, all of you are men. I don't see any blacks up
20 here, either. So it would make me feel that the staff back in
21 Washington, D.C., or wherever they might be, are likewise.

22 We are talking about not the millionaires that have

1 been made, but we are talking about the new poor and the poor
2 that were already poor that are now out in the street. We need
3 proper representation. If we continue on the course that we
4 are going, after a while it won't be safe for you to come to
5 board meetings because people are going to come out. I'm
6 saying this as clear as I can to the entire board. I under-
7 stand your position, but I think you have to understand the
8 position that we're in. You're saying that maybe you'll be
9 gone by that time. Hopefully not. Hopefully, you and the
10 staff -- and I don't know who the staff is -- will start
11 thinking a little bit clearer and listening to the various
12 reports, because they have come in very clear and in highly
13 technical terms, and 4 1/2 percent is not realistic.

14 Again, I'm instructing you, please, 12 1/2 percent
15 now, take two aspirins and call me next week.

16 MR. McCARTHY: Yes, I have one gentleman over here
17 that I was going to call on next.

18 MR. ROACH: I'm Terry Roach from Charlotte, North
19 Carolina, Southeast Regional Representative of PAG's Funding
20 Criteria Committee. The FCC asked me to make a particular
21 statement to you this morning, but that statement has already
22 been made a couple times, most eloquently by Mr. Livingston,

1 by Mr. Braude, and by the gentleman from Philadelphia. So
2 what I would like to do is give you the benefit of my
3 experience in Legal Services. I've been in it about a dozen
4 years, and your staff members haven't. They are pretty much
5 rookies, as are you. The kinds of issues that we have been
6 talking about today suggest to me that you all, as board
7 members, are not getting the thorough information that you need
8 to get about the history, political and conceptual base, of
9 funding formula and getting funding from the Congress of the
10 United States. That troubles me. One of the reasons it
11 troubles me is that back in March or April, I sat down with
12 another Funding Criteria Committee member, with Gregg, with
13 Dennis, and with some other senior staff hosts, and had the
14 very same conversation we've just had now, just heard.
15 Dr. Peterson was charged with getting into that issue in
16 October, but we've been considering those variable factors in
17 the Funding Criteria Committee as far back as 1976. It's not
18 new stuff. And the kinds of things that have been put together
19 and suggested today have all been analyzed, have all been
20 thought about, have all been packaged into a funding formula,
21 which, until 1981, were very successful in making new
22 resources available to poor people year by year. All that we

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 are asking you all to do this time is to look at some of that
2 history. If you don't understand some of the points, we'd be
3 happy to have the very same conversations with you that we've
4 had with your staff and that you're not getting the benefit of.

5 There are lots of places you've heard 470 as being
6 minimum access, and Congress has told you that that's what
7 minimum access is. There's lots of places in between there
8 and here, 275, that you could choose, ask for, in 1985;
9 321 million comes to mind. It has sort of a familiar ring to
10 it. And it's only 1/10 of 1 percent of that which will be
11 asked for national defense in 1985. Or you could try to go
12 one-third of the way towards minimum access. That figure
13 would be about 342 million, hardly a budget buster -- a couple
14 or three tanks. Surely, the poor people in this country are
15 worth that.

16 Really, it comes down to you all, to you, the four
17 board members who the President has asked, as the gentleman
18 from Philadelphia so eloquently said, to be the advocates of
19 the poor people. You have that charge. You need not be shy.
20 I can't imagine Mr. Masson being shy about seeking resources
21 for your development corporation, sir; or Mr. Frankum advising
22 your Fortune 500 clients to be passive, lay back, sit down,

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 don't worry. You don't need -- just because you are repre-
2 senting poor people doesn't mean that you have to shift uncom-
3 fortably from foot to foot, with hat in hand, tugging tenta-
4 tively at your forelock. That's not necessary.

5 All you need to do is go for it. All you need to have
6 is the personal commitment, the personal courage to take the
7 message of poor people in this country to Capitol Hill and say
8 that 4.4 as an increase is not too much, as Mr. Masson says,
9 but is too little.

10 All you have to do, guys, is dare to be great.

11 Advocating for poor people is a really noble,
12 historical, American principle. Why don't you join us in
13 doing that? You can, you can dare to be great.

14 MR. SANTARELLI: The last guy who used that slogan
15 got indicted and served some time.

16 MR. ROACH: There's been some question about some
17 of your potential successors, right?

18 MR. McCARTHY: Is there a question?

19 MS. STEEL: Thank you, Mr. Chairman.

20 MR. McCARTHY: Go ahead.

21 MS. STEEL: My name is Barbara Steel. I hope I'm
22 not part of the staff that's being criticized by previous

1 speakers. I've worked in Legal Services for over seven years,
2 three years for the Legal Services Corporation.

3 I'm here today as a representative of the LSC
4 Employees Union. I don't know what I can say to you that will
5 not fall on deaf ears.

6 Several times, in writing and orally, our union has
7 asked to meet with you -- with you, the board, and with you,
8 Mr. Bogard -- and you have not answered. We are here again,
9 asking. Judy Stanebrook, a regional office employee represent-
10 ing the union, appeared before you in San Francisco and asked
11 that our union be recognized and that career staff be allowed
12 input into the decision-making processes of this corporation.
13 The result was that, just a few days prior to the St. Louis
14 board meeting, regional offices were called and staff informed
15 that they were not to attend the St. Louis board meeting.

16 Cynthia Edwards, a career employee unjustly fired by
17 this corporation for her union support, appeared before you in
18 St. Louis. As a result, the law firm of Thompson, Mann, and
19 Hudson, notorious for its representation of the J.P. Stevens
20 firm in its employees' efforts to unionize, and now represent-
21 ing the corporation against us, has been retained at the
22 taxpayers expense in an attempt to deny Cynthia unemployment

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 benefits. The amount of taxpayers money that will be
2 squandered in this attempt should be better spent in providing
3 legal services to the poor. But it appears to me that the
4 provision of legal services to the poor does not concern you.

5 With every board meeting, policies are being made,
6 with little discussion and even less public input, that result
7 in hindering the provision of legal services to the poor.
8 Training centers are being destroyed. Eligibility guidelines
9 that make access to programs more difficult are being enacted.

10 Just Friday, just before I left the office, I read
11 the grant conditions that are now being placed on state and
12 national support centers to reduce their effectiveness. The
13 list goes on. With the shortest notice possible, you are
14 holding board meetings all over the country. These attempts
15 to minimize attendance by the LSC Union employees, programs
16 staff, and the public in general are to no avail. We will be
17 there, no matter where you choose to hold board meetings, and
18 no matter how short the notice. We will be there because the
19 issue is greater than just us. The issue is justice.

20 Unless the laws of this nation work for the poorest
21 among us, as they do for the rich and powerful, then this
22 government, the one that we call the greatest on the face of

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 the earth, this great democracy, has failed.

2 What can we say to you that will not fall on deaf
3 ears?

4 MR. WATSON: My name is Kipp Watson. I am here on
5 behalf of Disabled National and the Federation of Recipients
6 with Activism Regarding Disabilities, and I want to serve
7 notice upon you that if you do not take into account the
8 impact that can be reasonably foreseen by an enactment of the
9 4.4 percent -- you call it an increase; I call it a cutback,
10 in real terms -- and if you do not -- that, coupled with an
11 equalization formula, which has a pretense of mathematical
12 exactitude, but is simply unfair because it diverts money from
13 direct services into administrative hogwash -- I'm serving
14 notice upon you that if you enact these kinds of restrictions
15 upon eligibility for your services and the availability of
16 services, that you are conducting yourself in a manner that is
17 discriminatory on the basis of disability, and I cite as my
18 reference Section 504 of the Rehabilitation Act of 1973, as
19 amended in 1978, and I noticed that your general counsel before
20 was looking up Part 1624 when I asked the question about a
21 sign language interpreter not being here. Take it from me
22 that the unavailability of a sign language interpreter in this

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 very important public meeting is an abominable discriminatory
2 act against people with hearing impairments such as myself and
3 people who are deaf who have no other means of communicating
4 with you. That's why people -- unless I'm leaving anybody
5 out -- from the deaf community are not here, because you have
6 foregone this very important means of communication with a
7 very important sector of the poor community.

8 The way I read the Legal Services Corporation Act,
9 it says that legal services are to be provided to those "who
10 are unable to afford adequate legal counsel." I am in the
11 private bar, and I have people coming to me all the time,
12 people who are on SSI, people who are on SSDI, who tell me
13 that they have problems getting money -- excuse me -- getting
14 legal services from the Legal Services Corporation for a
15 variety of reasons. Most of these people cannot afford
16 adequate counsel. To suggest that your money is spent better
17 in determining a person's eligibility for legal services than
18 in fighting for that person's right to be on SSI to me is
19 ludicrous. This pretense about mathematical exactitude should
20 be dropped. There is no way that all the realistic factors
21 can all be taken into account.

22 You should funnel your money into direct services,

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 and you should provide it to people who otherwise cannot afford
2 it. If you don't have enough money to do that, then acknowl-
3 edge it to the public. State that to the government, state
4 that to the Reagan Administration, and revise your figures
5 accordingly. 12.5 percent, as the gentleman who is represent-
6 ing the National Clients Council, does not seem too unreason-
7 able to me. The government is in the business all the time of
8 having contracts with corporations like General Dynamics and
9 Western Electric where a \$10,000 contract per unit is made for
10 something that costs about \$1, an Allen wrench. That's -- if
11 you don't believe me, you can look up the New York Times about
12 three weeks ago in the "Sunday Weekly Review."

13 The disparate impact that the 4.4 percent real
14 cutback -- it would have the combination with the Federal
15 Register's new rules on eligibility that was published last
16 Wednesday -- is nondiscriminatory, and you can look up a case
17 -- general counsel, you can look up a case, Jennings versus
18 Alexander, Index Number 81-5624, the Sixth Circuit Court of
19 Appeals, August, 1983.

20 We are opposed to the provisions that would prevent
21 representation of groups under certain circumstances. I wish
22 to bring to your attention that there are a number of movements

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 such as the right to education for people who are disabled,
2 the right to be deinstitutionalized, the right to minimal
3 constitutional levels of treatment. These are movements that
4 were spearheaded by advocacy groups in conjunction with Legal
5 Services, which, under your new proposed rules, would no longer
6 be viable.

7 The mandatory assets limitations that were proposed,
8 I now understand, are now permissible. That is not an
9 appropriate response to the notices and comments that have been
10 sent to you. What you should be stating in your final rules,
11 and consistently with Part 1624, is that assets limitations
12 tests shall not be discriminatory. I think that if you deal
13 into the specifics here, you'll find that many disabled
14 people have cars because there's no other transportation
15 available. Some places are inaccessible. It's not fair to
16 say that that person can afford adequate counsel when somebody
17 else, who does not have that same cost requirement, cannot get
18 counsel.

19 The provision that there shall be a maximum
20 eligibility income criterion set at 150 percent of 125 percent
21 of the poverty level, with the exception for medical costs and
22 the cost of nursing homes, is discriminatory because it does

CAROL J. THOMAS

STENOTYPE REPORTING SERVICES, INC.

3162 MUSKET COURT

FAIRFAX, VIRGINIA 22030

273-9221 ... 273-9222

1 not take into account disability-related expenses that disabled
2 people have and other people don't have. I must remind you
3 that the Legal Services Corporation Act talked about providing
4 services to those who are unable to afford legal counsel, and
5 four criteria are given for the determination of client
6 eligibility. These include factors which are related to the
7 financial inability to afford legal counsel. As presently set
8 forth, the rules are discriminatory. As presently proposed,
9 the motion for a real cutback in Legal Services would
10 exacerbate the problem, would prevent any just solution to the
11 equalization problem, and would therefore be discriminatory on
12 the basis of disability.

13 MR. McCARTHY: I thank you, and may I suggest that
14 you might brief that to our general counsel. I think it would
15 be most helpful.

16 MR. WATSON: We have already submitted testimony to
17 that effect, sir.

18 MR. McCARTHY: Thank you very much.

19 MR. WATSON: I hope you have read it.

20 MR. McCARTHY: Have you got some words of wisdom for
21 us again?

22 MR. MAMUMBA: I'd appreciate it.

1 MR. McCARTHY: Thank you.

2 MR. MAMUMBA: I hope you'll listen.

3 MR. McCARTHY: We always listen.

4 MR. MAMUMBA: I am Mr. Mamumba, and I'm with the
5 National Legal Aid and Defender Association. I was in
6 St. Louis and have a different recollection of the budget and
7 the 1984 mark discussion that transpired there. But rather
8 than have a debate about whose perception is correct, I think
9 it's more important for me to lay out one factor that I think
10 we can all agree occurred. As you all probably recall, Anne
11 McCory, from the Washington Council of Lawyers, offered to each
12 of you a second copy of the study that's been done. In that
13 study, there is striking documentation of the needs in the
14 legal services community, the inadequacy of funds, and, there-
15 fore, our great disappointment around the amount of money that
16 you've indicated you would probably request from Congress.

17 Rather than take any more time making a statement,
18 I have four questions that I'd like to pose to each of you
19 respectively, and, hopefully, you'll have some answers. First
20 of all, since you now have at least two copies of the report,
21 have either you, Mr. Masson; you, Mr. McCarthy; or you,
22 Mr. Frankum; and if Mr. Santarelli is still within the reach of

1 my voice, have any of you read the study?

2 MR. McCARTHY: I do not appreciate you directing
3 questions to the board. We are here to gain information. You
4 are to tell us what you have in mind, and if there are any
5 questions addressed, it will be by me to you.

6 MR. MAMUMBA: Well, I choose to disagree with you.

7 I --

8 MR. McCARTHY: I am running this show, and it's
9 going to be my way right now.

10 MR. MAMUMBA: Well, unfortunately, your way has
11 persisted for time eternal, and there is --

12 MR. McCARTHY: Well, as you said, it won't be 10
13 years from now, and you'll have somebody else.

14 MR. MAMUMBA: No, because we're going to have a
15 change at this very moment. I am going to ask my questions,
16 and you can continue to display your perceived arrogance of
17 power, but I will ask the questions. It's obvious that none of
18 you have probably read it, and that obvious factor leads me to
19 another obvious conclusion. None of you are in a credible
20 position to make any type of decision, which is not unusual,
21 because on each decision that you've made previously -- and you
22 can look frustrated, you can look aggravated; but this room is

1 filled with frustration, this room is filled with aggravation.
2 Poor people in this country are filled with frustration and
3 aggravation, and they are tired of arrogant Caucasian males
4 attempting to dictate the terms of their lives. Yes, you can
5 roll your eyes, you can feel uncomfortable, but I'm going to
6 talk, and I'm going to talk on one level, simply because you
7 are so unresponsive, you are so insincere, you are so arrogant.
8 But for the moment, you are not going to make me stop talking.
9 I pay taxes. I pay for your consultant fee, which you are
10 going to get at the end of this day, probably for an eight-hour
11 day, having done probably three hours work of nothing. So you
12 are uncomfortable, but you are not uncomfortable as I am nor
13 as poor people are, and you are not even beginning to be as
14 uncomfortable as you will be before it's all over. I don't
15 want you to tell me "thank you for my comments."

16 Shove it.

17 MR. BROWN: Yes, my name is Steve Brown. I am the
18 Chairperson of the National Organization of State Support
19 Units, NOSSU for short. The previous statements with respect
20 to the budget, I think, have been as eloquently articulated as
21 any statements I've ever heard. I've been at several of the
22 board meetings, and the legal services community is to be

1 congratulated, I think, for the manner in which many of their
2 views have been presented to the board. Barbara Steel mentioned
3 a subject in passing a few moments ago which I'd like to
4 address for a couple of seconds, and that is the issuance of a
5 new instruction relating to grant conditions for national and
6 state support centers.

7 By the action last week of the Legal Services
8 Corporation, it took an unprecedented step to effectively deny
9 eligible clients access to many of the most knowledgeable and
10 experienced lawyers in Legal Services. It is now clear that,
11 with this new instruction, LSC has declared war on approxi-
12 mately 65 Legal Services programs; 17 national support centers,
13 and the rest being state support centers. For those of you
14 not familiar with the instruction, as of January 1st, the
15 instruction virtually forbids all lawyers who work in the 65
16 support centers -- virtually forbids those lawyers from going
17 to court on behalf of eligible clients who need and who are
18 entitled to representation. Who are these lawyers? These are
19 the lawyers that work in programs that were set up to provide
20 support and assistance to paralegals, lawyers, and clients in
21 local offices. Who are these lawyers who can't now go to
22 court? These are lawyers who are generally some of the most

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 experienced in all of Legal Services, experienced with their
2 time and service, and experienced with respect to their
3 substantive expertise. The support center lawyers are, in a
4 sense, are senior partners of Legal Services. They are our
5 experts in consumer law, housing law, welfare law, education
6 law. They are now, by this instruction, virtually forbidden
7 from going into court to represent clients.

8 What else does this instruction do? With respect to
9 this same large group of experienced lawyers, they are further
10 virtually forbidden from directly representing clients in two
11 other ways; one, in representing clients in administrative
12 agency hearings, administrative adjudications, and administra-
13 tive rule making. They are further virtually barred from
14 representing eligible clients under the allowed circumstances
15 in the Act with respect to appearances before and comments to
16 Federal, state, or municipal legislative committees and
17 legislative hearings.

18 This instruction is a disgrace to the legal services
19 community, to the Legal Services Corporation. It violates the
20 Legal Services Corporation Act, ignores the will of Congress,
21 sets preposterous and unsupportable limits on the activities
22 of Legal Services lawyers and makes a mockery of the almost

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 --- 273-9222

1 20-year Federal commitment of the United States Federal
2 Government to provide legal services to the poor.

3 To be more specific about this instruction, what
4 does it do? By denying us to go into court on behalf of our
5 clients, it violates the primary intent and purpose of the
6 Legal Services Act, to provide poor people with quality legal
7 representation, where they need it most -- in the courts,
8 before administrative agencies, before our national, state,
9 and municipal legislators and representatives. It violates the
10 provision of the Legal Services Act which requires that the
11 activities and functions of each Legal Services Support Center
12 be determined separately and locally through a priority-setting
13 process. That provision is explicitly stated in the Act.

14 We now have the priority-setting process dictated,
15 with the results that we're supposed to do dictated from
16 Washington. The priority-setting process is intended to insure
17 that the activities of each center are geared to the special
18 or unique needs of the local program, staff and clients served
19 by support centers, and we now have Washington telling those
20 support centers what they will provide to the programs they
21 support and not the local programs telling the support centers
22 what services should be provided.

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 What does this instruction further do? It subverts
2 the will of Congress to have the Legal Services Corporation
3 use its Federal funds, in the words of Congress, to provide
4 "the most economical and effective delivery of legal services
5 in both urban and rural areas." We have now muzzled some of
6 the best lawyers in Legal Services. Is this effective delivery
7 of Legal Services?

8 This instruction declares as illegal several of the
9 crucial functions that national and state support centers
10 were established to perform, functions that could not be done
11 effectively or efficiently by the separate, usually very small,
12 many local programs in each state. That's why we have support
13 centers -- to do what the small programs of themselves could
14 not do -- that of themselves they couldn't do.

15 This instruction denies clients full access to
16 existing legal services resources, when their needs for Legal
17 Services support are probably greater than any time since the
18 Legal Services Corporation Act was passed in 1974. This
19 discloses as fact our suspicions that the ongoing study of
20 national and state support -- and you all know that there has
21 been an ongoing study of national and state support for the
22 last four or five months -- this instruction now tells us what

1 we suspected, that this study will be manipulated, that this
2 study will further the preconceived notions and agenda of the
3 Corporation, because they now have begun to tell us what to do
4 and what we can't do, more specifically, without even getting
5 the reports.

6 Finally, this instruction discloses as fact our
7 suspicions that this Legal Services Corporation staff, with the
8 cooperation of this board, intends to emasculate legal
9 services. The screws are now being specifically turned on
10 state support and national support centers, telling them what
11 they can't do. The next screws will be turned on local
12 programs, telling them the same thing.

13 On behalf of all the state support centers, the
14 National Organization of State Support Units, you are advised
15 to revoke and rescind this instruction. If the instruction is
16 not immediately rescinded and revoked, we are considering all
17 our options; and one of those options is legal challenge.

18 Thank you.

19 MR. LOWENS: My name is Dwight Lowens. I'm --

20 MR. McCARTHY: May I make one statement?

21 MR. LOWENS: -- with the National --

22 MR. McCARTHY: Please, one statement. We are

1 considering a budget problem, and because of the requirements
2 of Congress, we must submit it within a very stringent time
3 limit. We must do that today, so I would suggest that any
4 comments at this time from the audience please be directed to
5 the budget mark. Any other comments can be made at some later
6 time, but right now, we are confronted again with having to
7 give Congress our advice. This is not something that we have
8 any option on, so I would appreciate it. Again, as I told you,
9 our limits on this meeting were until noontime. The good
10 Congressman has not arrived yet, so we've had more time than
11 I had even budgeted.

12 I do appreciate these other gentlemen's statements
13 in the past as to the board and the policies, but they are not
14 helpful as to the budget mark. So if we have any more
15 questions, I am going to restrict them to the budget mark so
16 we can carry on this matter.

17 MR. LOWENS: Okay, my name is Dwight Lowens. I'm with
18 the National Organization of Legal Services Workers, and I'm,
19 frankly, going to turn my attention to the audience because I,
20 at this point, have come to the conclusion -- perhaps somewhat
21 slowly -- that, frankly, the group of people who are sitting in
22 front of us really have no legitimacy whatsoever, one; and two,

1 they are really not interested in hearing what we have to say
2 at any rate. When people are asked questions about reports
3 and documents, et cetera, and things that were submitted, I
4 suspect that the real reason we don't get a response is the
5 fact that these people have no idea what the hell we are
6 talking about. That's one.

7 Now, with respect to the budget mark, I'd like to
8 say that one point that has not been dealt with directly here,
9 and that is that a 4.4 percent so-called increase cannot begin
10 to deal with the loss in benefits and salaries, et cetera,
11 the attrition and the layoffs that have happened in this
12 program in the last couple of years. People who work in these
13 programs and who have given their lives to these programs
14 deserve a basic income so that they can carry on and represent
15 the people who need their expertise. This, frankly, is simply
16 just another way of subverting the program and driving out
17 people who are dedicated to Legal Services by denying the
18 basic opportunities for people to earn a decent living.

19 So the 4.4 so-called increase, frankly, is -- should
20 be totally rejected out of hand. Certainly, we, in the
21 community; we, in the labor movement; we, broadly in the
22 legal services field, will continue to demand a decent increase.

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 It is unfortunate, but it's quite clear, based on
2 the comments from such people as Mr. Masson, that they have
3 no idea what we are talking about.

4 Thank you.

5 MR. MASSON: Are there any more speeches for the
6 record, either thoughtful or not so thoughtful? Yes, sir.

7 MR. WATTS: Rodney Watts, Director of --

8 MR. BRAUDE: Is the board going to return to hear
9 these comments, or are they not?

10 MS. STEEL: The board is not interested in us here.

11 MR. BRAUDE: Seriously. It's unbelievable in a
12 three-hour meeting that there can't be four board members to
13 listen to comments from the floor. It's unbelievable.

14 MR. MASSON: I believe this gentleman has the floor.
15 Mr. Watts?

16 MR. WATTS: I am Director of Wayne County Neighborhood
17 Legal Services. You know, I've been attending these meetings
18 now for some 13 or 14 months, and there appears to be some kind
19 of credibility gap. I don't know if I ought to be directing
20 my comments to the board or to the staff.

21 MR. MASSON: You should be giving them to the board.

22 MR. WATTS: Well, then, certainly the staff will
listen.

1 MR. MASSON: Right.

2 MR. WATTS: I've been involved in Legal Services off
3 and on over a nine-year period. I've been a law student in
4 my program. I've sat on the board of directors of my program.
5 I've supervised in my program. I've been deputy director of
6 my program, and I am now the director of my program. Somehow,
7 in 14 months -- and I recognize not all of you have been here
8 during that time -- those of us in the field have been unable
9 to communicate with what the real deal is out there. I guess
10 the best example of what I can tell you about what we're
11 facing and why it is so very critical that you consider an
12 increase above and beyond the 4.4 percent that you're asking
13 for is a situation I encountered when I was supervising one of
14 my field offices on a temporary basis.

15 It was in the early part of 1982, when a client came
16 in who had been laid off from his job at the Ford Motor
17 Company. This client happened to be 29 years old. He came
18 right out of high school, went right to work, as is the custom
19 or as was the custom in Detroit for so very many years. He had
20 worked for 11 years. He had a family. He had bought a house,
21 and he had bought all the other things that Americans aspire
22 to. And all of a sudden, when the bottom fell out of the

1 sat in an intake office to look across the desk at an indi-
2 vidual who direly needs our help, only to be told, "We don't
3 have sufficient staff, because our caseloads are running 90,
4 100 -- yes, 125 cases per attorney;" those of you who don't
5 know about attorney burnout -- I have lawyers in my program
6 who work 12 and 16 hours a day, 7 days a week, and I have to
7 make them take vacations -- those of you who don't have a feel
8 for the sincere commitment of those of us in the field, listen
9 up.

10 I have never sat before you and harangued you or
11 harassed you, and what you're hearing out here is a frustration
12 that is for real. I don't know if it's our failure to
13 communicate to the staff, who ultimately makes it recommendation
14 to you. I give everybody the benefit of the doubt. In giving
15 you that benefit, I have to assume that, as advocates of the
16 poor, which you are, you are interested in seeing to it that
17 the poor people of this country get the services that they need.
18 You have to ask yourselves, as advocates of the poor, what does
19 4.4 percent do toward the end of providing high-quality legal
20 services to our constituents. Where does the 4.4 percent
21 figure come from? Are we to look forward to tying our rate of
22 increase to the rate of inflation? Is that reasonable? Is

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 now the time to do that before we reach minimum access, or even
2 before we reach the \$321 million that we lost. These are the
3 questions that need to be raised here. These are the questions
4 that need to be dealt with before you recommend a 4.4 percent
5 increase in our 1985 funding.

6 I would think that, as a board member, it's just a
7 little bit embarrassing to have recommended 6.5 percent for
8 1984 and have Congress come back and give you 14 percent.

9 MR. SANTARELLI: Would the gentleman yield for a
10 moment?

11 MR. MASSON: May I say something first? I just would
12 like to tell Mr. Watts that this is a difficult process, and
13 I have had a difficult time -- most of the people are right.
14 I have had a very difficult time in listening this morning.
15 Some of the comments I didn't listen to at all. I want to be
16 quite frank and honest with you about that. I have heard your
17 comments, and I think that your arguments are very persuasive.
18 I'm not sure what we can do about it, whether anybody -- least
19 of all us -- will be happy when we go out of here. But I think
20 you have clearly identified issues that we should be concerned
21 about. If, in fact, inflation is the issue, then it's 4.4,
22 4.2, 4.6. If it isn't, then it's an issue. But I clearly

1 think that you have very eloquently discussed the issues and
2 probably share the frustrations of some of your fellow
3 cohorts who are less thoughtful and less articulate. I just
4 want to let you know personally I heard what you said and will
5 take it into consideration, and I thank you.

6 MR. SANTARELLI: Since the gentleman has yielded,
7 may I ask the Chairman if he will entertain a motion? May I
8 ask my fellow board member and the maker of the motion who put
9 this matter before this board to withdraw his motion so that
10 we may take into consideration further the thoughtful comments
11 that we have heard this morning, that we do listen and do
12 understand.

13 MR. MASSON: Sometimes.

14 MR. SANTARELLI: Would you be good enough to withdraw
15 the motion?

16 MR. MASSON: Yes, it is withdrawn.

17 MR. SANTARELLI: The purpose of this, Mr. Chairman,
18 is to allow us to further consider this. I think you need to
19 inform our public as to our constraints, however.

20 MR. McCARTHY: Our constraints are -- I repeat my
21 comment before. We must, within 15 days after the return of
22 Congress, submit the budget mark. Prior to that time, there is

1 a great deal of staff preparation, and I would like to suggest
2 to the board if the motion is withdrawn and not acted on today,
3 that we must have a meeting in the first week of January to
4 fulfill our obligations. I had not planned to suggest one
5 because of the holiday period, but with that understanding, the
6 board can make its own resolution of that.

7 MR. MASSON: Mr. Chairman, January is a beautiful
8 time to be in Arizona.

9 MR. SANTARELLI: Let me elaborate further for one
10 moment, since our constituents feel that they do not hear
11 enough from this board. It may appear again -- and the
12 perception is -- that we are unfeeling and unthinking, but this
13 is a classic example of the effectiveness of, in fact, hearing
14 and thinking and reacting to what it is you have to say. We
15 do not pretend to be omniscient. We are, unfortunately,
16 saddled with the fiduciary duty of acting. The actor always
17 acts with incomplete information and imperfectly, but we will
18 act, anyway. But this is an example of the effectiveness of
19 this process. These are not empty words that we say to you
20 when we say please communicate as much as you can with the
21 management of this corporation, because they are our arms and
22 our legs, and we are only a part of this institution.

1 Don't hesitate, but please don't demagog. It's that
2 which turns us off; it's that which we do not hear very well.
3 It is the thoughtful analysis that has been effective, and
4 that's the basis of my motion and this board's action today.

5 MR. McCARTHY: Following Mr. Santarelli's comment
6 about input, subsequent to the St. Louis meeting, at which
7 time Charles invited everyone present to be in touch with him
8 about the 1985 mark and to visit him personally or to
9 communicate with him, to my knowledge, none of that has been
10 done by any of the public. So I just say to you, in supporting
11 Mr. Santarelli's statement, we would appreciate constructive
12 advice, and the written form is very effective, or personal
13 communications in any other way. But this forum is not the one
14 in which you can establish your own position and trust that the
15 board will act on it immediately.

16 So I do solicit from all of you input.

17 MR. SANTARELLI: And in one further instruction to
18 the staff, some of what we heard this morning is very informa-
19 tive about the special problem groups, such as the disabled
20 and such as the elderly. To the extent that we have not
21 carefully and perfectly thought out the impact of this budget
22 on those two elements, I would ask us to consider that

1 carefully during this next period of continued consideration of
2 the budget mark.

3 MR. McCARTHY: Now, we've withdrawn the motion.
4 Again, we do not have a question pending before the board.
5 We are still on the agenda item of the budget mark. We will
6 devote a few more minutes to that for any input from the
7 audience, and then we will continue to the last agenda item.

8 MR. SANTARELLI: We need a court reporter break.

9 MR. McCARTHY: Oh, I beg your pardon.

10 (Thereupon, a brief recess was taken, and then
11 the proceedings continued as follows:)

12 MR. McCARTHY: The reporter is now back on the
13 record, so if you'd state your name and affiliation, please.

14 MS. SETTLES: Edith Settles, from the Middlesex
15 County Legal Services. This is not an emotional appeal. I
16 just want to bring out one factor that I consider realistic,
17 that I don't think has been brought up in discussing the budget
18 and the future of Legal Services. I remember the 1930's.
19 Legal Services is not only a way of bringing justice to the
20 poor, but it's also a protection against violence in the
21 streets, which is what happened in the thirties.

22 MR. McCARTHY: Thank you. This gentleman, please.

1 MR. MORELAND: Tom Moreland from the City Bar
2 Association. I also represent the New York Lawyers Committee
3 to Preserve Legal Services, which is a consortium of bar
4 associations and others interested in the Legal Services
5 Program. Let me just briefly state to you that I believe that
6 the private bar here in New York is fully supportive of the
7 Legal Services Program and the need for adequate funding of
8 the staff neighborhood offices. There is really no substitute
9 for a staffed, full-time office to deliver legal services to
10 the poor.

11 I suggest to you it's a really profoundly conserva-
12 tive idea to provide legal services for poor people who have
13 disputes with the government or other private parties. We may
14 well disagree on what statutes should be passed or what rights
15 should be enacted into law. We can have very different view-
16 points on how the courts should react to litigations brought
17 to court -- judicial activism, judicial passivism, or whatever.
18 But one thing we should all be able to recognize and agree
19 upon as Americans is access to justice is a vital right; and
20 for the poor, they are dependent on government funding to
21 provide that right. I urge each of you gentlemen, who I am
22 sure in your own lives have often appreciated the need for

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 legal services on a corporate level and a personal level, to
2 just bring it down to the level of poor people and provide or
3 at least advocate a funding level that's adequate for the task.

4 I hope that Mr. Santarelli's remarks are sincere.
5 I am sure they are. I would suggest that the factual basis
6 for the need for greater funding has long been made to you
7 very clearly. I don't really think it's a difficult issue.
8 It may be a difficult issue for you politically because of
9 directions or guidance that you are getting from on high. I
10 don't know about that sort of thing. But if your concern and
11 focus is, as I hope it is, on providing legal services for the
12 poor, I think it's a very easy conclusion that you need to
13 advocate, I think, not less than \$400 million as at least a
14 start toward getting back to the minimum access to justice,
15 which is -- has been discussed before, is only a minimum and
16 an inadequate minimum at that. So I urge you to -- I commend
17 you for reconsidering your budget resolution, and I hope that
18 on reconsideration, you will come up with something greatly in
19 excess of the 4.4 percent.

20 Thank you.

21 MR. MCCARTHY: Thank you.

22 MR. WILLIAMS: My name is Junius Williams. I'm the

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 --- 273-9222

1 Project Director of Essex Legal Services in Newark. I am
2 certainly happy that you withdrew the motion and that the board
3 accepted that. I also took note of what you said with respect
4 to people not presenting papers and documentations with
5 respect to their ideas. Well, that may be because we are very
6 busy and simply because we didn't have time to write some
7 things down. Maybe it meant that we didn't know what your
8 ideas were with respect to what you were going to ask for.
9 Some of us are put in the position of reacting perhaps more
10 than we want to be, but that's because most of our people are
11 working weekends and holidays and coming in late at night and
12 staying and interviewing clients even after 11:00 o'clock at
13 night, because that's just the nature of things.

14 So I want to do one other step. I want you to
15 consider taking one additional step. I think it would be
16 very, very good if, instead of looking at documents and
17 statistics and paperwork, you planned to come to some of our
18 projects between now and January; that you come out and talk
19 to the staff and talk to the lawyers and talk to the para-
20 legals and talk to some of the clients. I know a lot of us
21 probably could have packed our clients up in buses and brought
22 them over here. Well, I don't know if that would have been

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 --- 273-9222

1 feasible. I don't know if it would have survived any audit
2 that might have been done. Perhaps the latter was more of a
3 consideration -- more so than the former. But if you come out
4 to see what we're doing, I think it's got to have some impact
5 on you. If you really want to listen to what we want to see
6 done -- I think we want to achieve some meeting of the minds
7 as well as you do.

8 I'm not going for harangue. I just want you to see
9 facts. Essex Legal Services will be glad to open to you at
10 any time you would like to come up and see what we're all
11 about.

12 MR. McCARTHY: Thank you for your kind invitation,
13 sir. This gentleman.

14 MR. SOLOMON: Bob Solomon, South Central Connecticut
15 Legal Services. I really appreciate the invitation to submit
16 comments, and, like the other people in this room, I will try
17 to make them as thoughtfully as possible. I'm a little bit
18 taken aback, though, because I've submitted a hell of a lot of
19 comments in the past. I have submitted comments on board
20 composition. I have submitted comments on eligibility guide-
21 lines. I have submitted comments on so much bullshit to this
22 point that I really wonder if it ever is taken in good faith

1 by staff or by anyone else.

2 The United States Congress, at least the House of
3 Representatives, has already spoken on the question of funding.
4 It has set a figure of \$296 million. The Senate set a lower
5 figure. We are used to you not taking us seriously, and I
6 really don't mean this satirically. I think we do have the
7 feeling that what we say is not heard.

8 Mr. Masson spoke earlier about thoughtlessness and a
9 thoughtless speech. In my mind, what I'm saying now is
10 thoughtless in the sense that I'm taking the time to say it
11 and that I took the time to come to this meeting. That
12 concerns me. I think you should listen to me, whether or not
13 I say anything worth listening to. I know a lot of people in
14 this room have a lot of talent and have a lot to say about the
15 subject.

16 If Mr. Bogard goes to Congress with a figure of
17 4.4 percent or even anything remotely close to that, no one is
18 going to listen to him. I think he can tell you that he has
19 that sense at the United States Congress, that people do not
20 listen to him. The reason they do not listen to him is
21 because they don't believe that the pronouncements coming from
22 this board and the directions coming from this board have

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222

1 anything to do with a commitment to Legal Services, but a
2 commitment to something else. I'm not sure what that is. I
3 think there are those who would accuse this board of being
4 more committed to a presidential philosophy, a United States
5 presidential philosophy, than to Legal Services. From my
6 viewpoint, that's a fair accusation, for that's what I have
7 seen. I see that in the staff, and I see that in the 4.4
8 percent request.

9 The 4.4 percent request is a bad joke. It will not
10 be taken seriously. That's the only thing good to be said
11 about it.

12 MR. SANTARELLI: We recognize that.

13 MR. WILLIAMS: No, I appreciate that --

14 MR. SANTARELLI: We have withdrawn the motion.

15 MR. WILLIAMS: I appreciate that you have withdrawn
16 that, but we have seen so many times in the past --

17 MR. SANTARELLI: Give us something useful. We have
18 already recognized what you have just said for the last five
19 minutes.

20 MR. WILLIAMS: What I can tell you that I hope is
21 useful is that the request to work on these issues with you
22 as partners is a request that we all appreciated. But one gets

1 into one's car so many times; if the car doesn't start on
2 Monday, Tuesday, Wednesday, Thursday, on Friday you might take
3 the bus. People here have been taking buses. People here
4 are tending to give up on this board of directors. I am sure
5 that the people in this room are willing to try once again.

6 The FCC is a sincere offer and is a valuable offer.
7 I think it's up to your staff more than up to your board to
8 really rely and sit down and try to use that information.

9 MR. McCARTHY: Thank you. Are there any more
10 comments? Yes, sir.

11 MR. RUDY: Bob Rudy with the Coalition for Legal
12 Services. I did make remarks at the St. Louis meeting, as you
13 recall, at that time. I'm glad you agree with me at this
14 point that this 4.4 percent is not a reasonable request. I
15 don't think anyone in this room and apparently yourselves, at
16 this point now, agree with that.

17 What I think is a reasonable request, just at a ball
18 park, is \$470 million. That's a figure that a number of
19 people have talked about today. That's a figure that would
20 get us back to the funding formula of 2 attorneys for 10,000
21 people, poor people, that this program had back in 1981.
22 It's realistic. It's a program mark that field programs and

1 Legal Services boards and staffs have in the past worked for,
2 and legislators have in the past worked for. I think it's a
3 figure that this board ought to look to establish for the
4 program of Legal Services.

5 Dennis Daugherty earlier today said that he doesn't
6 think it was realistic that Congress would, in this year or
7 next year or the next year, come up with that amount of money
8 for Legal Services. I disagree with him. I don't know. It
9 probably is not likely that they would do so in a year's time.
10 I think it is possible that Congress could do it in two year's
11 time. I think it's very possible that in three year's time,
12 Congress could come up with that degree of funding. They have
13 done so in the past, and the two-year figure would amount to a
14 37 percent increase, to go to \$470 million over two years.

15 In fiscal year 1978, Congress gave that amount of
16 increase in one year's period of time. The board of directors
17 asked for that and more. In fiscal year 1981 -- I'm sorry,
18 1982 -- Congress cut \$80 million in one year, going in the
19 direction of \$97 million.

20 If you look at phasing in a mark of \$470 million
21 over three year's period of time, that requires a 25 percent
22 increase per year over the next three years. Now, Congress

1 gave that amount of increase for 1977 -- fiscal year 1977,
2 fiscal year 1978, fiscal year 1979, and they cut that amount
3 in 1982. We are talking about realistic figures. They are
4 not pie-in-the-sky figures. They are something that this
5 board ought to be looking at as realistic. You know that the
6 need is there. You've heard it, you've seen it, you've got
7 the studies, you've got the reports. I think that some of you
8 may have read them. It's not out of line to talk in those
9 terms. It's not nearly out of line to talk in those terms as
10 it is 4.4 percent.

11 I suggest that that's something realistic to look at
12 and consider in going back to the formula that has historically
13 been the mark for this program up until three years ago, the
14 anomaly over a two- or three-year period of time. Thank you.

15 MR. McCARTHY: Thank you, Bob. We have one more
16 statement, that gentleman.

17 MR. MURRAY: Archibald Murray from the Legal Aid
18 Society here in New York. You have heard a great deal about
19 the nature of the need and the extent of the need. I would
20 like to make one small suggestion in your thoughts about
21 setting the budget mark. I think you have placed far too much
22 emphasis on the \$275 million of this year. There is nothing

1 scientific or magical about that number. I'd suggest that
2 you, in fact, go back to two years ago, where it was 321, and
3 begin to go forward on a progression from that point. We got
4 from 321 to where we are, not because there was any loss in
5 the quantity of need, I feel, but it was simple, political
6 compromise. The president was recommending abolition, and
7 Congress's suggestion was to reduce the amount of money.

8 I suggest, therefore, that we not treat this
9 \$275 million as a dollar figure that was provided from on high.
10 Go back and begin to see where we were going when we were
11 trying to meet the need two years ago. If you go forward from
12 there, I think we will get much closer to that 400 million a
13 lot sooner, and I think you will begin to meet needs for the
14 first time.

15 MR. McCARTHY: Thank you very much. I am going to
16 cut off public comment at this time. There will be another
17 meeting, at which time there will be a chance for additional
18 public comment. I would like to thank each and every one of
19 you for your most helpful suggestions and the spirit in which
20 they were made. I know there is some preconceived animosity,
21 but I trust that you will take to heart Mr. Santarelli's
22 statement of what this board is trying to do and how it feels.

1 I would like to again remind you that we would like comments
2 from you. As I said, after the St. Louis meeting, I was
3 advised there was not one single comment, either in writing or
4 orally, made to our comptroller's suggestion that he be met
5 with and discuss the fact of the mark. So I think that this is
6 a good opportunity for you all to give us the input of your
7 very valuable experience and suggestions.

8 I do thank you again and look forward to hearing from
9 you in that manner. We will now proceed to the last agenda
10 item. Don, do you want to break into that?

11 MR. BOGARD: We'll have a report on the need study
12 update, which is being performed by staff, and Marilyn Minor
13 of our staff will make a report on that to the board.

14 MS. MINOR: Mr. Chairman, the proposal that was
15 included in your briefing book has been sent to 12 foundations
16 requesting that they contribute toward the expense of
17 conducting a national study on the legal needs of the poor.
18 The proposal outlines the background information on how legal
19 needs have been determined in the past and also discusses that,
20 at the outset of the corporation, the corporation acknowledged
21 that a need existed, but did not set specific parameters as to
22 what that need was.

1 The study that has been proposed will determine the
2 frequency of occurrence of legal problems in the low-income
3 community and will also determine the subject area that is
4 most -- most commonly has problems for low-income population.
5 With the information, the corporation will be able to determine
6 exactly what gaps exist in services now being delivered and
7 will be able to enhance the overall effectiveness of the
8 corporation, and approach Congress with more realistic funding
9 requirements.

10 The estimated cost of a study of this type is
11 \$736,000. This figure is based on estimates that were received
12 from research firms contacted a few months ago. The enclosed
13 budget that was attached to the proposal outlines the personnel
14 costs and the nonpersonnel costs for the setup, analysis of
15 data, data collection, and the actual report preparation.

16 The time frame for conducting this study has been
17 set at completing it by December of 1984. The development of
18 the sample and the actual questionnaire would be begun in
19 January of 1984. Are there any questions?

20 MR. McCARTHY: Does the board have any questions of
21 Marilyn?

22 MR. BOGARD: Have we gotten some comments back? Is

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 --- 273-9222

1 that correct?

2 MS. MINOR: We have only received two so far. One
3 is from the O'Connell-Clark Foundation, at which time they
4 refused support; and one is from the Ford Foundation, and they
5 said they were reviewing the proposal and will discuss it with
6 us later.

7 MR. McCARTHY: Are there any questions of Marilyn
8 from the public in connection with this proposal? Thank you
9 very much and we appreciate your good work.

10 The chair would now entertain a motion to adjourn.

11 MR. SANTARELLI: So moved.

12 MR. FRANKUM: Second.

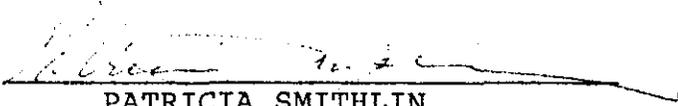
13 MR. McCARTHY: By general consent, this meeting is
14 now adjourned.

15 (Thereupon, at approximately 12:29 o'clock,
16 p.m., the meeting was adjourned.)

17
18 * * * * *

CERTIFICATE OF REPORTER

1
2 I, PATRICIA SMITHLIN, being a stenotype reporter,
3 do hereby certify that I was authorized to and did report in
4 stenotypy the foregoing proceedings, and that thereafter my
5 stenotype notes were reduced to typewriting under my super-
6 vision; and I further certify that the foregoing proceedings
7 contain a full, true and correct transcription of my
8 stenotype notes taken therein.

9
10 
11 PATRICIA SMITHLIN

12
13
14
15
16
17
18
19
20
21
22

CAROL J. THOMAS
STENOTYPE REPORTING SERVICES, INC.
3162 MUSKET COURT
FAIRFAX, VIRGINIA 22030
273-9221 ... 273-9222