

TRANSCRIPT OF PROCEEDINGS

01298

LEGAL SERVICES CORPORATION PROVISIONS FOR THE DELIVERY OF LEGAL SERVICES COMMITTEE

January 29, 1987

9:20 a.m.

Hotel Washington
Washington Room
515 15th Street, N.W.
Washington, D.C.

A P P E A R A N C E S

Basile J. Utto, Chairman
LeaAnne Bernstein, Member
Claude G. Swafford, Member
Hortencia Benavidez, Member
Lorain Miller, Member

Also Present:

Pepe J. Mendez

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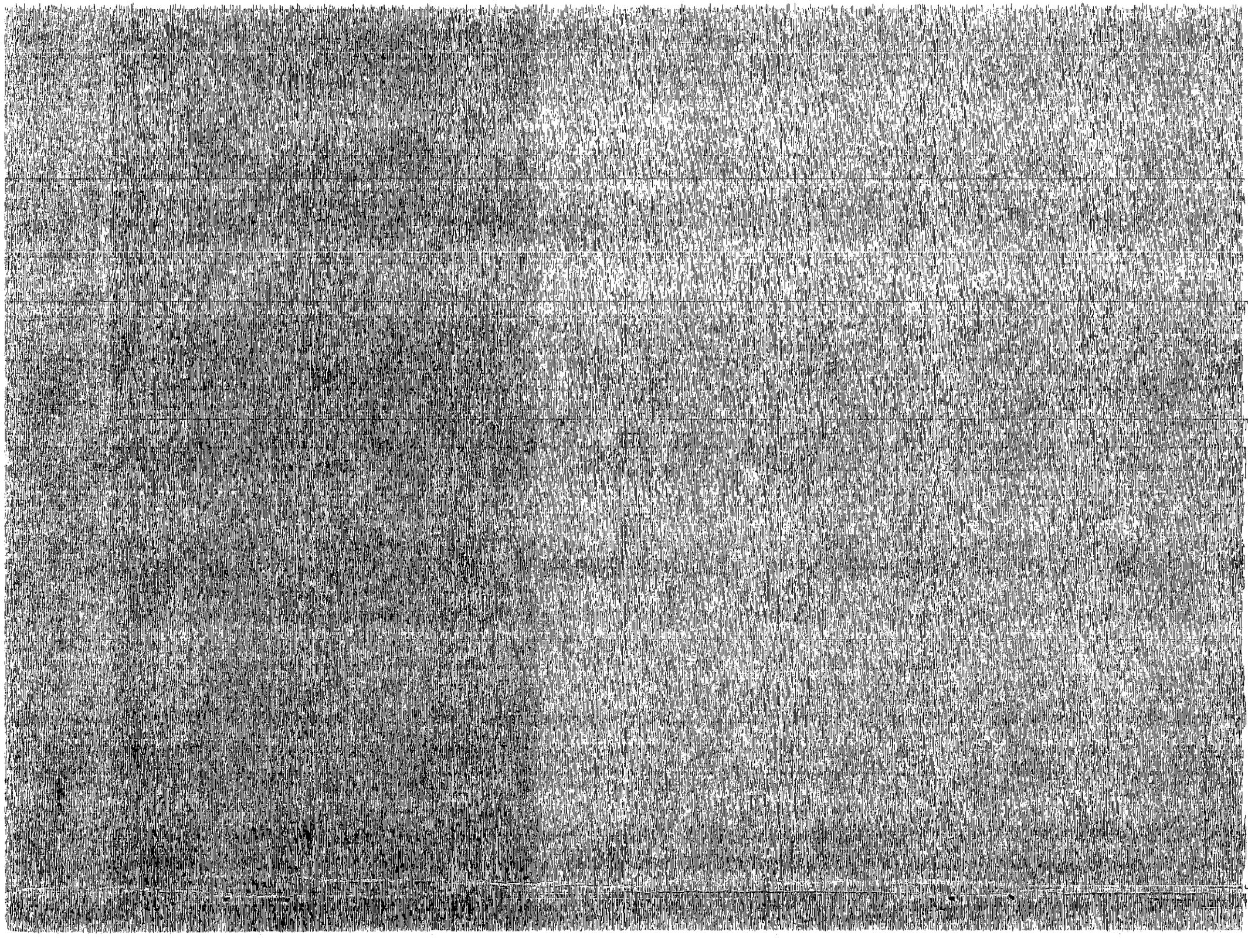
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P R O C E E D I N G S

1
2 MR. UDDO: I'm going to call
3 the Committee meeting to order if I could, so that
4 we can get under way. We're starting a little bit
5 late because we were waiting for a quorum and the
6 weather has played its part in slowing everything
7 down this morning.

8 This is the meeting of the Provisions Committee
9 of Legal Services Corporation, January 29th, 1987 and
10 we do have a quorum present.

11 MRS. SWAFFORD: We're going to
12 come closer to you.

13 MR. UDDO: That's fine.
14 You're welcome to.

15 And, if you would, let the record reflect that
16 the following members of the Committee are present.
17 Mrs. Bernstein, Mrs. Swafford, Mrs. Benavidez, Mrs.
18 Miller and myself, Mr. Uddo, and I'm functioning as
19 Chairman this morning because Mr. Valois, who is the
20 Chairman, couldn't be here. In addition to the
21 Committee members, Mr. Mendez is in attendance, also.

22 The first agenda item is the approval of the
23 agenda and I would entertain a motion from a

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Committee member to that effect.

MRS. MILLER: I make that motion.

MR. UDDO: Is there a second?

MRS. BENAVIDEZ: I second it.

MR. UDDO: All those in favor of approving the agenda signify by saying Aye.

(Chorus of Ayes.)

MR. UDDO: Opposed? Hearing no opposition, the agenda is approved.

The second item on the agenda is the approval of the minutes and since November 1st was the last meeting of this Committee and because of the weather we haven't had time to get most of this material in advance, I'm going to give the members of the Committee a few minutes to glance at those minutes. I wasn't present, so I can't be of much help.

MRS. SWAFFORD: I've read them and I move that they be approved.

MR. UDDO: Is there a second?

MRS. MILLER: I second.

MR. UDDO: All those in favor of approving the minutes included in the Book, please

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signify by saying Aye.

(Chorus of Ayes.)

MR. UDDO: Opposed? There is no opposition, so the minutes of the meeting of November 1st, 1986, are approved as included in the Committee Book.

The purpose of the meeting today is to take reports on three projects, the CALR Report, the Law School Civil Clinical Project Report and the Migrant Study and we have people with us today who are going to speak to each one of those.

The first report is on the CALR Report and LSC staff member Mario Gabroury is going to make the introductions for the CALR Report.

MR. GABROURY: Good morning. I'm Mario Gabroury, Manager of the Division of Policy Development at Legal Services.

The first report will be entitled an Operational Profile and Assessment of LSC's Computerized Legal Research System. The study was conducted subsequent to a February, 1985 settlement agreement signed by then President Tom Auchett which, among other things, included the provision for a study of the

1 computerized assisted legal research
2 grantees.

3 Before you today will be the two principal
4 investigators who conducted the study, Mr. Albert
5 Ferry, Jr. and Mr. Sonny Bloom.

6 Mr. Ferry is the Study Director. He's a lawyer
7 who has practiced both in the public and the private
8 sector. He's a principal of the Triton Corporation,
9 which is an international management consulting firm
10 that has organized a number of management information
11 system projects for public and private clients.

12 Mr. Bloom has his M.B.A. from Harvard University
13 and has been a consultant for 13 years in both
14 government and private sector evaluating systems and
15 conducting surveys and he also holds a Bachelor's
16 Degree in Industrial Engineering from the University
17 of Michigan and they're going to be submitting the
18 report for your consideration today.

19 MR. UDDO: Thank you.

20 Mr. Ferry, will you speak first or...

21 MR. FERRY: Yes, sir.

22 MR. UDDO: Are we going to
23 hear from Mr. Bloom, too? Should we expect to hear

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from...

MR. BLOOM: Just during question and answers, if something comes up.

MR. UDDO: Okay.

MR. FERRY: What we'd like to do is basically summarize the research findings in our volume.

We attempted to, by a copy of the original study and...

MR. MENDEZ: Can everybody in back hear? I'm not sure these microphones are projecting very much.

MR. FERRY: We endeavored to get the study out to members of the Commission, but due to the weather I think that some of you arrived here before the reports arrived back in your home offices and then last night we left off copies...another copy of the report, so I thought what I'd do is, I would summarize the results of the report and then open up to questions and answers.

At some point I'd like to make...I am a practicing attorney and I have my J.D. from George Washington University, Washington.

1 MR. MENDEZ: We won't hold
2 that against you.

3 MR. FERRY: I'd like to say
4 first of all that Mr. Bloom and I are pleased to be
5 able to take the opportunity to summarize to the
6 Committee the results of our study and by way of
7 induction, would like to emphasize that when we began
8 the study, what we tried to look at was a focusing
9 study from the field level, to describe computerized
10 legal research as it relates to, essentially, field
11 attorneys and their use of CLR.

12 We focused specifically on the field support
13 level because we thought that in that particular
14 area, there are of optional...I guess they've been
15 turned on.

16 There are a lot of options that could be
17 examined and that this basically provided a better
18 framework for answering some of the questions with
19 regard to computerized legal research.

20 I use the term computerized legal research. In
21 the study report I think you've heard several terms,
22 computer assisted legal research, computer aided
23 legal research, computerized legal research.

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1 The grants that Legal Services Corporation
2 issued back in 1979 and 1980 were to
3 computerized...computer assisted legal research
4 grantees, but I will consistently use CLR as a kind
5 of generic indicator of what we are talking about.

6 And CLR essentially represents accessing two
7 main data bases, Westlaw and Lexis, in terms of legal
8 researches for cases and citation.

9 We hope the study will enable the Board to
10 answer the questions, focusing it at this level of
11 what serves LSC best and what are the opportunities
12 presented to the Board to get a handle on the future
13 of CLR.

14 As I'll describe a little later on, since 1979
15 there have been a lot of developments in the area of
16 CLR in terms of technology, in terms of accessibility
17 and also in terms of cost that provides the
18 opportunity now for this reassessment.

19 We think that these changes in the CLR
20 environment appropriately make this time to reassess
21 the Corporation's position and also in light of the
22 changes in practice, provide a good time to make
23 these reassessments.

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1 I'd like to kind of summarize historically some
2 of the facts that are relevant in the cite. In 1979
3 LSC initiated basically seven CALR grants and these
4 grants were to test out, at that time, the two major
5 data bases that were being used by, in turn, the
6 Westlaw and Lexis systems.

7 In 1987 the cost structure of the availability
8 of the technology, the use by attorneys, the profile
9 use by the attorneys has dramatically changed.

10 In 1979 it was a recently expensive technology.
11 It required complex procedures to access the data
12 bases and an appropriate staff to look at what would
13 be the perfect data base and how fast that could be
14 used.

15 At that time, you essentially had to use a
16 dedicated computer terminal which provided the two
17 data bases of Westlaw and Lexis.

18 In 1987 there was widespread availability of
19 PC's, personal computers, and their cheapness have
20 enabled anyone access to these data bases.

21 The trend has been towards more and more access,
22 towards more and more user kinds of systems in the
23 sense that anyone could take a terminal with the

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1 appropriate instruction and access these data bases.

2 The study was conducted over a period of five
3 months. During that time we visited all six CALR
4 grantees. We visited roughly around 20 field offices
5 related within the CALR areas. We also serve close
6 to 800 field offices in terms of the local level
7 attorneys.

8 MR. MENDEZ: Let me ask a
9 question. Have you provided this study to each one of
10 those grantees?

11 MR. FERRY: Yes, we have or
12 we're making it available. You mean the CALR
13 grantees?

14 MR. MENDEZ: Have they already
15 seen it?

16 MR. FERRY: Yes, they have.
17 Mr. Bloom, last week, went out to Columbus with our
18 final draft version and met with, basically,
19 representatives of all six at the time and also early
20 on in the process, when we began the study design...

21 MR. MENDEZ: I understand
22 that, but the question I was asking...

23 MR. FERRY: Well, yes, we

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1 have.

2 MR. MENDEZ: Okay.

3 MR. FERRY: As a result of the
4 study, there are several...well, as I was saying, the
5 team who visited all six of the sites and the 20
6 field offices, we interviewed personnel and we also
7 conducted a literature search and set up telephone
8 polls of other users of CLR.

9 Basically, we found that there are three
10 segments of users. One is the CLR user in the field.
11 The direct user, people who...grant offices who
12 basically have gone ahead and developed their own
13 in-house technology and then essentially smaller
14 programs which neither use the grantees nor use CLR
15 directly.

16 In the findings of the study, we found that
17 essentially of around 1.3 million cases, roughly
18 7,600 show the use of CLR at that time. That's both
19 CLR directly and the use of CLR through CLR grantees.
20 This breaks down to approximately 1,300 to 1,400
21 hours of Westlaw and Lexis time annually.

22 We also found that essentially that the total
23 volume researches handled by CALR grantees, while

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1 changing in mix among the grantees over time,
2 essentially has not grown significantly over the last
3 five years.

4 There was a wide variation in terms of how the
5 six CALR grantees are used. There were wide
6 variations in funding levels. For example, the LSC
7 staff, we have a statistic of 23 percent of all CALR
8 grantee searches is basically accounted for by one of
9 the CALR grantees.

10 We've found out that about 3 percent of the CALR
11 grant funds...

12 MR. MENDEZ: When you say
13 CALR, you're meaning CALR?

14 MR. FERRY: CALR grantees.

15 MR. MENDEZ: All right. Which
16 statistic...which one of the tables is the one that
17 shows the percentage breakdown of requests per
18 grantee? It's my understanding that one of the
19 grantees that was provided free service gave 38
20 percent...handled 38 percent of it and I want to see
21 that table.

22 Please continue.

23 MR. BLOOM: Well, the

1 statistic with regard to use, that is on Page 4-3.

2 MR. MENDEZ: Thank you.

3 MR. BLOOM: Near the top is a
4 summary of number of searches versus...

5 MR. MENDEZ: Right. I'd read
6 it, but I just don't remember where I had read it.

7 MR. BLOOM: Yes, 4-3.

8 MR. FERRY: The statistics are
9 quite variant and quite wide. From these statistics
10 we basically developed the kind of applications that
11 we used to profile and we found out that there was
12 basically no widespread of common pattern in the use
13 of CALR, either approved or CALR directly.

14 100 programs were approximately call-ins for one
15 or more searches for CALR grantees. 70 to 100
16 programs have the direct access and don't
17 particularly access or use CALR grantees. 35 to 40
18 programs of that statistic use Lexis directly and 25
19 to 30 use Westlaw directly.

20 In a given month, for example, a relatively
21 small percent, like 20 to 30 percent of the users of
22 the CALR services, either through CALR or CALR
23 itself, account for a disproportionately large amount

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1 of the search requests made.

2 And approximately 40 to 45 percent of all field
3 programs use very little or minimal CALR in its
4 activities and in-house accountants.

5 CALR personnel, in terms of the grant personnel,
6 generally have a high profile. They see themselves
7 as essentially a full service resources, which not
8 only provide CALR search time for the specific
9 requests, but also conduct counselling, are involved
10 in and provide manual research for particular
11 questions that have been raised, refer requesters to
12 other experts on staff or within the area.

13 They have also been developing data bases,
14 essentially local data bases, to create state law
15 oriented information and material that can serve
16 either the people within their immediate locality or
17 within that state.

18 We have found, pretty frequently, among our
19 discussions of the CALR grantees, that a lot of the
20 field attorneys which use them perceive them as close
21 to state support kinds of activities. That they saw
22 the field attorney...the field attorney saw the CALR,
23 as a person who is someone who related closer to the

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1 state support function.

2 The CALR grantee personnel has developed a
3 rapport with approximately 10 to 12 attorneys. So
4 its primary function has been to, as I say,
5 specialize in CALR searches, but also at the same
6 time, to provide these other kinds of activities.

7 At times the CALR staff screens the attorney
8 requests. When an attorney seeks information, they
9 will basically determine whether or not a search is
10 appropriate.

11 The CALR grantees, as I indicated earlier, the
12 majority of them currently, are the state support
13 activities. The grantees who are located within the
14 state support activities provide, to a large extent,
15 a wide variety of these kind of services.

16 Three of the four CALR grantees located within
17 the SSCs, as I indicated, are developing the state's
18 data bases and these state oriented data bases are
19 being utilized also by state government personnel.

20 From the statistics that we reviewed, we
21 basically devised three options we felt were useful
22 for the Board to consider.

23 One was, we recommended in Option Number One

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1 that essentially the Board consider phasing the
2 current CALR activities out.

3 Option Number Two, consider changing the current
4 system and not changing much of the resources
5 allocated, but either looking at realignment, a
6 different mix of grantees, a different mix of perhaps
7 using private sector vendors, using a competitive
8 data process to include more service providers.

9 Option Number Three, was basically...is
10 basically to look at a high profile, large delivery
11 of services. In that particular data, the
12 Corporation would be making a larger commitment to
13 CALR, trying to set the stage of a coherent strategy.

14 We think that either one of the options which
15 provides an attempt to get a hands-on effort on CALR
16 as it is used by LSC.

17 We also, in terms of looking at our options,
18 have attached to them a series of what we consider
19 recommendations.

20 Whichever option the Board chooses, we would
21 suggest that the recommendations which set out a
22 transition phase, which set out looking at an open
23 competitive process to add more service delivery to

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1 the system and which, also, talk about the
2 structuring, selection of options to consider during
3 the option process.

4 So, if you select Option One, Two or Three,
5 whichever you select, the recommendations more or
6 less provide the procedural sequencing of applying
7 those options.

8 We found as part of the study, we also examined
9 the private brief bank, which is basically operated
10 out of Chicago.

11 The statistics indicate a very low usage, given
12 the number of documents that have been collected over
13 the last five years, given the number of cost
14 required to maintain that activity.

15 Essentially 30 to 40 percent of the documents
16 that have been collected within the last five years,
17 there is very little usage from field offices and in
18 many circumstances we found the field programs
19 weren't aware of brief banks or of the uses and there
20 was a high usage of the private brief bank for both
21 collections and use from the CALR grantees, but there
22 was not, once you got outside the CALR grantee area,
23 very much usage at all.

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1 We think that, given these statistics, the Board
2 should definitely consider examining the brief bank,
3 examining that process, looking at the possibility of
4 restructuring that, either utilizing some of the
5 trends that develop, such as the state oriented brief
6 banks or electronically tie in these brief banks.

7 MR. MENDEZ: I hate to
8 interrupt you. When you say there's very little
9 usage beyond the CALR grantees, are you talking about
10 the six grantees or are you talking about those who
11 regularly use the CALR?

12 MR. FERRY: Those who
13 regularly use CALR.

14 MR. MENDEZ: All right.

15 MR. FERRY: So, as I say, a
16 final point of our focusing, is to consider
17 restructuring that particular operation.

18 And that summarizes very quickly for you, the
19 findings and statistics of the report.

20 MR. UDDO: Thank you, Mr.
21 Ferry. Mr. Bloom, do you have any comments or
22 anything you want to add?

23 MR. BLOOM: Just final

1 questions.

2 MR. UDDO: All right. Are
3 there any questions from the Committee, any members
4 of the Committee?

5 MR. MENDEZ: If the members of
6 the Committee don't have any, I have a bunch.

7 MR. UDDO: Well, you were
8 coming next, because I figured you did.

9 All right, Mr. Mendez.

10 MR. MENDEZ: Let's turn to
11 Page...that 4-3, this section. Do you have that in
12 front of you?

13 Grantee Gult. Which one is that?

14 MR. BLOOM: That is in upper
15 State New York.

16 MR. MENDEZ: Upper State New
17 York.

18 MR. BLOOM: That serves all
19 New York State except New York City.

20 MR. MENDEZ: They have 3
21 percent of the funds.

22 MR. BLOOM: Yes.

23 MR. MENDEZ: They

1 provide...they and WCLP...which one is that?

2 MR. BLOOM: That's Western
3 Center out in LA.

4 MR. MENDEZ: Okay. They have
5 4 percent of the funds...

6 MR. BLOOM: Right.

7 MR. MENDEZ: And they
8 provide...

9 MR. BLOOM: About 39 percent
10 of the total...

11 MR. MENDEZ: 38, 39 percent.

12 MR. BLOOM: Right.

13 MR. MENDEZ: When I read the
14 thing through before.

15 Now, those two are doing it free?

16 MR. BLOOM: Yes. And let me
17 just note one other thing which, as part of
18 their...or condition of their grants, they are
19 supporting the staff from their own...in other words,
20 non CALR grantee budgets, so this reflects the pure
21 CALR grant funds that they are receiving. In
22 addition, they are in effect, contributing from their
23 other resources, staff time, devoted to the project

1 and also have agreed to do the searches for free
2 which is what you're just getting to.

3 MR. MENDEZ: That's the point.
4 If we do it for free you get a higher percentage of
5 searches.

6 MR. BLOOM: Yes. I think
7 that's clear. As we noted in the study, also,
8 Chicago Clearing House had about a one year period
9 where they went from charging to not charging. Then
10 they've recently gone back for several months now to
11 charging and that, plus the indications from these
12 two places that regularly don't charge, clearly, you
13 know, depending on how you want to interpret it, when
14 people don't have to pay for the search out of their
15 own program funds, there's a higher level of usage
16 then when they're being charged for that.

17 MR. MENDEZ: Well, let's
18 talk about these two programs first.

19 On these two, even though they're free, you
20 still didn't get a universal number of programs
21 within the search area...or within their regional
22 area.

23 MR. BLOOM: No. As Mr.

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1 Ferry was saying, the LSC field world seems to break
2 down into three fairly discreet groups.

3 There is a group of about, I'd say, roughly we
4 estimate...never did get hard and fast
5 numbers...perhaps 100 which is, let's say, about a
6 third, that seem to regularly...somebody in their
7 program, not necessarily every attorney, we're
8 talking about program level here...who seem to
9 routinely once or twice or three or four times a
10 month, call in to their center.

11 You've got another oh, about 70, even though
12 many more have actual accounts, you've got about
13 another 70 or so who primarily have established an
14 account with Westlaw and Lexis and they may use the
15 CALR's for advice sometimes, but basically they do
16 their own in-house searches.

17 Then we have, which I think we estimate to be
18 about 40 or 45 percent of the programs, and not
19 surprisingly they tend to be the smallest programs in
20 terms of staff and funding and probably more rural,
21 who have very little involvement.

22 So, yes, even within those two areas of the
23 country, two regions where there are free searches to

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1 the CALR, you have that same profile. You know, X
2 number...

3 MR. MENDEZ: That's what I
4 wanted to ensure, that it was...

5 All right now, if we doubled their funding and
6 told them to do all...these two that have 3 and 4
7 percent of the funding...and told them to do all of
8 the research, could they handle it?

9 MR. BLOOM: Well, I would not
10 want to speak for...obviously for them, whether
11 they'd want...

12 MR. MENDEZ: That's
13 just...well, I'm not asking you to speak for them.
14 I'm asking you to speak in your opinion as the writer
15 of this report.

16 MR. BLOOM: Well, I do not
17 think with the existing staff they have, but on a
18 relative basis, I mean, if you look at how much time
19 is spent doing searches, purely searches, and search
20 related activities, it is not the magnitude of effort
21 in any one of these individual organizations that's
22 requiring several people.

23 I think we estimated, based on the site visits

1 and the response of the people who are actually doing
2 the searches, that each of these programs averages
3 perhaps a half, maybe one person, the equivalent of
4 a...it may be split among several people...doing
5 searches.

6 So, if you want to say well, can these two
7 places do the other 60 percent? Probably not with
8 the exact number of individuals and hours they're
9 devoting now. But is it a massive increase? Like
10 you're talking about well, here's a place with two
11 people and we're now to have 50 people; by no means.

12 I mean, I can't comment on the...and I wouldn't
13 want to comment on the organizational structure of
14 these two places...

15 MR. MENDEZ: I understand.
16 I'm not asking for that, but I'm just asking you if
17 it's possible for them to handle all of the...

18 MR. BLOOM: There clearly is,
19 I think in each of the programs, staff time available
20 for increased capacity. I mean, in terms of searches
21 that are currently being done.

22 MR. MENDEZ: All right. Now,
23 you say...one of the other things that you made a

1 comment on. There are 1,300 to 1,400 hours with
2 Lexis and Westlaw right now and you also make the
3 comments that we're not officially using our buying
4 power.

5 Can you give me a little bit of comment about
6 how much the costs are at the present time and how
7 you would make it more efficient?

8 MR. BLOOM: Well, basically
9 what we're alluding to is the fact that under the
10 current system, LSC has established at a national
11 level a contract with Westlaw and Lexis. And those
12 two are different in structure in terms of how the
13 rates are drawn and how one accumulates charges.

14 In addition, Westlaw builds the individual
15 entities out of the field directly, if they use any
16 Westlaw time. Lexis is a bulk bill that comes to LSC
17 headquarters and is dealt with.

18 It's been clear, and I think both of...the CALR
19 grantees pointed out to us and some of the staff
20 program here, that for a variety of reasons, the
21 whole, which is what we talked about here, several
22 points in this study, the whole focusing at their
23 headquarters level of what should be our negotiating

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position and how can we maximize the leverage and what are the charges here versus here. There's a commitment level, \$10,000 a month with Lexis that LSC must commit to using.

Nobody is really, at least from our perceptions of talking to the field and talking to the folks here, have really said well, give it our buying power, so to speak and where we want to go with CALR.

I mean, what kind of users do we expect? What's the input of the field in terms of which they prefer. Maybe we can do something to work that fact that we have a little oligopoly here and right now clearly, I think historically, nobody has been really dealing with using that from the Corporation's respect.

And also, in terms of efficiency, one of the issues, of course, relating to efficiency and proficient use of the services is training and follow-up...

MR. MENDEZ: I was going to get to that.

MR. BLOOM: Now, LSC pays at the corporate level...pardon my semantics...but at the corporation level LSC pays the maximum training

1 fee to Westlaw and Lexis annually such that it
2 entitles all field programs, as a result of that to
3 receive whatever training, to whatever number of
4 people without any additional charge.

5 In other words, it's been picked up and that has
6 not been utilized to the greatest extent possible.
7 And again, because nobody has said well, you know,
8 where are the strengths and weaknesses out in the
9 field? Who could use training? And go into Westlaw
10 and Lexis at a corporate level and say look, here is
11 the program we want to lay out for training for our
12 money that we're laying out. Really, because things
13 have been so fragmented, it's been up to each
14 individual program.

15 MR. MENDEZ: I think that's
16 fairly easy to handle. Doctor, take care of it.
17 It seems to me that that's a real easy one to do and
18 that's...you've got to get in there and get
19 negotiating.

20 Let me ask you a couple of other questions.

21 Let's go to Page 1-13. Clearly under Option
22 One, the field programs don't want this to happen, is
23 that a fair statement?

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1 MR. BLOOM: No, that's not a
2 fair statement. One of the things we did...

3 MR. MENDEZ: Well, when I read
4 the surveys in the back and the responses to the
5 surveys, I don't think that they really wanted to
6 completely phase out.

7 MR. BLOOM: Oh, okay, yes.
8 Yes, I misunderstood you. That's right. If you look
9 at the responses, those are used. The current
10 call-in services would like to, you know, continue to
11 have that kind of access. Even those which is maybe
12 the bulk...the 200 out of 300 that don't use them
13 regularly, when asked would you like to have them,
14 even though they don't use them, obviously say sure,
15 we'd like to have them as a back-up and some of them
16 do.

17 So, certainly if you want to go by the response
18 of those surveys, I think they all say, under the
19 current system...

20 MR. MENDEZ: Well, you know, I
21 really don't understand this.

22 What's the problem of having one grantee? The
23 survey says they don't want to have one national

1 grantee. Tell me what the problem is and why they're
2 saying it?

3 MR. FERRY: Well, one of the
4 things we found in terms of using the CALR grantee, a
5 lot of the lawyer field offices, as I indicated
6 earlier, see them as a kind of state support
7 function.

8 They like the idea of being able to call in to
9 Gult or call in to the Lexis Center, because one is
10 familiar with a local issue. The kind of issues of,
11 say, California or New York.

12 There's a fear that if you went to a national
13 center, and parenthetically, there are national
14 centers. For example, we found in the research that
15 the Defense Department has flight, the Air Force, it
16 uses a national center which handles all requests
17 around the country.

18 In many cases, the feeling was that...

19 MR. MENDEZ: Is that
20 successful?

21 MR. BLOOM: To our knowledge,
22 very successful. They have five or six attorneys
23 based in one location and they do the searches and

1 technical assistance and legal research for all Air
2 Force...for all the Air Force bases across the world,
3 but that's the system they've gone to..

4 MR. FERRY: But that's also
5 available to any governmental entity. That they can
6 actually use that particular service.

7 But in the interviews we conducted...

8 MR. MENDEZ: Could we use
9 that particular service?

10 MR. BLOOM: According to the
11 people we talked to, that is open to all full federal
12 agencies ...can call in and use the search. Now,
13 they also provide technical assistance that
14 apparently is exclusive to the Department of Defense.

15 But they say it is open to all federal agencies,
16 which was certainly news to us.

17 MR. FERRY: Getting back to
18 the question of not looking at a national center, one
19 of the big...again this is within the area of local
20 kinds of activities...if I called someone in Chicago
21 and I was in California, they might not know more of
22 my problem or be able to help me as well as someone,
23 say, within my state.

1 That was a prevalent response in terms of
2 looking at a national center versus sort of regional
3 operations.

4 MR. MENDEZ: Now, when I read
5 this, I read it on the plane coming in last night,
6 was there any...my recollection, there wasn't any
7 question to the effect that what would happen if we
8 gave funds to the local programs that contract with
9 CALR. Maybe there was something to that extent and
10 they didn't want to do that. Is that...

11 MR. FERRY: Well, while we
12 didn't ask that question, we think that if you look
13 at the historic profile that many of them are doing
14 exactly that. That, for example, in Orange County,
15 although they have a Westlaw Center relatively close,
16 up the street, they have gone and have invested in
17 PC's. They are doing their own...

18 MR. MENDEZ: Sure. CLR.
19 Thanks, but I just talking about the CALR. The
20 regional.

21 MR. BLOOM: Yes, I think, you
22 know, we've talked about it. If you were to, you
23 know, talk about it with the existing grantees, I

1 think if you took the CALR funds and divide them up
2 amongst the field programs, as Al said, certainly
3 there's a group who are either already or close to
4 doing something in-house.

5 The people who are calling you now, what would
6 they do? Would they get together and pool their
7 funds and say well, we still want you to do the
8 searches. That may well occur in some case, but we
9 really don't have any idea, you know, in that regard.

10 And then...which frankly, I think, is an issue
11 to the Board, which is one of the reasons for the
12 various options is, what if anything, to do about the
13 40 to 45 percent in terms of the number of programs
14 and probably actually...I'm not too close off on
15 terms in numbers...who don't really use anything
16 right now.

17 I think if you gave them any, they would use it
18 for other program reasons. I mean, they're not using
19 it now. They may even be in parts of the country
20 where the call-in service is free. They certainly
21 haven't signed up locally.

22 That's somewhat of an interesting issue in and
23 of itself, is the word of LSC staff and programs,

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1 largely he'll tap into computerized legal research.
2 That's what they would do, I think, would just
3 basically continue as they currently do, which is do
4 nothing or very little.

5 MR. MENDEZ: May I continue?

6 MR. UDDO: Sure.

7 MR. MENDEZ: On Page 115 you
8 say two or three have chosen...you wonder if we
9 should do an RFP. If we do an RFP, how long would it
10 take us to prepare it and how soon could we run the
11 contracts?

12 MR. FERRY: Well, our
13 experience with federal contracts, an RFP could be
14 prepared in 30 days up to a year. Depends on the
15 agency.

16 MR. MENDEZ: Well, I was
17 wondering what you anticipated. How soon do you
18 think that we could get this...

19 MR. BLOOM: Well, I don't
20 think we'd get the actual development of the RFP
21 would be of any due process. I think what Al was
22 alluding to, depending on who writes that, when LSC
23 has to comply with the standard going through a

1 Congress Business Daily or all that kind of thing,
2 that's where the procedural aspect is what obviously
3 could add an extended period of time.

4 Although we do, of course, recommend a
5 transition period in any case, so that what we would
6 envision is the existing structure would stay in
7 place and would be phased out as the sequencing of
8 events allows the bidding process to take it's place.

9 MR. FERRY: We also suggested
10 in developing the article that the Corporation avail
11 itself of the private sector or others and ease the
12 distinguished organizations or activity entities that
13 promoted CLR and are aware of it.

14 MR. MENDEZ: Just one quick
15 question. You gave us the three options. Do you
16 have any specific suggestion of the three? Or you
17 just don't want to make that determination?

18 MR. FERRY: We don't think we
19 really can, because we can only see...we focused on
20 the CLR dimension of a particular LSC activity and it
21 seems you really have to look at all the other
22 constraints and all the other drivers to be able to
23 answer that question, which we couldn't do.

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1 MR. UDDO: Any other
2 questions?

3 MRS. SWAFFORD: I don't have a
4 question, I have a comment.

5 MR. UDDO: All right.

6 MRS. SWAFFORD: Which I would
7 like to make at this time.

8 It leads me to make a comment about the February
9 issue of the American Bar Journal. The whole issue
10 is dedicated to legal software directory. Have you
11 seen it?

12 MR. FERRY: No, I haven't.

13 MRS. SWAFFORD: It's certainly
14 quite in point. Right on the front page there's a
15 letter from the President where he makes reference to
16 the computer based information retrieval system. It
17 goes on and talks about contracts and other documents
18 that it's possible to transmit them across the street
19 and across the country.

20 There's a section in the back that says software
21 directory. There are all kinds of resources for
22 training and it seems to me we're really on point
23 here and if we don't make some changes with regard to

1 how we're spending this money to deliver these
2 services, we certainly are putting our head in the
3 sand. Thank you.

4 MR. UDDO: Yes, Mr. Ferry?

5 MR. FERRY: Well, one of the
6 things that I wanted to bring out was, literally
7 following that track, that currently you're in an
8 ideal situation to make some decisions, because as
9 the technology develops and as more local programs
10 and grantees develop, say, localized data bases, the
11 technology creates barriers and it will cost more in
12 the long term to try to reshape that activity than to
13 get a handle on it currently.

14 MR. UDDO: Okay, Mr. Ferry,
15 Mr. Bloom, I'd ask you just to, if you would, to stay
16 at the table a few minutes and I'm going to ask if
17 there's any public comment on the report,
18 understanding a couple of things.

19 One is, it is a new report. Not every one of
20 the Board obviously has had time to read it. This is
21 a summary presentation to focus the Board's
22 attention...the Committee's attention actually...and
23 the other thing I'd as for you to understand is that

1 I'm going to try to keep some kind of a schedule to
2 get through all the reports.

3 But with that in mind, if you...identify
4 yourself for the record, please.

5 MR. MENDEZ: This young lady
6 has told us previously that she wants them to come
7 up...

8 MR. UDDO: That microphone
9 back there won't pick up? Okay.

10 Why don't you just pull a chair up to one of
11 those microphones and Mrs. Bernstein has a question.

12 MRS. BERNSTEIN: I haven't had
13 the benefit of looking at the report yet, but I
14 wondered, did you, in your research, did you compare
15 the kinds of things that CALR grantees are doing with
16 things like the ABA, from the Air Force, some of the
17 other data retrieval systems. I know Lexis and
18 Westlaw. We all basically know what's there, but
19 have you looked at the content of the materials and
20 do you find any appreciable difference in the CALR
21 content to that that might be in some other system?

22 MR. FERRY: Due to the
23 constraints of the study, we didn't have a chance to

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1 actually do all the content analysis, but we did a
2 survey essentially in terms of letters and telephone
3 calls and some personal visits in which we made a
4 comparison of the kind of services that were rendered
5 in the different systems.

6 By far in the CALR activities, there was a
7 greater variety. In addition to just strictly legal
8 research, as I indicated before, there were other
9 kinds of services which were not provided by, let's
10 say, White or by the ABA material and other
11 organizations.

12 They focus primarily on providing a search
13 capacity. And there are also...there are a large
14 number of private companies that provide the service.

15 MRS. BERNSTEIN: I was going
16 to say, did you compare anything with the kinds of
17 searches that can be done. I know you can pay people
18 to do searches.

19 MR. FERRY: We did.
20 We, for example, visited a former member, Sandra
21 O'Connor. We've got a company in North Carolina that
22 exclusively delivers searches.

23 I think the distinguishing thing was the private
organizations and the other governmental

1 organizations focused more upon searching, getting
2 information instead of presenting it versus sort of
3 talking about the case or referring people to other
4 experts or doing kinds of manual research activities.

5 MRS. BERNSTEIN: So this isn't
6 really computer assisted legal research even? I
7 mean, talking about the cases...

8 MR. FERRY: Well, we talked
9 about kind of discontinuities and the fact that since
10 there was no handle on it, for a variety of reasons
11 the Corporation kind of let it develop as it
12 happened. It got the grantees more or less
13 responding to local needs and expanding more and more
14 activities, so that it isn't just a pure computerized
15 legal research, currently.

16 MRS. BERNSTEIN: How would you
17 compare the use of this kind of service to what a
18 private law firm might use in something that they
19 might contract for?

20 MR. BLOOM: Not all
21 scientific, but perhaps the person we talked most and
22 dealt with, but who had a useful insight, was Mel
23 Mensh and Sandra O'Connor who used to work for the

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1 CALR grantees. She was their lead search person down
2 in North Carolina, which was Reagan's operation, and
3 now she's in private business dealing strictly with
4 private attorneys.

5 She characterized the work that she does with
6 the private sector and based on her counterpart,
7 which tend to be very small, by the way, there aren't
8 any big national, high firms doing computerized legal
9 research. They're pretty much a cottage industry.

10 But she said their work has to be much more
11 narrow. They will do a lot of work, for example,
12 with non-legal data bases. Tend to look up medical
13 information, for example, from things like Nexis and
14 for expert witness kind of things or look in
15 newspaper articles and some of the medical data bases
16 for outside attorneys and not focus as much as the
17 CALR's do in the field programs who go in-house on
18 actual legal materials of Westlaw and Lexis main data
19 bases.

20 The other thing is, they really don't
21 offer...because she's not an attorney and a lot of
22 the people in the private sort of sector are not
23 attorney's themselves and they're really in no

1 position...they kind of just basically keep their
2 blinders on and do the search and turn the data back,
3 whereas, like Al mentioned, because in every one of
4 the callers they're within the context of either a
5 state support center or a field program or a clearing
6 house and you've got attorneys doing the searches.
7 They obviously can do, you know, be able to give
8 advice that maybe, you know, that entity may be
9 involved in co-counseling on a case with the field
10 program.

11 So, there's a broader range of services and I
12 think it is distinctly different than what the
13 private sector is offering. For better or worse is
14 for you all to decide, but I mean, it is different.

15 MR. UDDO: Let me move to
16 public comment. Before Mr. Rogers begins to speak,
17 is there anyone else here who is intending to speak
18 to this particular report, so that I can watch the
19 time.

20 Okay. Mr. Rogers is the only one. If you would
21 identify yourself for the record, Alan and I'll ask
22 you to be brief and also invite any expansions on
23 your remarks to be submitted to Dan Rathbun in

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1 writing so they can be circulated to the Committee
2 along with the report.

3 MR. ROGERS: Thank you, Mr.
4 Uddo. I do intend to be very brief, because we've
5 just received the report.

6 My name is Alan Rogers. I'm Executive Director
7 of the Massachusetts Law Reform Institute, which is a
8 state support center and also one of the CALR
9 grantees and I'm here representing the CALR grantees.

10 MR. MENDEZ: All six of them?

11 MR. ROGERS: Yes. All six
12 have worked with Triton Corporation and with the
13 Corporation in the study. We were the ones who had
14 long suggested, even before we had our staff in early
15 1985, that a comprehensive study be done by an
16 independent contractor to really analyze the kinds of
17 services that CALR has been doing in the field
18 programs and come up with some recommendations as to
19 how the Corporation ought to move in this whole area.

20 Then when we had our settlement agreement early
21 in '85, again we insisted in that agreement that the
22 study be performed and we are pleased that the study
23 has been performed. We have worked with Triton and

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1 with the Corporation to try to make ourselves
2 available, explain what we're doing so that we cover
3 a lot of information.

4 We also urged the Triton to do the field survey
5 which is part of the results of this study which, in
6 effect, to which there was a very high response rate,
7 nearly 50 percent.

8 I won't go into any detail and comment on the
9 options or on the report itself. We have just had a
10 chance, ourselves, to see recently the final report.

11 Just briefly speaking, I think Mr. Ferry is
12 right in saying that the first issue the Corporation
13 has to confront is whether or not the Corporation
14 will continue to devote and dedicate its funds on a
15 national level in trying to assist and promote these
16 various kinds of services.

17 And as it has been pointed out, there's a much
18 wider variety of services and simply fewer searches.
19 As Mr. Ferry pointed out, there are a lot of other
20 kinds of support and health work that go along with
21 the searches and then there's the brief banks and, in
22 particular, all of us have tried in legal services
23 for many years, to get some sort of way of collecting

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1 and retaining and getting access to a whole variety
2 of written materials that are produced by legal
3 services and decisions, court decisions that are not
4 accessible through regular commercial services.

5 So, the brief bank, which is one of the other
6 major activities of the CALR is a very important
7 thing. We tried the national brief bank. Usage is
8 low, much lower than we expected and now, in the
9 various CALR's we're trying local data bases, on
10 computer of various kinds of resources that are not
11 available elsewhere.

12 And, as we all know, there's a lot being
13 developed in new technology and I think that is an
14 area of the Corporation I would strongly recommend
15 that would have national emphasis which dedicated the
16 company to try to experiment with this facility and
17 then develop these various services and assist
18 programs, to have these programs and services
19 themselves and to have them available in various
20 ways, through other centers, through technical
21 assistance, whatever.

22 So, we would urge the Corporation to continue to
23 have a dedicated amount of funding to these services

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1 and we will look forward to commenting on the report
2 specifically and commenting on any recommendations or
3 thoughts that people have in this whole area and
4 would be happy to cooperate with the Corporation
5 staff and with the Board in seeing if we can develop
6 a sensible forward looking program.

7 MR. UDDO: Thank you, Alan.

8 You have a question of Mr. Rogers?

9 MR. MENDEZ: Yes. You've had
10 this for week. You met with them about a week ago
11 and I assume that they went completely over the
12 report with you, is that a fair statement?

13 MR. ROGERS: Yes. Although at
14 that point it was really a rough draft...

15 MR. MENDEZ: You had all six
16 programs...well, they said they gave you a final
17 report then.

18 MR. ROGERS: No. It was a
19 draft and then...it changed some between the draft
20 and the final, not very much.

21 MR. MENDEZ: All right. When
22 can we anticipate your comments?

23 MR. ROGERS: I hesitate to

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1 give a fixed date...

2 MR. MENDEZ: Do you find the
3 report satisfactory?

4 MR. ROGERS: ...within the
5 month, anyway.

6 MR. MENDEZ: Did you find the
7 report satisfactory?

8 MR. ROGERS: In the main I
9 think it was a good effort to try to collect a lot of
10 data that we hadn't had and I think the raw data is
11 very helpful.

12 In terms of the recommendations, I won't comment
13 at the moment, because I think we would like to make
14 some very specific recommendations ourselves as to
15 what path the Corporation should follow.

16 MR. MENDEZ: Well, make the
17 specific recommendations right now.

18 MR. ROGERS: Well, I'm not...

19 MR. UDDO: Well, I'm going to
20 exercise the prerogative of the Chair and I have
21 assured people generally that because most of these
22 reports came out late that we would receive the
23 comments, what they had today, followed up in writing

1 and then there would be another Provisions Committee
2 meeting.

3 MR. MENDEZ: Mr. Chairman? I
4 have to point this out, but we're going to have an
5 Audit Appropriations meeting this afternoon and that
6 his funding is going to be determined this afternoon.
7 He better...when he comes before my committee, he
8 better have some alternatives. I'm just pointing
9 that out now.

10 MR. UDDO: Well, you're
11 Chairman of that committee and it's up to you to
12 decide how to run that committee, but because the
13 reports came out so late, I'm of the opinion that
14 it's not unreasonable to expect that some more time
15 will be needed before the specific reactions could be
16 given to it. I would ask you to be prompt with them
17 and I would ask you to circulate them to the entire
18 Board so that there's no delay in having them
19 reproduced and circulated to the Board.

20 MR. ROGERS: We will do that,
21 Mr. Chairman.

22 MR. UDDO: Thank you.

23 Gentlemen, thank you all.

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1 If the Committee is willing to go on to the next
2 report without a break or a recess, we'll...is that
3 the will of the Committee? Everyone prepared to go
4 on through at least one more?

5 Is Mr. Moses here?

6 The next agenda item is the Law School Civil
7 Clinical Project Report and Mr. Moses has been in
8 charge of that for some time and I'm going to ask Mr.
9 Moses if he would just take over and let us know what
10 it is he intends to do at this point.

11 MR. MOSES: All right.

12 Essentially what we have done, is come out with a
13 report based on the full year or two year service of
14 the original experimental research project.

15 As you will remember, that project was funded by
16 the Corporation, originally approved by the Board of
17 Directors of the Corporation in February of 1984,
18 which was not this Board, but this Board has been
19 very supportive of the project ever since.

20 And now what we have done, is completed those
21 two year grants on these federal research projects
22 and essentially this report is an attempt to tell you
23 the results that we have found to date from that two

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1 years of effort.

2 Basically, let me...this report just came out
3 this morning, off the reprographics machine...let me
4 give you the basic figures that we got on the report
5 and then I'll take your questions.

6 Essentially, through the two years of the
7 project, we of course, have funded 14 experimental
8 research clinics. In those clinics, there were 803
9 students that were fully funded by LSC funds that
10 participated in clinical legal education.

11 Those clinics closed 7,116 cases and, in fact,
12 handled over 8,000 cases. There were a certain
13 amount of cases that had been originated that were,
14 of course, not closed.

15 Total LSC funding for the projects was
16 originally set for an 18 month period at \$1,061,000.
17 This Board, as you will recall, last October agreed
18 to allow supplemental funding, if necessary, to
19 complete the academic year and that supplemental
20 funding was made available on an as-needed basis.
21 The total supplemental funding was \$139,000.
22 So, essentially over the two year period we had an
23 LSC commitment of \$1,200,837.

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1 It's interesting when you look at the type of
2 cases that were closed and what the students were
3 doing with those cases. For example, the top two
4 case accountabilities were on how to defend the law,
5 which had over 31 percent of the cases closed.

6 Clearly, we were concentrating in areas which
7 were perceived in the local level to be of great
8 importance and, in fact, on a national level those
9 were also seen as very important.

10 The types of service that we provide, we're
11 concentrating happily in litigative case areas. As
12 you remember, there are essentially 10 LSC case
13 categories. Three of those categories, we have
14 classified and lumped together as literally case
15 closures and overall, in those three categories,
16 which were court decisions, closures through
17 administrative agency decisions and closure through
18 litigation with negotiations, over 22 and 1/2 percent
19 of all of the cases closed fell in these three
20 categories of case closures.

21 This is significant, for example, when you look
22 at the hour data which remains less, because these
23 methods of case closures average over six times the

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1 amount of work as the methods and case closures in
2 the other non-litigative method.

3 That's particularly important when you look at
4 the specific numbers of hours which are recorded in
5 the report as one of the exhibits.

6 So clearly, we have put an awful lot of time
7 into this effort. Of course, as you will recall, a
8 similar report was presented to you at a one year
9 interim level last February in Tampa. That report
10 did not include certain things which we specifically
11 did include in this report.

12 For example, that report did not include
13 investigation of the quality of service. We had not,
14 at that time, completed our analysis of the quality
15 of service and, therefore, did not make any
16 predecisions and tell it to the Board.

17 . Since that time we have conducted site
18 investigations at each of the 14 sites. These site
19 investigations along with client satisfaction data
20 provide, I think, a pretty good overall estimate of
21 the quality of service that we're receiving.

22 If you look, for example, at the client
23 satisfaction data, we find that overall 95 percent of

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1 the clients were more than satisfied with their
2 attorney/client relationship. In other words, these
3 are things such as the respect that the client was
4 receiving from the student, the fact that they were
5 building a good attorney/client relationship and,
6 frankly, thinks that the client is the best source of
7 information.

8 Also we found, that as far as result or outcome,
9 that between 80 to 90 percent of the clients were
10 satisfied with the results and the outcome.

11 Now, we recognize that the clients are not the
12 best or only source to look at results or outcome
13 because, frankly, maybe they don't know enough to
14 know or they aren't as educated in the legal areas to
15 know if what they're getting is the service they
16 deserve to get.

17 So that's the important reasons why we made all
18 of the site visits. In those site visits not only
19 did we examine all of the personality, but more
20 importantly, we tried to make an objective view of
21 the quality of service that we were receiving.

22 So, we did random checks of filed court
23 documents. We went and interviewed judges that were

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1 hearing the students and seeing the service that was
2 being given. We had interviews with the opposing
3 counsel to determine what their attitude was in terms
4 of the methods that the students were handling the
5 cases and all of these things combined
6 together...just generalizing here...frankly
7 demonstrated that the quality of service that we were
8 getting, according to the local Bar in the area and
9 according to the local judges and our own random spot
10 checks was quite good.

11 We were all very pleased with the quality
12 results of the site visits.

13 Now, in addition to service aspects, one
14 question I'm sure the Board would ask is what type of
15 cost is involved with this service. We have again,
16 given you the results on cost. We have reported the
17 cost to LSC. In other words, the federal expenditure
18 analysis as we saw it and I think that under the
19 federal expenditure analysis, which is defined
20 throughout the report, that we had an average federal
21 expenditure per case of \$168.75.

22 Now, this was disputed somewhat, but not as much
23 as one might think, because we also did calculation,

1 taking out the...in other words, taking out the
2 schools that were the lowest and the highest in the
3 average and we ran the calculation which showed us
4 that it was slightly over, again, \$230 per case.

5 So clearly, the federal expenditure analysis
6 document shows that we are receiving, from the
7 federal expenditure viewpoint, something that is
8 probably acceptable.

9 I think a more interesting prospective is to
10 look at the cost per hour. There, because of the
11 numbers of hours that the students were putting in,
12 which as I mentioned earlier, they were closing the
13 majority of those cases in areas where they put six
14 times more hours than in the non-litigated areas, we
15 found that the average hourly cost was a little over
16 \$14 per hour, which is frankly a very good hourly
17 rate for LSC funds for federal expenditures.

18 So overall, the cost data is included and if
19 there are any questions, I'll answer them.

20 One other major aspect of the study was, of
21 course, the impact on the students, themselves.
22 Another section of the study is dedicated to that
23 impact. What we have done is explain that there are

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1 essentially two surveys included in this student
2 impact.

3 The first is the predictive sampling which we
4 ourselves took from student surveys. Later on, in
5 three to five years, we have collected the
6 information that is necessary for a longitudinal
7 survey to check that predictive sampling, but
8 essentially at this point, all the results we have
9 are the predictive samplings.

10 I think that the sampling demonstrates some
11 important facts which this Board should be aware of.
12 For example, the samplings indicated that when the
13 students entered clinical education, over 65 percent
14 of the students had never been exposed to pro bono
15 service. They just simply had never seen it. The
16 vast majority of them, over 80 percent, had never
17 even been exposed to indigent clients before.

18 So clearly, each of these records are quite
19 impressive when you realize that by the end of their
20 clinical involvement over 96 percent of the students
21 reported that they felt comfortable and confident in
22 their ability to assist the indigent clients.

23 When you look, for example, further into aspects

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1 of future behavior, again, these are from the
2 predictive samplings that we took, we find that there
3 was approximately 35 percentage increase in the
4 numbers of students who would be interested in a full
5 time legal services career.

6 And this is also backed up in the numbers of
7 students who would be interested, which I think is
8 quite impressive, who would be interested in
9 providing pro bono service, now indicated at 75
10 percent of the students noted that their involvement
11 in clinical education had increased their willingness
12 to provide pro bono service in the future.

13 So clearly, here from the predictive sampling
14 that we have, there are quite impressive results.

15 I think another section...the final section of
16 the report is also very important. This is not
17 included in the report in Tampa.

18 We chose to let the clinical directors
19 themselves at the schools indicate what they thought
20 had been the large advantages of the program and what
21 they thought might have been the disadvantages or
22 problems associated with the program.

23 And so, therefore, one chapter of the report is

1 dedicated exclusively to the comments of the clinical
2 directors. Essentially, what we can see is that
3 there are two to three basic advantages that the
4 clinical directors themselves, commented on.

5 The first is the number of case service that
6 they were able to provide. Each of them noted that
7 this was providing excellent case service for their
8 community. Something that was, in fact, needed.

9 A second asset was the educational benefit. I
10 think that there was some expression that at the
11 beginning of the study they weren't as sure that they
12 would be able to provide it with as much an
13 educational benefit along with the case service, but
14 by the end of the study, they were finding that that
15 could, indeed, be done.

16 And finally, another advantage, final advantage
17 that the clinical directors, themselves, noted, was
18 the attitudinal change in the...

19 As you remember, these again, are the advantages
20 which we were finding and they have been in many
21 respects verified by the clinical directors,
22 themselves.

23 Of course, there were some problems associated

1 with the clinic. Not surprisingly, the problems that
2 were noted the most were problems in working with
3 LSC. It had to do with their extensive paperwork
4 requirements which were put on the clinics because of
5 the experimental nature of the clinics and are needed
6 for information.

7 They also had to do to a certain timing problem,
8 which again, I think are problems that can be
9 rectified. It's nothing...no problem working with
10 LSC that was major in any form.

11 There were also some problems reported that are
12 general to all clinics. These included, for example,
13 the problems of student carryover. When you have a
14 carryover of cases from one student to another and
15 also the problems of assessing appropriate course of
16 credits, as well as the problems which all the
17 clinical directors noted, which was excessive demand
18 for service in their areas.

19 I think though, as you read the problems
20 section, what the clinical directors have done was
21 handle these problems and essentially report to us
22 how they were able to handle the problems.

23 The problem, for example, of student turnover

1 has been handled by a variety of methods, but
2 specifically including use of...management use of the
3 supervising attorneys, as well as some clients who
4 are holding over students so that you have both
5 students working on the case at the same time for a
6 short period of time.

7 So, in essence, what I'm trying to say is that
8 these problems, according to the clinical directors
9 themselves, were in fact, solvable and were solved.

10 So, in conclusion, what we have done, I think,
11 is demonstrate that the Comptroller General was
12 correct in his report in 1978 and that, indeed, the
13 Congress was correct in its legislative history in
14 1974, which indicated that the Legal Services
15 Corporation should better view law school clinics as
16 a portion of their service component.

17 To that end, we have provided on Page 44 of the
18 report, a series of recommendations for this Board
19 based on the report. Those recommendations include
20 continuation of the grant program, minor
21 modifications which have been outlined, as well as
22 examination of cost of indirect LSC assistance.

23 This indirect assistance could come from a

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1 variety of methods. One method that might be
2 considered is, for example, modification of the
3 existing PAI regulation to make expenditures if a
4 program decides to grant money to a clinical program
5 in this area. To make those expenditures accountable
6 toward the 12 and 1/2 percent PAI.

7 I'm not recommending that at this stage. I'm
8 simply saying that we might want to consider
9 examination of that prospect.

10 And finally, we have recommended plans for a
11 forward moving longitudinal study in an attempt to
12 verify the results which we have, to date, failed.

13 MR. UDDO: Any questions from
14 the Committee?

15 MRS. SWAFFORD: I do. I have
16 a question for Mr. Moses.

17 Mr. Moses, I've heard it said that there's, of
18 course, no doubt about the educational advantages of
19 such a project, the law school clinic, but that there
20 may be some detriment to the client in that the
21 emphasis is on educating the student, rather than
22 giving services to the client.

23 Would you respond to that?

1 MR. MOSES: From our
2 investigations and from the client satisfaction
3 surveys, I don't believe that that's a problem.
4 For example, in our quality investigations spot
5 checks, such as sites, we were finding that the
6 quality of service that was provided...according to
7 independent sources, the judges that are hearing the
8 cases, the opposing counsel...we're finding that the
9 quality of service was quite good, so that the client
10 was, in fact, getting very good service from the
11 students.

12 A second and very important thing to be
13 considered in responding to your questioning, is that
14 the clients, themselves, in questions designed to
15 examine the attorney/client relationship and that
16 confidentiality and bonding between the attorney and
17 client, were responding in such a way that they felt
18 that they were being treated respectfully, that they
19 were being treated with confidentiality in the
20 handling of their case.

21 And so, because the clients, themselves, were
22 satisfied with the bonding, I don't think that we
23 could say that they are being used in any way that's

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1 not providing them the best service possible.

2 MR. UDDO: Let me just add
3 something to Charles' answer, because as an educator,
4 I think it's important.

5 I don't think you could properly educate
6 students in a clinic or any other way if it wasn't
7 clear to them that their duty to their client is
8 paramount and that the way they treat their client is
9 an essential part of their professionalism.

10 So, I would say it's a contradiction in terms to
11 say that they're educating students and at the same
12 time neglecting clients. That would not be educating
13 students.

14 MRS. SWAFFORD: Well, you
15 know, I'm in agreement. You've convinced me, but
16 would you not agree that there is something out of
17 perception that you're educating student at the
18 expense of clients. See, what I'm...

19 MR. UDDO: Well, I've heard of
20 the criticism, but...

21 MRS. SWAFFORD: What I'm
22 trying to do if, in fact it's not true, then I think
23 we should present enough proof to allay the

1 criticism.

2 MR. UDDO: Yes, I agree with
3 you. I'm just saying that I don't think any educator
4 who's really educating, can educate students at the
5 cost of the client or the service to the client.

6 That's the challenge to clinics, is to educate
7 while at the same time making a part of that
8 education the maximum commitment to the client and
9 the client's interest and the client's case.

10 So, if there are any clinics that are
11 sacrificing the clients for educational purposes,
12 they're just not educating.

13 Claude, did you have another question?

14 MRS. SWAFFORD: No, thank you.

15 MR. UDDO: Okay. Mrs.

16 Bernstein?

17 MRS. BERNSTEIN: I just have a
18 couple of questions, just to make sure what we are
19 dealing with here.

20 What period does this report cover?

21 MR. MOSES: This report covers
22 the 22 month period from the fall of 1984, beginning
23 in August and September of 1984 through June of 1986.

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1 MRS. BERNSTEIN: Okay. And
2 during that period, you ended up with a \$168.75 cost
3 per case.

4 MR. MOSES: That was the
5 federal expenditure of the case.

6 MRS. BERNSTEIN: Okay. And
7 the law schools matched, you know, some of the...

8 MR. MOSES: Correct. There
9 was over a million dollars that was put in by the law
10 schools.

11 MRS. BERNSTEIN: Okay. What
12 is the...and that worked out to be \$14 an hour?

13 MR. MOSES: A little over \$14
14 a hour.

15 MRS. BERNSTEIN: And that
16 included attorney's time?

17 MR. MOSES: Yes, it did.

18 MRS. BERNSTEIN: Okay. What
19 is the comparable cost for LSC direct delivery,
20 during that period?

21 MR. MOSES: I'm afraid I don't
22 have that figure at my fingertips. I'm really not
23 sure.

1 MRS. BERNSTEIN: Could I ask
2 you to look for the period that it covers...well, a
3 couple of years. If you could get from the fact
4 book...I didn't bring the last couple of fact
5 books... if you could check and see what the
6 comparable cost per case is and what it works out to
7 be per hour, in attorney hours...and I realize we
8 don't get this kind of data from the field programs.
9 For some reason they don't need to tell us what
10 they're actually doing, but I would ask you to just,
11 from the raw data that we have, which I know is
12 generalized.

13 The other thing I would ask is that you would
14 also get a comparison, and furnish to all the Board
15 members, of the percentage of cases closed by
16 category and compare that to the direct delivery
17 model.

18 Just from my recollection, this may have changed
19 in the last fact book, but my recollection, advise
20 and brief services consumed about 70 percent or more
21 of our direct delivery cases and in the law school
22 clinics it seems to be something closer to 50
23 percent, which means that we have more detailed work

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1 being done by the law school clinics and it goes more
2 to litigation or administrative proceedings.

3 MR. MOSES: In fact, that
4 report is somewhat addressed in that context.
5 Someone has come up with that figure before with the
6 note that many of the cases are referred to the
7 clinic frequently through legal services programs and
8 so they refer cases now that are in need of more
9 complicated...

10 MRS. BERNSTEIN: How did you
11 gather that information to determine how many hours
12 were spent on the cases?

13 MR. MOSES: Each case, there
14 was a sheet submitted to LSC for each case that was
15 completed. On that sheet the attorneys and the
16 students provided the hours that were expended for
17 each individual case where it was accumulated in our
18 data system at the corporate headquarters.

19 MRS. BERNSTEIN: Okay. So
20 there was timekeeping done by these...

21 MR. MOSES: Yes.

22 MRS. BERNSTEIN: ...grantees.

23 That's all I have.

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1 MR. UDDO: Any other Committee
2 member have a question?

3 MR. SMEGAL: Yes, I have
4 several.

5 MR. UDDO: Mr. Smegal?

6 MR. SMEGAL: Thank you, Mr.
7 Uddo.

8 I've looked through here very quickly and I may
9 have missed it Charles, but I don't see a table that
10 would show me how much other funding the existing
11 programs have. You're talking in terms of case
12 closures per Legal Service Corporation dollar.

13 Is there a table in here that would show me, for
14 example, how much other money these 14 programs have?
15 And I understand, let me just preface my question by,
16 I understand from the introduction and our prior
17 discussions that 13 of these 14 funded entities, law
18 schools, existed prior to Legal Service Corporation
19 funding and they've been around for a long time.

20 The University of Virginia is the only one that
21 was started with Legal Service Corporation money.

22 Now, is there a table in here that would give me
23 that information?

1 MR. MOSES: Yes, sir. That
2 would be Exhibit 29. Exhibit 29 documents the table
3 budgeted costs, which includes both the LSC cost as
4 well as the non-LSC cost.

5 MR. SMEGAL: No, this is just
6 the number...if I understand the introduction...the
7 \$2,236,000 that I see at the bottom of Page 89,
8 Exhibit 29, reflects the matching portion that they
9 were obligated to, under our legal...under our law
10 school clinic program.

11 Now, there are other monies in these programs,
12 aren't there, in addition to what we see here?

13 MR. MOSES: Well, these are
14 just the monies that are related to the clients that
15 we have funded, correct.

16 In other words, some of the schools might
17 operate more than one clinic, per se.

18 MR. SMEGAL: Are you suggesting
19 that the data you have here has been selected out so
20 that the cases we're referring to in closure dollars
21 are only those cases that are...are those cases that
22 were supported by the Legal Service Corporation
23 monies and matching grants?

1 MR. MOSES: The cases are
2 those that were supported in the clinic that LSC
3 funds were used.

4 MR. SMEGAL: But my question
5 is, Charles, didn't those clinics... particularly
6 those that have existed for several years...didn't
7 they have other funding to support their particular
8 clinic?

9 MR. MOSES: Not in this
10 particular clinic. They did possibly in some
11 instances.

12 For example, if one school had...the easy
13 example is criminal clients. They frequently will
14 have criminal clients that are funded through
15 different sources. Now, that is clinical education
16 money, but it certainly is not a clinic that we were
17 involved with.

18 And so, none of the clinical education money
19 that went toward criminal clinics, has been reported
20 in this report because it was a separate entity.

21 MR. SMEGAL: Did the grant
22 application...let me just use two examples here,
23 maybe we can get some more information...is the

1 program that's being run at McGeorge, in terms of the
2 kind of cases that are being handled, the same kind
3 of program that's being run at the University of
4 Virginia?

5 MR. MOSES: It's slightly
6 different in focus. At the University of Virginia
7 it's dedicated exclusively to family law matters.
8 The one at McGeorge was funded to provide
9 specifically housing and a portion of the clinic was
10 also used for a general...

11 MR. SMEGAL: Family law
12 matters and other things.

13 MR. MOSES: Well, family law,
14 income maintenance matters. The different types of
15 case closures are reflected in the specific table
16 which demonstrates case closure categories or types
17 across each of the 14 states.

18 MR. SMEGAL: Well, let's focus
19 on those two entities. Now, the reason I picked
20 those two out is one, the University of Virginia is
21 the only one that did not have a clinical program
22 prior to LSC money.

23 The reason I picked out McGeorge is, it's the

1 only program in California and, in addition, has had
2 a program for many years.

3 I notice on Exhibit 21 that the average cost per
4 closure at McGeorge was slightly under \$30 and the
5 average cost at the University of Virginia was \$540.

6 I'm kind of curious as to how those numbers...I
7 know the California law is much simpler than the law
8 in the State of Virginia, but can you explain what
9 appears to be an 18 fold difference in the cost per
10 case?

11 MR. MOSES: All right, several
12 factors.

13 First, what we're talking about is the average
14 federal expenditure. So all of these are done,
15 basically, only looking at the LSC
16 expenditures...these tables.

17 McGeorge receives a much smaller sum than the
18 University of Virginia did initially. So there was
19 more LSC money that was being expensed at the
20 University of Virginia.

21 MR. SMEGAL: I think it was
22 about \$6,000...or maybe \$16,000. 79 versus 95.

23 MR. MOSES: Right. Second,

1 the types of cases that were primarily handled were
2 different. As I mentioned earlier, McGeorge was
3 concentrating much more heavily on housing issues
4 and, in fact, that would be reflected in the case
5 closure categories for that school and what we were
6 seeing was that there was much less time expended in
7 housing issues than there were in many of the other
8 issues, including those family law issues handled at
9 the University of Virginia. So that would also help
10 to explain it. There were fewer hours put on more
11 cases.

12 A third factor, which I think is very important,
13 we were noticing...and I think the bar graphs which
14 demonstrate case closures actually demonstrate this
15 best...but there is always going to be a certain
16 amount of start-up time and lag time. When the
17 clients and the individuals are beginning service and
18 before they get used to handling students and
19 realizing how many students that they can handle.

20 The clinic at McGeorge, because it has been
21 operating for so long and so efficiently, was able to
22 minimize that start-up time because they had much
23 more experience at it than the clinic at the

1 University of Virginia, which was essentially
2 beginning from scratch.

3 I think that combination of those factors, you
4 know...

5 MR. SMEGAL: Well, I look at
6 the numbers here on your Exhibit 21 and it would
7 seem, if you compare the number of cases closed at
8 the University of Virginia in the first year as
9 opposed to the second year compared to McGeorge in
10 the first year and the second year, you get the same
11 ratio exactly. You get 987 to 2656 versus 62 to 176.
12 The ratio is the same. There's no change between the
13 first and second year.

14 It's sort of inconsistent with what you just
15 said. That there's some start-up...they're
16 identical. There's an existing program which is
17 costing \$29.74 per closure and a start-up program
18 that costs \$539.77, according to Exhibit 21 and
19 there's the same increase...ratio of increase of
20 increase of cases closed between the first and second
21 year. So, I don't understand how you can say what
22 you just said.

23 MR. MOSES: I didn't say that

1 was an exclusive factor. I said I think that it is
2 one of the factors.

3 I believe in the McGeorge case, the primary
4 factor would be the difference in the type of case.

5 MR. SMEGAL: So it takes 18
6 times as long...it takes 37 hours to do a University
7 of Virginia case and it takes 2 hours to do a
8 McGeorge case. Is that the comparison that you are
9 suggesting that we accept?

10 MR. MOSES: No, I didn't say
11 that and I didn't intend to imply that.

12 I think that a lot of it has to do with the
13 specific type of case, not necessarily with the
14 school. McGeorge was concentrating in a case closure
15 category that was taking less time for the specific
16 type of case in the services they were providing than
17 did the University of Virginia.

18 MR. SMEGAL: Right, two hours.
19 \$14 and hour or \$29, two hours. \$14 a hour, \$540, 37
20 hours. The difference is two hours at McGeorge and
21 37 hours at the University of Virginia.

22 Is there another explanation, such as the fact
23 that McGeorge University has a lot of other money by

1 which they run this clinic?

2 MR. MOSES: Well, I think that
3 the other money is reflected. Not in that cost
4 federal expenditure...and I don't say that it is
5 reflected in the federal expenditure per case...but I
6 think that in other places it's important that it's
7 reflective that the contribution has been put in.

8 MR. SMEGAL: How many cases
9 has McGeorge clinic closed total in this two year
10 period. You've got 2,626 odd cases. Is that the
11 total closures in Sacramento, California of the
12 program?

13 MR. MOSES: No.

14 MR. SMEGAL: They've got other
15 closures?

16 MR. MOSES: Yes.

17 MR. SMEGAL: Do you have any
18 idea how many there are?

19 MR. MOSES: I'm not sure. I
20 could probably find out.

21 MR. SMEGAL: Do you have any
22 idea how much other funding they have?

23 MR. MOSES: Other than that

1 that's reported...

2 MR. SMEGAL: Right.

3 MR. MOSES: We know what we
4 requested that they report to us, which was for the
5 client that we were partially funding.

6 MR. SMEGAL: When you're
7 providing the information that LeaAnne asked for,
8 could you provide that kind of information too,
9 please. Not just with respect to McGeorge and the
10 University of Virginia, but all 14.

11 MR. UDDO: Do you have any
12 other questions, Tom?

13 MR. SMEGAL: No. I'd like to
14 see the information, it may be helpful. Thank you.

15 MR. UDDO: Any other questions
16 from the members of the Committee? Mr. Mendez?

17 I'd like to take public comment now, if we
18 could. Could I just get a feel for how many people
19 want to comment? How many people would like to
20 comment on this particular report? One.

21 Why don't you come up to the table, Alan?
22 If you would again, identify yourself for the record.

23 MR. ROGERS: Yes. My name is

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1 Alan Rogers, Executive Director of the Massachusetts
2 Law Reform Institute. I appear at this time as a
3 stand-in for PAD Provisions Committee, whose members
4 could not make it.

5 Just briefly a question. I understand that this
6 report has been received and it's going to come again
7 before the Provisions Committee at some period of
8 time, together with the recommendations of the
9 staff...or what is the exact status of this report?

10 MR. UDDO: Well, I'm not sure
11 I know the answer to that. It's my understanding
12 that because the report has really just been finished
13 recently, that the Provisions Committee is not in a
14 position to do much more today than receive it and
15 take some public comments on it.

16 I would think that we're going to have to have a
17 period of additional public comment, particularly
18 since I know for a fact that the SCLAID Committee has
19 been waiting for this and we held off sending it to
20 them until it was presented to the Board and, with
21 the weather, that got delayed.

22 It's going to the SCLAID Committee and the
23 SCLAID Committee has a subcommittee that's

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1 particularly mandated to give their response to the
2 report.

3 So I think there's going to be a period of
4 additional exchange of ideas and information and
5 response before the Provisions Committee would then
6 make a recommendation to the full Board.

7 MR. ROGERS: Yes, we'd welcome
8 the opportunity to read the report and respond to it
9 and obviously would need time to do that.

10 MR. UDDO: I invite that you
11 do that. I would ask, as I did on the last report,
12 that you try to do it as quickly as possible. I
13 suspect SCLAID is going to try to give their response
14 or the subcommittee will probably report to the full
15 SCLAID Committee at the February 14th meeting in New
16 Orleans. Therefore, some time shortly thereafter I
17 would anticipate a Provisions Committee meeting to
18 finally address this issue and make a recommendation
19 to the Board.

20 MR. ROGERS: Thank you, Mr.
21 Chairman.

22 MR. UDDO: Thank you. Alan,
23 as with the last report, anything that you do

1 produce, send it to Mr. Moses and I would request
2 that you send copies to all Board members. Again, it
3 saves time and we're sure that everybody gets it at
4 roughly the same time and the information flow, I
5 think is a little bit better that way.

6 MR. ROGERS: Yes, we'll do it
7 that way.

8 MR. UDDO: Yes, Charles?

9 MR. MOSES: Mr. Chairman, I
10 would just like to add that copies of this report was
11 just reproduced, literally came off the...

12 MR. UDDO: Hot off the press.

13 MR. MOSES: ...machine this
14 morning. Copies of the report are available if
15 anyone would like to read it they can contact me at
16 the office and we will provide a copy.

17 MR. UDDO: All right.
18 Charlie, I would...I assume that's the public you're
19 speaking of right now...

20 MR. MOSES: The public.

21 MR. UDDO: Yes, the people who
22 have not gotten copies of it, because the Committee
23 members all have copies of it.

1 I would ask you, Charlie, to please see to it
2 that any comments that are received by the
3 Corporation be dealt with promptly so that we don't
4 have an excessive delay between now and the time when
5 the Provisions Committee considers this again and
6 makes some recommendations to the full Board.

7 So whatever comments you get, I would ask that
8 you and whoever else in the Corporation that's
9 responsible for reviewing those comments and
10 incorporating them into any final recommendations to
11 the Provisions Committee, please act promptly because
12 I would hope that if we have a meeting at the end of
13 February, maybe then we would reconsider. It may not
14 be until March that we have another Provisions
15 Committee meeting, but at the next possible occasion
16 I would like to have everything, so that we can make
17 a final recommendation to the Board. Okay? Thank
18 you.

19 We're going to take a ten-minute recess. We're
20 waiting for some materials to come over from the
21 Corporation on the Migrant Report. I'm going to try
22 to hold it to ten minutes so that we can finish on
23 time.

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1 (WHEREUPON, a brief recess was taken.)

2 MR. UDDO: We're going to
3 reconvene the meeting. We do still have a quorum.
4 LeaAnne is in the back of the room, but she is here
5 and Mrs. Swafford, I think, just stepped out for a
6 moment, but...

7 MRS. MILLER: She's at the
8 coffee table.

9 MR. UDDO: Oh, she's here too,
10 okay. Tom is here, so we've got the full Committee,
11 other than Mr. Valois.

12 We're going to move on to our last agenda item
13 and that is the Migrant Study and again, I'm going to
14 try to keep on a schedule that allows us to conclude
15 as close to 12:00 o'clock as possible. We did start
16 a few minutes late, but I'm going to try to end as
17 close to noon as possible, so without any further
18 delay, I'll ask Mr. Rathbun to introduce the
19 gentleman who will make this presentation.

20 MR. RATHBUN: Thank you, Mr.
21 Chairman.

22 The Committee has been provided with a four to
23 five page summary of the number of migrant farm

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1 workers this study produced. The Committee has now
2 been provided with the full report.

3 MR. UDDO: Excuse me a second.
4 Could I ask the people in the audience to please
5 allow us to continue on. It's a bit noisy from the
6 back.

7 MR. RATHBUN: The gentleman
8 that conducted the report is Dr. Philip Martin to my
9 far left. He is a Professor of Agricultural and
10 Economics at the University of California Davis and
11 Dr. Pole, who is a Consulting Agricultural Economist
12 based in Washington, D.C. Previously he was a
13 Professor of Agriculture and Economics at Penn State
14 University.

15 DR. MARTIN: Okay. I'm Philip
16 Martin and I guess what I'll be doing is briefly
17 summarizing the report. I assume this microphone is
18 on. I will try to speak loud enough that you can
19 hear me.

20 As you know, this project was initiated in the
21 summer of 1985, I believe, when at Mr. Mendez's
22 request, as I understand it, several people addressed
23 the Committee discussing general ways to estimate the

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1 number of migrant farm workers.

2 The project actually began only last April,
3 April, '86 and with Joel Thimel and then Mario
4 Gabroury of the Office of Policy Development, we
5 agreed to do a study to determine the distribution of
6 migrant activity across states. And the emphasis
7 here was to develop a formula that was reasonably
8 accurate that reflected the duration of migrant
9 activity in each state and that was easy to
10 understand and to update.

11 We developed that formula last fall and since
12 then we have been working to validate the formula by
13 estimating the actual number of migrants in a few
14 states and then we also reviewed previous migrant
15 studies and data on migrant farm worker
16 characteristics to determine just how many migrants
17 are eligible or might be eligible for legal service
18 assistance.

19 There are...the normal thing, as you know, for
20 professors is to talk for 50 minutes, but since I
21 understand I am constrained by time I will be brief
22 and there are three main conclusions to the study.

23 The first is that the distribution of migrant

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1 activity across states differs significantly from
2 that which is currently being used, as I understand
3 it, to allocate legal services funds. So number one,
4 is, the distribution of migrant activity across
5 states is different from what the current
6 understanding is.

7 Secondly, the number of migrant workers is
8 significantly higher than is generally reported, but
9 the number of migrant dependents is lower than many
10 people assume.

11 And thirdly, based on fairly limited data in a
12 few states, it appears that about one-fourth of all
13 migrant farm workers have total annual earnings, farm
14 and non-farm, which are above the legal services
15 income cut-off, which as I understand it is 125
16 percent of the poverty level.

17 So, the three main conclusions again are,
18 distribution is different, number of workers is large
19 and thirdly, there are some people above the income
20 cut-off.

21 I'll review these conclusions in a bit more
22 detail, but the complete report has quite a bit of
23 detail in it. It's now 140 some pages long. I do

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1 apologize. There are still a few typographical
2 errors, but the final report is actually not due
3 until the end of June. We will be providing a final
4 report several months early, by the end of March, so
5 you must excuse the few typographical errors that are
6 in that report.

7 There will also be some additional income detail
8 and a few other details provided.

9 MR. SMEGAL: Let me interject
10 just a question, if I may, please. This is an
11 incredibly complete or extensive document. I haven't
12 had a chance to read it all, but I did turn to Page
13 129 for conclusions as you started to give the three
14 conclusions...and I don't find there the three things
15 you've just pointed out that you've concluded and I'm
16 wondering where I might find that in here?

17 DR. MARTIN: Most of the
18 conclusives are in the executive summary at the very
19 beginning. I was assuming people would turn to the
20 beginning, I'm sorry.

21 MR. SMEGAL: Well, I equated
22 conclusions to conclusions, so I went to the wrong
23 place.

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1 DR. MARTIN: Oh, okay.

2 MR. SMEGAL: Executive summary
3 up front?

4 DR. MARTIN: Yes.

5 MR. SMEGAL: Thank you.

6 DR. MARTIN: I'm going to
7 highlight five things which are testimony in the
8 executive summary.

9 First, the problem of definitions or why it's so
10 hard to enumerate migrant farm workers.

11 Second, the traditional approach to estimating
12 migrant farm workers and their dependents.

13 Third, the distribution formulas we developed.

14 Fourth, the validation process for that formula.

15 And fifth, migrant farm worker characteristics.

16 First, a bit on definitions and data. Migrant
17 farm worker programs are unique for several
18 reasons...and this applies not just to legal
19 services, but to all other migrant service programs.

20 The most important thing to bear in mind is, the
21 migrant farm worker is not an occupation. What it
22 is...migrancy is a characteristic of some people with
23 the occupation of farm worker.

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1 Just as traveling is a characteristic of some
2 people with the occupation salesperson. Some
3 salespersons travel, some don't. Some farm workers
4 travel, some don't.

5 In labor statistics, migrancy is not normally a
6 characteristic of interest. Labor statistics report,
7 for example, the age, the race, the sex, the level of
8 education. A lot of detail about people in various
9 occupations, but not their migrant status.

10 So, therefore, migrant farm worker is not listed
11 in any of the standard occupational reference and
12 that's what makes it so difficult to talk about how
13 many migrant farm workers there are.

14 Since migrancy is not an issue in most
15 occupations, no one...for example, no one seems to
16 know what percent of the sales people stay away from
17 home overnight or anything like that. There is no
18 generally accepted way to juggle available statistics
19 and to isolate migrants in other occupations. In
20 other words, in most occupations, we just don't care
21 about migrants.

22 The dilemma that one faces when dealing with
23 migrant farm workers is, is that there is no reliable

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1 data on the numbers and characteristics of migrants
2 in each state. And there is no standard methodology
3 to adjust what data is available. Okay? There is
4 nothing that you look up and says, this is migrants.

5 Therefore, what you do is, you adjust the data
6 that's available to determine migrants. And before I
7 do that, it's worth spending just a minute on the
8 sort of slippery or elastic nature of the definition
9 of a migrant farm worker.

10 There is no standard federal definition of
11 migrant farm worker. Each agency that deals with
12 migrant farm workers has developed its own
13 definition. Most of those definitions say that a
14 migrant farm worker must one, cross a geographic
15 boundary and two, stay away from home overnight to do
16 farm work for wages. Okay?

17 That is the USDA's economic research definition
18 says, a migrant has to cross a county border and stay
19 away from home at least one night. Migrant education
20 on the other hand says, a farm worker has to cross a
21 school district line. It's not clear whether an
22 overnight stay is required.

23 Each of the definitions, migrant health, migrant

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1 education, USDA, is slightly different, but they all
2 stress crossing a geographic boundary and usually
3 staying away from home overnight.

4 However, in every case, one day of migratory
5 farm work makes a person a migrant and that person's
6 household a migrant for that entire year. In other
7 words, one migratory event makes a person a migrant
8 for a year and in some cases, one migratory event
9 makes a person a migrant for two years or, in the
10 case of migrant education, up to five years after
11 that migratory event.

12 So there's two dimensions then to being a
13 migrant. One is the spacial dimension, saying one
14 has to cross a border and the second is a temporal
15 dimension, saying one remains a migrant, even after
16 that migratory event.

17 Since even one day of migratory farm work makes
18 a person a migrant farm worker, it is possible and,
19 indeed probable, that many migrant farm workers
20 change occupational titles during the year. In other
21 words, being a non-farm worker part of the time and a
22 migrant farm worker and then, perhaps, a local farm
23 worker. And what that means is, a very diverse group

1 of people lined up being migratory farm workers.

2 The point of explaining why definition is
3 important is that many people who fit the migrant
4 stereotype are, in fact, not migrants under the
5 county crossing and overnight stay definitions.

6 On the other hand, many people who do not
7 satisfy the technical definition of a migrant...I'm
8 sorry...many people who, in fact, do satisfy the
9 definition of a migrant, do not fit the stereotype.

10 For example, a white can see Hispanic workers
11 in a field picking lettuce, but they may not cross
12 county lines and they may not, in fact, be
13 migratory farm workers.

14 On the other hand, the white college student
15 driving the tractor may have met the technical
16 definition of a migrant.

17 It's very important to remember that there's a
18 stereotype of migrant and there's definitions of
19 migrants and the two are not necessarily the same.

20 One last point on the definition of migrants.
21 If migrants have to cross a county border and stay
22 away from home overnight, then the number of
23 migrants in part reflects the number of counties in

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1 a state and the availability of temporary housing.
2 That is, states with a lot of counties make it
3 easier to satisfy the border crossing requirement.

4 So just one of the little ironies of things is
5 that if one takes a very large county, like
6 Riverside County, California, there are farm
7 workers who stay away from home overnight within
8 the same county and therefore, are not migrants.
9 Okay?

10 There are other states which have a lot of
11 counties and so it's very easy to cross a county
12 border and you've satisfied one-half of the
13 definition of being a migrant.

14 By the same token, if temporary housing is
15 available, then the person may stay away from home
16 overnight and, therefore, satisfy the definition.

17 If there is no temporary housing, these farm
18 workers will sometimes commute long distances of 60
19 miles one way in a few instances that I know of and
20 return the same day. They're not migrants. They
21 did not stay away from home overnight.

22 So, in summary, the definition of farm worker
23 is not straightforward. There is no standard

1 federal definition and whatever definition is
2 adopted is really going to influence the number and
3 the characteristics of migrants.

4 Let me turn briefly to the question of, then
5 how does one determine the number and distribution
6 of migrants?

7 Well, since you can't look it up in the
8 standard occupational statistics, a person who
9 wants to estimate the distribution and the number
10 of migrants, must adjust indirect indicators of
11 migrant farm worker activity.

12 The standard way to do it is to estimate the
13 number of migrant farm workers in each state in a
14 bottoms up approach. Most past studies took a
15 Department of Labor estimate of the number of
16 migrants employed during one week of each month and
17 then adjusted that estimate upward to reflect
18 workers who may not have been counted and
19 dependents.

20 The main problem with such bottom up
21 adjustments is that researchers routinely start out
22 by blasting this Department of Labor data saying
23 it's terrible, saying it's terrible for very valid

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1 reasons.

2 Sometimes, for example, the Department of
3 Labor representatives who have to estimate how many
4 migrants are employed, say that what they do is
5 they drive around and they count out-of-state
6 license plates and on that basis they say, that
7 many migrants are employed.

8 So the researchers looking at that data start
9 out saying well, this data does not reflect reality
10 or we think it doesn't, but then they start making
11 adjustments to correct what they perceive is the
12 error in this Department of Labor data.

13 Now, the problem, as you probably can guess
14 is, if Department of Labor representatives did not
15 report the truth about migrants, how is a
16 researcher sitting in some office somewhere going
17 to adjust this data which they started out saying
18 is no good.

19 Well, that's essentially the dilemma that
20 faces all...practically all paths of study. They
21 use very creative ways to adjust what they call
22 very bad data.

23 In most cases, what they do is they first

1 increase the Department of Labor estimate of 25
2 percent, then they reduce it by 20 percent, then
3 they separate it into families and single migrants,
4 then they add dependents to each family, then they
5 multiply and add and pretty soon you come up with
6 migrant populations for each state.

7 Well, that bottom up process is the usual
8 approach and I reviewed a whole lot of studies that
9 used that approach and basically there are two
10 conclusions. One is, most of those studies contain
11 arithmetic errors...that is, taking the same data I
12 can't reproduce their numbers...and secondly, few
13 of those studies acknowledge previous efforts, yet
14 all of them are very similar.

15 The most important thing to understand about
16 this study is that it takes an entirely different
17 approach. Instead of adjusting up from what
18 everybody says are bad Department of Labor
19 estimates, we adjusted down from aggregate farm
20 labor data.

21 So, we were able to use much better data. We
22 were able to use, for example, the Census of
23 Agriculture, instead of...a census source...instead

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1 of using these monthly estimates, which were
2 previously used.

3 Conceptually, what we said is, that it's more
4 reliable to isolate the migrant subpart of farm
5 worker activity in a state than it is to expand the
6 Department of Labor flawed estimates of how many
7 migrants there are.

8 So, if you think of an inverted triangle...if
9 you think of a triangle upside down, what other
10 people did was start at the bottom of the triangle
11 and say we have a little estimate of migrants.
12 We're going to adjust up to how many migrants and
13 dependents there are. We instead, started at the
14 top of the triangle and said these are the
15 aggregate indicators of farm labor activity in the
16 state. We are going to adjust down to the number
17 of migrants in this state.

18 What we did was develop a distribution formula
19 that has two parts. A wage part and an employment
20 part.

21 The wage part is each state's expenditures on
22 labor from the Census of Agriculture. That is,
23 what did the employers report paying to workers

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1 they hired directly and workers that they hired
2 through labor contractors?

3 We only took the labor expenditures of crop
4 farmers because the review of studies and data
5 indicate that most migrants worked on crop farms.
6 And we adjusted those expenditures to reflect
7 differences in hourly wages across states and that
8 gave us half of the formula. Standardized labor
9 expenditures on crop farms.

10 The second half of the formula is seasonal
11 jobs on crop farms and a measure of migrant farm
12 workers from USDA. The wages and the employment
13 are combined. Wages are weighted half, employment
14 is weighted half and that gives the preferred
15 distribution formula which gives the distribution
16 of migrant activity on the table that you have.

17 There are two questions that might be prompted
18 immediately by such a formula. The first is, would
19 the distribution change if the weights were changed
20 and the answer is, no.

21 The wage and employment indicators are
22 consistent across states. So, we weighted wages
23 half, employment half. If you change those

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1 weights, it would not change the formula very much.

2 The second question is, what are the
3 advantages of the top down approach? Well, one can
4 use much better data. One can use it in the same
5 way for each state and one can use the data in a
6 way that permits very easy update.

7 I personally think that this kind of a wage
8 and employment formula is much easier to understand
9 than the ad hoc adjustments to Department of Labor
10 data which characterized the previous studies.

11 The fourth topics is validation and I'll be
12 brief on the fourth and fifth, so to keep within my
13 time period.

14
15 MR. UDDO: Okay, I was going
16 to ask you to do that, thank you.

17 DR. MARTIN: And the
18 validation part says, so the formula distributes
19 migrant activity across states, does it comport
20 with some independent enumeration of migrant farm
21 workers? Well, the validation effort is still
22 being completed and there is a minor error in the
23 two-page handout which you have, but essentially,

1 what validation involved was counting every farm
2 worker who had at least one farm job in selected
3 states and then determining how many were migrants.

4 How do you count each farm worker? Well, in
5 some states farm workers are covered by
6 unemployment insurance. Therefore, the
7 unemployment insurance count of all persons who had
8 at least one job with a farm employer can
9 approximate a sense of a very hard to survey
10 population.

11 The detail is in the report, but I think it's
12 fair to say that what the UI...the unemployment
13 insurance data indicates is that there are a lot
14 more farm workers than what is commonly believed.

15 Let me hasten to say that the reason there are
16 a lot more farm workers than people believe is
17 because the unemployment insurance data lets us
18 pick up people who work in agricultural services.

19 The history of agriculture is instead of the
20 farmer building his own equipment he buys it off
21 the farm. Well, the same thing is true in a whole
22 lot of other areas. The farmer now uses farm labor
23 contractors to get things picked and crop services

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1 to spray, et cetera.

2 So, in California about half of these farm
3 workers in the unemployment insurance files, worked
4 on profit livestock farms, the traditional
5 definition of the farm worker and were hired
6 directly, the other half were hired through these
7 agricultural service programs. And including these
8 agricultural service firms makes the number of
9 workers much larger.

10 We counted migrant farm workers in California
11 by taking a one percent sample of all those who had
12 at least one job in agriculture in 1984 and of
13 those we found that number who had one identifiable
14 farm job under that. And, what we found is that
15 essentially 20 percent of the people in this sample
16 were migratory. Migratory in the sense they had a
17 farm job outside their base or residence county.

18 Now, that 20 percent...the question is, to
19 what number does one apply that 20 percent migrant
20 ratio...and in the handout that you have, it was
21 applied to everybody and that includes people who
22 work on dog kennels and for lawn and garden
23 services and for that sort of thing.

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1 If those numbers are taken out...if the people
2 who worked for lawn and garden services and dog
3 shops and that sort of thing are taken out, then
4 the number of migrants in California becomes
5 229,500. California via the distribution formula
6 had about 23 percent of all migrants, which makes
7 the total number of migrants nationwide about one
8 million.

9 Remember though, of that one million only
10 about one-half...using California as a guide...work
11 on profit livestock farms. The other half were
12 primarily employed by agricultural service firms.

13 The independent confirmation of that is to
14 look at migrants in the UI files in Washington and
15 Idaho and roughly those numbers concur
16 proportionately.

17 Okay, the fifth and last point, migrant
18 characteristics seem to be different in two
19 respects than are commonly believed.

20 First, the average migrant family is smaller
21 than is often reported and secondly, some migrants,
22 the preliminary estimate is about one-fourth, earn
23 more than 125 percent of the poverty line.

1 The family size issue is dealt with in the
2 report, but basically past reports assumed
3 somewhere between four to seven dependents per
4 family and roughly that 80 percent of all migrants
5 were in familiar.

6 Those assumptions appear far too high. More
7 realistic seems to be on the order of 1.1 to 1.5
8 migrants per household and no more than about two
9 dependents, on average, per household.

10 There's a big...remember, those are
11 averages...and so in the past, there was one study
12 that assumed 13 migrant...13 people per migrant
13 family, which means every time there's a single
14 person working as a migrant, somebody else had to
15 have 26 in that family, which stretches things just
16 a bit.

17 The other point is that some migrants do, in
18 fact, earn more than 125 percent of the poverty
19 line. In the USDA sample it's 24 percent of all
20 migrants, in the California unemployment insurance
21 data it's about 23 percent of all migrants.

22 Okay. I think this is a fairly short summary
23 of a long report and I guess, let me just conclude

1 by saying the three things are, the nature of the
2 definition of migrants is somewhat elastic and that
3 explains why many people who fit the migrant
4 stereotype may, in fact, not technically be
5 migrants and why some persons who do not meet the
6 stereotype may, in fact, be migrants.

7 Second, to stress this difference between the
8 bottom up procedure to estimate the number of
9 migrants in each state and the top down approach
10 that we use.

11 And the third point is, that counting migrants
12 through the unemployment insurance data, as our
13 enumeration indicates, says that there are many
14 more farm workers than other sources say, but it
15 also says there are some who earn fairly
16 high...with fairly high earnings.

17 Okay, I'll stop there.

18 MR. UDDO: Thank you, very
19 much for staying within some time constraint. I
20 think it is a very helpful summary.

21 Before I go to the Committee for questions,
22 can I get a feel for whether or not there's anyone
23 in the public who is intending to make any comment?

1 MR. SMEGAL: Excuse me, Mr.
2 Chairman, has the public been provided with this
3 document?

4 MR. UDDO: No, I was going
5 to say, fully understanding that this was just
6 reproduced and we just got our hands on it, so I
7 suspect no one's in a position to do that.

8 This will come back before this Committee
9 again at the next meeting, probably under the same
10 circumstances as the prior two reports, since all
11 of the reports have really just been produced
12 within the last week.

13 So, if there's no one from the public who is
14 in a position to make any comment at this time,
15 I'll go to the Committee and ask if there are any
16 questions from the Committee.

17 MR. SMEGAL: I have a
18 preliminary question, at least. The poverty level
19 you keep talking about, what number did you use?
20 What dollar number?

21 DR. MARTIN: What I was told
22 was that you are 125 percent of the poverty line.

23 MR. SMEGAL: What's the

1 poverty line that you were using?

2 DR. MARTIN: The poverty
3 line for a family of four was, for 1984 which is
4 what this data was, was...well, 125 percent of the
5 poverty line was \$13,261.

6 MR. SMEGAL: And that's
7 across the county? That doesn't vary from
8 geographic area to geographic area?

9 DR. MARTIN: There's a whole
10 lot of different poverty lines, but I think that's
11 actually for an urban family of four, so for the
12 rural family of four, it would be slightly lower.

13 MR. SMEGAL: But, did you
14 use that number in coming...

15 DR. MARTIN: I used that
16 number.

17 MR. SMEGAL: \$13,264 for a
18 family of four, which is 125 percent of some
19 number...

20 DR. MARTIN: Right.

21 MR. SMEGAL: ...that we
22 could obtain. Okay, thank you.

23 MRS. SWAFFORD: I have one

1 question.

2 MR. UDDO: Mrs. Swafford?

3 MRS. SWAFFORD: What did I
4 hear you say about each migrant worker had 13
5 dependents? Did you mean 13 children?

6 DR. MARTIN: Well, in...a
7 very typical...there are previous studies and in
8 one of the previous studies the assumption was that
9 each migrant household had two migrant workers and
10 each migrant worker had 6.65 dependents. So, what
11 that meant is that that study was assuming that
12 there were two migrant workers in a family and 6.65
13 and 6.65 is about 13...a little over 13 dependents.

14 MR. MENDEZ: Is that the
15 Lillesand Study?

16 DR. MARTIN: That's the
17 assumption Lillesand used in several...I think 19
18 states.

19 MRS. SWAFFORD: Wouldn't
20 that be...

21 DR. MARTIN: Or, not 19
22 states, it was several states. I'm not sure how
23 many states.

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1 MRS. SWAFFORD: Wouldn't
2 that be grossly inaccurate?

3 DR. MARTIN: Well, there is
4 some discussion as to why he used that number. He
5 got that number from the Texas Governor's Office,
6 as I recall, and there wasn't...well, in looking at
7 past studies, most past studies did not report
8 migrant workers and dependents separately. They
9 lumped them together and just reported one number
10 for each state. When you start disentangling that,
11 it turns out that in most of those studies, between
12 70 and 80 percent of all the people considered
13 migrants in any state are, in fact, dependents.

14 So the critical number in any past migrant
15 study is not how many workers there are, but how
16 many dependents there are and I found most of the
17 dependent assumptions to be much higher than what I
18 would say are supportable based on the empirical
19 studies that I'm familiar with.

20 DR. POLE: Let me add here
21 that it's important to understand that our
22 estimates are of workers. We have not, at this
23 point at least, made any estimate of dependents.

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1 Our estimates are just numbers. We opted out of
2 the game of guessing how many dependents might be
3 in the household.

4 MRS. SWAFFORD: Well, I just
5 don't have any scientific basis at all. It just
6 seems to be grossly ridiculous to think that there
7 are 13 children in a household.

8 DR. MARTIN: I do think that
9 that particular assumption is too high.

10 MRS. SWAFFORD: I mean,
11 that's just so outrageous that it just casts
12 question upon any study that would make that claim,
13 would it not?

14 DR. MARTIN: Well, one of
15 things that's...that is true of the past studies is
16 that they never actually make clear what their
17 assumptions are. See, the way one gets around that
18 is you never talk about families per se. What you
19 do is you talk about households and you say, for
20 example, there are...you can say there are three
21 migrant workers per household and each migrant
22 worker has, let's say, four dependents. Okay.

23 So, that's giving you 12 dependents and three

1 workers per household. If you added that up, that
2 would be 15. Several studies did it that way. So
3 you never actually got...you have to calculate out
4 that there's 15 per household because it's
5 presented in terms of dependents per worker and, I
6 mean, it's not just the Lillesand Study. There
7 were other studies that did exactly the same thing.

8 But I thought in general, the surprise to me
9 was that dependents were 80 percent of the
10 population. All that was published was the
11 population. If it was 1.5 million or one million
12 or whatever, the only thing that was published was
13 the population. Never a breakout between workers
14 and dependents.

15 And yet, when you started going through it, it
16 turned out that most people in those numbers were
17 dependents and it was based on those kind of
18 assumptions.

19 MR. UDDO: Any other
20 question, Mrs. Swafford?

21 MRS. SWAFFORD: No, no.

22 MR. UDDO: Mrs. Benavidez?
23 Mrs. Miller?

1 MRS. BENAVIDEZ: No.

2 MR. MENDEZ: Okay, Mr.

3 Mendez.

4 MR. MENDEZ: All right, if we
5 assume that, just on the conservative side, can we
6 assume that 20 percent of the population is over
7 the poverty line? That would be...because
8 California you said was 24 and the national average
9 was 23 percent. Is that a fair statement?

10 DR. MARTIN: Yes. I think
11 it's...the national data says 24 percent and
12 California is 23 percent, yes.

13 MR. MENDEZ: Okay, yes.

14 DR. POLE: However, we're
15 still...there's a lot of analysis ongoing on that
16 particular...

17 MR. MENDEZ: That's fine.
18 To be conservative, though, if we just said 20,
19 would you feel comfortable if we said that?

20 DR. MARTIN: Based on the
21 California data, 20 percent of the people earned
22 over what would be 125 percent of the poverty line.

23 DR. POLE: I guess whether

1 that turns out to be conservative or not, depends
2 on what some of the other numbers showed.

3 MR. MENDEZ: Okay. Now, in
4 the little summary we have, it says 1.1 million
5 migrants, is that correct or is it one million?

6 DR. MARTIN: Well, if we
7 take out...we're taking out now, the lawn and
8 garden services, et cetera. That comes down to one
9 million. That was a mistake. That was what I was
10 saying was a mistake. 996,000.

11 MR. MENDEZ: All right.
12 Now, your definition is overnight in another
13 county. Is that a fair statement?

14 DR. MARTIN: Yes. Actually
15 though...well, let me back up and say our
16 definition is a farm job outside the base county of
17 a worker. In the unemployment insurance data one
18 cannot tell if a person stayed overnight or not.

19 DR. POLE: And you can't
20 determine what their place of residence was. All
21 you know is where they work, that they worked in
22 two different places.

23 MR. MENDEZ: Can you make a

1 determination about whether somebody works, let's
2 say four weeks or a month as a migrant and works
3 the other eleven months or does something else for
4 the other eleven months, in your data? Do you have
5 that or can you make that?

6 DR. MARTIN: I have...for
7 California I can determine that.

8 DR. POLE: In the other
9 states we can't, because...well, California is the
10 only...the way the data is structured in California
11 is different than the way it's structured...

12 MR. MENDEZ: I would
13 definitely like to have that, because it seems to
14 me if you spend eleven months a year as a non-
15 migrant, that they ought to be...the local programs
16 ought to be the ones that were handling that or
17 could well handle that aspect.

18 DR. POLE: I think you need
19 to bear in mind that we're not in a position to say
20 where a person is from and where they're going to.
21 All we can say is events happen in places and...

22 MR. MENDEZ: I understand
23 that. But what I want...could you give us an

1 approximation of approximately how many people
2 would have worked four weeks or less as a migrant?

3 DR. POLE: Based on an
4 assumption as to where their home base is.

5 DR. MARTIN: Well...

6 MR. MENDEZ: Can you give
7 that for California?

8 DR. MARTIN: Yes, let me say
9 the best way to think of farm workers in almost all
10 the data that I'm familiar with, is to think of
11 them as bi-mobile. That is a percentage who work
12 almost year round and earn, in some cases,
13 above...in most cases...above poverty level incomes
14 and then, in that same 20, 23 percent, somewhere in
15 that range, and then a huge number of people who
16 work very little in agriculture and often very
17 little at all, and have very low earnings, that's
18 sometimes 30, 40, 50 percent, depending on exactly
19 what definition, so that at that bottom of the
20 labor market, that low earning, there's a lot of
21 people churning through.

22 I can give you an example of this. In the
23 last careful study done in this way...it was in

1 1965 in California at the conclusion of the Brasero
2 Program...they found that one-third of all the
3 workers earned less than \$100 total in 1965. Less
4 than \$100 total in 1965. And they had a way of
5 tracking people through their Social Security
6 numbers and they went and looked for them in 1966.
7 They could not find them. They said, who is this
8 one-third of the people who had one farm job in
9 1965, did not show up in farm jobs or non-farm jobs
10 in 1966? They just dropped out of sight,
11 somewhere. And so they were excluded from the
12 analysis.

13 My preliminary look at the data in 1984 showed
14 the same kind of pattern. An awful lot of people
15 show up with very little earnings and very little
16 farming. In other words, I think it's something
17 like...and I don't have the data in front of
18 me...but it's about a third of the people and they
19 averaged three weeks of work total and of that, two
20 and a half weeks was farming.

21 Now, I don't have the ability to track them by
22 Social Security number and see if they show up in
23 1985. I mean, I imagine I could, but this is

1 tax...confidentiality prevents some of that, but
2 looking at what was done in 1965 and seeing the
3 gross parameter as being very similar at that
4 bottom, as it were, end of the labor market, there
5 are an awful lot of people who seem to cycle
6 through.

7 To give you another example, we did some work
8 with the farm labor contractor who never had more
9 than 400 people on his payroll during the year. I
10 guess that was 1985. He issued 5,000 W2
11 statements, many of which were for under \$50.

12 Each of those W2 statements is technically, by
13 all the definitions, a farm worker and, if that
14 person is based in Los Angeles or crosses the
15 county line, they're a migrant farm worker. And it
16 generates a lot of numbers.

17 I can't say that that's typical of all these
18 people, but clearly there is a big group who have
19 relatively few weeks and relatively little
20 earnings.

21 MR. MENDEZ: Well, could you
22 get us...in a table that you would feel comfortable
23 with...a number for, let's say, less than four

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1 weeks. A percentage that worked less than four
2 weeks?

3 DR. MARTIN: I can do
4 distributions by week's work and also by earnings.

5 MR. MENDEZ: I would like to
6 see that for, let's say, four weeks and eight
7 weeks.

8 DR. POLE: Let me say,
9 however, that that information will have to be
10 based on a very small number of states in that
11 general...

12 MR. MENDEZ: Well, I
13 recognize that, but if you have...for instance, if
14 you take California and it has one-fourth of all of
15 the migrants, and I assume that he's talking about
16 California, doing it out of California, that's a
17 pretty valid sample.

18 DR. POLE: Well, we're doing
19 validation in five states. California, Idaho,
20 Washington, South Carolina and Iowa. And
21 basically, we can produce data like that for those
22 five states and then generalized figures for the
23 rest.

1 MR. MENDEZ: All right. So,
2 you would have...correct me if I'm wrong...that
3 would be about 40 percent, between 35 and 40
4 percent of the total migrant population?

5 DR. MARTIN: Yes, it's about
6 five...yes, that would make it about 35 percent.
7 Some of the other states may be smaller.

8 DR. POLE: State's that
9 represent that much, but we're also then talking
10 about very small samples of the workers...

11 MR. MENDEZ: Oh, I
12 understand that. Let's take California, for
13 example. In California, do you have certain
14 sections of the state where there are more migrants
15 than others or is that a broad base or can you
16 segregate that out?

17 Let me give you the reason for the analysis
18 that I'm interested in. If we fund one program in
19 a certain part of the state, will it touch enough
20 people or would it be wiser for us to fund more
21 programs in various parts of the state if it's a
22 broad base...if the migrants are in all portions of
23 the state?

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1 DR. MARTIN: Well, I think
2 it's fair to say the migrancy is concentrated. I
3 have tables...or I can produce tables...which show
4 how many people are based in each county of the
5 state and in which other counties they worked in,
6 did farm work in, so that that kind of data is
7 available.

8 MR. MENDEZ: Let me ask you
9 a question. You could do that for California,
10 could you do that for Florida?

11 DR. MARTIN: No, the
12 difficulty one gets into is that...I mean, this is
13 essentially the crux of it, is that the
14 unemployment insurance data approximates a census
15 of all people who do farm work.

16 The problem is, outside of California there is
17 not universal coverage of farm labor in any major
18 state. Texas, I think is bringing in more
19 universal coverages, but other states, only workers
20 employed on large farms are covered by unemployment
21 insurance.

22 So it then becomes a selective census as
23 opposed to a complete census.

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1 DR. POLE: Well,
2 furthermore, for this study we had a gratuitous
3 availability of a comprehensive unemployment
4 insurance tape from California which we don't have
5 for the other states. In the other states where
6 we're doing validation work we're using some
7 research data tapes prepared service that do not
8 contain nearly the quantity of detail as the
9 California tape does.

10 MR. MENDEZ: All right, one
11 other area that I want to talk about. How easy is
12 this going to be? One of your charges was so that
13 we can update this fairly easily. Is that going to
14 be possible.

15 DR. MARTIN: Well, remember,
16 there are two postives. One is a formula which
17 says, how is migrant farm worker activity
18 distributed across states? That stands...all we're
19 doing is we're saying if we had done a normal study
20 we would have just adjusted that data and that's
21 it. That's your normal study. We would have said
22 this is our best guess of how to adjust data
23 sources and come up with...I mean, we could have

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1 converted that to a number, which is what a lot of
2 people do.

3 We didn't do that. We said, we're going to
4 first distribute migrant activity. Then we're
5 going to see if the percentage that we assign to
6 states appear reasonable when we try to actually go
7 out and enumerate farm workers through these
8 unemployment insurance systems in selected states.

9 Once the formula is shown to be reasonable,
10 which we think it is now, you don't have to go back
11 and count migrants unless you want to count them
12 for some other purpose. All you have to do is
13 update the distribution formula. Okay?

14 So that when we talk about updating the
15 formula, all it's doing is updating that
16 distribution of activity across states.

17 MR. MENDEZ: I don't have
18 any other questions. Thank you, very much.

19 MR. UDDO: Mrs. Bernstein,
20 did you have any questions?

21 MRS. BERNSTEIN: No, thank
22 you.

23 MR. UDDO: Okay.

1 MR. MENDEZ: Tom has some.

2 MR. UDDO: Tom, do you have
3 questions?

4 MR. SMEGAL: A curious
5 question. How many migrant farm workers do you
6 have in San Francisco County?

7 DR. MARTIN: I don't think
8 there are any in San Francisco County.

9 MR. SMEGAL: We shouldn't
10 put a program there then, probably.

11 DR. MARTIN: There is some
12 who are based in Los Angeles County, but I don't
13 think there are any...

14 MR. SMEGAL: That's a
15 different state.

16 DR. MARTIN: I don't think
17 there are any based in San Francisco.

18 MR. SMEGAL: All right.

19 DR. POLE: However, your
20 question makes a very good point because you see
21 one of the peculiarities of the technical
22 definition of migrant is...this is one of Phil's
23 favorite anecdotes and I'm surprised he didn't tell

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1 it...if somebody who lives in San Francisco and he
2 is a dishwasher there and decides to go to the
3 Salinas Valley for a few weeks and cut lettuce,
4 does that, they're a migrant because they have left
5 home overnight to do agricultural work.

6 Somebody who lives in the Salinas Valley who
7 cuts lettuce for a living and decides to go to
8 San Francisco for a few weeks during the off season
9 and wash dishes, they're not a migrant because they
10 have not left home overnight to do farm work.

11 MR. UDDO: Thank you
12 Gentlemen, very much. This is a very comprehensive
13 study and it's going to take, I think, quite a bit
14 of review by the members of the Committee before we
15 can finally make a recommendation to the Board and
16 it will be considered again.

17 Do you have a time frame on your final report?

18 DR. MARTIN: Yes. We'll get
19 the final in by the end of March.

20 MR. UDDO: By the end of
21 March.

22 DR. MARTIN: It's not due
23 until the end of June, so we're a little...

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1 MR. UDDO: Okay, I'm just
2 trying to...

3 MR. MENDEZ: Can I impose on
4 you to have it in by, let's say, the 20th of March?

5 DR. POLE: Unfortunately,
6 we're dealing here with an unpredictable
7 phenomenon, namely the computer and...

8 DR. MARTIN: It will be as
9 soon as possible.

10 MR. MENDEZ: My preference,
11 I would like to have it five days before my mark up
12 so that I have a chance to review it.

13 DR. POLE: We will certainly
14 try our best.

15 MR. UDDO: Thank you,
16 Gentlemen, very much.

17 There was no indication of anyone in the
18 public who wanted to comment and, of course, that
19 there will be comments on the report as it is
20 circulated, and I would ask you to try to be as
21 prompt with that as you can and, as I have on all
22 the other reports, ask you, any comments that you
23 submit to the Corporation you also circulate to all

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1 he Board members so that they receive it just as
2 quickly as possible.

3 No other items appearing on the agenda, I
4 would entertain a motion to adjourn. Nobody wants
5 to leave?

6 MRS. BENAVIDEZ: So moved.

7 MRS. MILLER: I second it.

8 MR. UDDO: All those in
9 favor of adjourning say Aye.

10 (Chorus of Ayes.)

11 MR. UDDO: Opposed? We
12 stand adjourned and thank you all very much.

13 (WHEREUPON, the proceedings were concluded at 12:00
14 p.m.)

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C A P T I O N

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The foregoing Committee Meeting came on, on the date, and at the time and place set out on the title page hereof.

It was requested that the hearing be taken by the reporter and that same be reduced to typewritten form.

C E R T I F I C A T E

STATE OF VIRGINIA:

AT LARGE:

I, Sandra A. Moser, Notary Public for the State of Virginia At Large, do hereby certify that the foregoing was reported by stenographic and mechanical means, which matter was held on the date and at the time and place set out on the title page hereof, and that the foregoing constitutes a true and accurate transcript of same.

I further certify that I am not related to any of the parties, nor am I an employee of or related to any of the attorneys representing the parties, and I have no financial interest in the outcome of this matter.

GIVEN under my hand and seal this 4th day of February, 1987.

My Commission Expires:

December 3, 1989

Sandra A. Moser
Notary Public

