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LEGAL SERVICES CORPORATION
COMMITTEE ON AUDIT AND APPROPRIATIONS

June 27, 1985
9:00 A.M.

The Westin Hotel
Renaissance Center
Kent Room
Detroit, Michigan 48243

1 Detroit, Michigan

2 Thursday, June 27, 1985

3 Westin Hotel - Kent Room

4 9:00 a.m.

5 Committee on Audits and Appropriations

6 CHAIRMAN MENDEZ: I will call the
7 Committee on Appropriations and Audits to order.

8 Let the record reflect that Mr. Durant
9 and Mr. Wallace, Mr. Smegal, Ms. Benavidez are
10 here from the Committee and Mr. Uddo and Ms. Miller
11 and Mrs. Swafford as well.

12 CHAIRMAN MENDEZ: I would ask Ms.
13 Benavidez if she would make a motion to approve the
14 agenda.

15 MS. BENAVIDEZ: I do.

16 CHAIRMAN MENDEZ: Mr. Wallace.

17 MR. WALLACE: I second that.

18 CHAIRMAN MENDEZ: Any discussion?
19 Hearing none, the agenda is approved.

20 The second matter for discussion is the
21 approval of the draft minutes.

22 Is there any discussion concerning the
23 draft minutes? There are a couple of typo errors.
24 I hate to tell you gentleman, on page 5, the fifth
25 line down is "proposal" and not "por" the third

1 paragraph "Chairman Mendez then."

2 Mr. Smegal, we had a conversation
3 earlier you said you read everything with a fine
4 tooth comb.

5 MR. SMEGAL: I stopped correcting typos
6 three months ago. I have never been able to figure
7 out how to spell your name.

8 CHAIRMAN MENDEZ: Do you have any
9 corrections that you wish to make in the minutes?

10 MR. SMEGAL: Let me look. I have to
11 compliment the Chairman. This is the shortest set
12 of Minutes of any of those we have had. I
13 appreciate they are not 25 pages long. They seem
14 to be accurate, and I have no corrections.

15 CHAIRMAN MENDEZ: Mr. Smegal doesn't
16 have any questions. Ms. Benavidez do you have any
17 comments about the minutes?

18 MS. BENAVIDEZ: No.

19 CHAIRMAN MENDEZ: Mr. Durant?

20 MR. DURANT: No comments.

21 CHAIRMAN MENDEZ: Do you have any
22 comments?

23 MR. SMEGAL: No.

24 CHAIRMAN MENDEZ: Hearing no
25 corrections, the minutes are approved as presented.

1 First on our substantive portion of the
2 agenda is the consideration of the selection of an
3 auditor. And we have Mr. White here with that.
4 For the Board's review and I assume that the public
5 has it, there is a memo of June 12 from Mr. White
6 concerning the appointment of the Corporation's
7 independent accountants. Mr. White.

8 MR. WHITE: Before you is the Staff's
9 recommendation that Peat, Marwick, Mitchell &
10 Company be appointed as the Corporation's
11 independent accountants to audit it's books for FY
12 9-6-85. The narrative included in the Committee
13 book pretty much presents the Staff's
14 recommendation and some of the brief history on the
15 process. I would be more than happy to answer any
16 questions that you may have concerning the
17 recommendation.

18 CHAIRMAN MENDEZ: You said Peat, Marwick
19 indicated that his fee was \$19,500. Is that a firm
20 bid?

21 MR. WHITE: Yes, it is.

22 CHAIRMAN MENDEZ: Is there any
23 discussion?

24 MR. SMEGAL: Is this a review or an
25 actual audit?

1 MR. WHITE: This is actual audit, yes.

2 MR. SMEGAL: Seems very reasonable.

3 CHAIRMAN MENDEZ: Do I hear a motion?

4 MR. SMEGAL: I move that we accept the
5 Staff recommendation that Peat, Marwick be retained
6 to conduct the audit for the year ending September
7 30, 1985.

8 CHAIRMAN MENDEZ: Do I hear a second
9 from Mr. Durant?

10 MR. DURANT: Yes, second.

11 CHAIRMAN MENDEZ: Any further
12 discussion? Not hearing any, all in favor say I.
13 All opposed. Not hearing any, pass.

14 Thank you very much.

15 I hope all of them go that fast.
16 Allocation Formula for Fiscal Year 1986. And at
17 this time I would recognize Mr. Thimell.

18 MR. THIMELL: My name is Joel Thimell, T
19 h i m e l l, with the Legal Services Corporation
20 Executive Office. At the last meeting the
21 Committee directed the staff to prepare a new
22 funding formula for consideration at this meeting
23 for the allocation of the 1986 Basic Field Grant.
24 I'd like to illustrate the formula which we have
25 prepared at the easle over here, if I may.

1 CHAIRMAN MENDEZ: Please.

2 MR. THIMELL: We have \$258 million set
3 aside for Basic Field 1986. The first thing that
4 this formula does is give all of the programs 100
5 percent of the 1985 grant. That's going to take
6 approximately \$247 million plus five percent of the
7 total here. You have \$11.3 million left to
8 allocate after the you have given all of the
9 programs 100 percent of their 1985 grant. It's
10 this portion here. This here.

11 The first step of the formula is, we
12 take half of this \$5.6 million to raise the lowest
13 funded programs from the about 7.8 up to \$8.13;
14 approximately 150 programs will all be brought up
15 this first half, \$5.6 million.

16 Second step is to take one third of this
17 pie, \$37.8 million. And that would give all of the
18 programs the cost of living increase with the
19 exception of the 7 programs that are over \$13.57.
20 All of the rest would then receive another increase
21 which would raise further to 8.5 All of the
22 remaining programs.

23 CHAIRMAN MENDEZ: 8.25?

24 MR. THIMELL: All of the other programs
25 will be 12 or 13 of the cost of living increase.

1 Final one-sixth, less than one percent of this
2 total, \$258 million, \$1.9 million would be set
3 aside to reward those most productive programs
4 according to three criterion which we have
5 developed to rank the program at this time. We
6 selected the three areas which we felt were
7 reflective of broad areas, broad cases that the
8 program would take.

9 The first criterion is the number of
10 cases that the program litigated per \$10,000 of the
11 funds in 1984. That's step one. All of the
12 programs are ranked in order; 284 is the highest
13 and number 1 is the lowest.

14 Second measure is all of these simple
15 cases which do not require litigation. Same way,
16 284 is the high score, 1 is the lowest. Simple
17 cases. And the final criterion we selected was to
18 for prosecuted cases closed at \$10,000 and again
19 284 is the high and 1 is the low. The scores
20 combined, the high total would have been about 870
21 and the low would be 3. The program could then
22 rank top to bottom on this.

23 Based upon these rankings we felt two
24 options for highly skilled. \$1.9 million. We can
25 either take the top one-quarter program, the 71

1 program and divide it amongst them on a per capita
2 basis which would give an average of high grant of
3 \$70,000 the largest program in that category, and
4 about \$2,000 to a very small program with less \$40
5 thousand funding.

6 The second option you can take it down
7 to the top third and you can rank the top 95
8 programs and give them all a share of this \$1.9
9 million.

10 Now we think the criterion are fairly
11 significant. If you will look in your books at the
12 rankings and the table I have prepared, you will
13 find a substantial difference between each of these
14 quarters. The programs in the top quarter were
15 handling roughly ten times as many cases as those
16 in the bottom quarter for ten thousand of their
17 funding in each of these categories and
18 approximately twice that in the second quarter. We
19 think we found some significant differences and
20 that's why we would support this formula for the
21 first time which puts the Corporation in the
22 position of actually rewarding programs that have
23 done superior work on behalf of their clients and
24 serve substantially more than the average. And we
25 think that's very important. I'd be happy to take

1 any questions.

2 CHAIRMAN MENDEZ: Mr. Uddo, do you have
3 any questions?

4 MR. UDDO: I'm not on the Committee.

5 CHAIRMAN MENDEZ: I'll accept the
6 question.

7 MR. UDDO: I do have a couple of
8 questions.

9 You're not taking anything other than
10 case closures into consideration here, basically?

11 MR. THIMELL: That's correct.

12 MR. UDDO: What protection is there
13 against case closures becoming the sole criterion
14 without any eye toward quality of these services?

15 MR. THIMELL: Well, I think that quality is very
16 important here and I'm not sure that you can
17 measure quality certainly on a number of case
18 closures, but I think it's important to comment on
19 it. We have heard a lot of testimony about the
20 number of clients that are unable to be served by
21 the program, given our limited resources, and I
22 think it's significant that the programs are trying
23 to maximize the numbers that are served. I think
24 that's an important part of it and if we -- we all
25 could spend an infinite amount of time on the task

1 we do and I think one thing we have learned is we
2 have to learn the juggle those resources to best
3 serve those things that we are trying to
4 accomplish. And I think that the programs that are
5 serving, these programs at the top, have learned
6 how to keep their priorities balanced and they are
7 able to offer more services, and I think that's a
8 very important part of the quality.

9 MR. UDDO: You don't know that they are
10 quality services. You're assuming they are. Do
11 you have any basis for saying the programs that
12 closed the most cases are also offering high
13 quality services?

14 MR. THIMELL: Well, we did run a
15 comparison with the rankings with complaints we
16 have received in the Office of Compliance and
17 Review just to see if there's any kind of
18 correlation. Now one very interesting thing, the
19 programs at the top received considerably less
20 complaints than those at a bottom. The ones in the
21 top quarter received less than one-third complaints
22 on the average than the ones on the bottom did. I
23 don't think that's an absolute indicator, but it
24 was substantial. There were only three programs in
25 the top quarter that had three complaints, and

1 there were 22 programs in the bottom quarter with
2 over that number of complaints. I think it sort of
3 bears that out that we have less complaints from
4 the client, we have less complaints from the
5 communities about these programs. I think it's
6 because the quality is there as well as the
7 quantity. We are turning away fewer people.

8 MR. WALLACE: If I may interrupt. What
9 do you classify as a complaint? Are these
10 complaints that have been investigated and proven
11 to have merit, or are they just any complaint
12 whatsoever?

13 MR. THIMELL: These are all complaints,
14 and I would not attempt to come in here -- that's
15 why I count the forth criterion. That's why it's
16 not ranked on that basis. I'm saying look at it in
17 a rough sort of way as a measure of the concerns
18 of the community. It's not a sure thing. There
19 are program on the bottom that didn't receive any
20 complaints, there and some on the top that did.
21 And it may be legitimate and it may be people who
22 are poking their noses around. But I think the
23 faculty distribution followed that pattern. You
24 have got an awful lot of complaints. You have
25 either got some frictions that need to be worked

1 out or somebody that's not satisfied.

2 MR. UDDO: Is there consensus stating
3 the complaint mechanism among the programs?

4 MR. THIMELL: As I understand it, we
5 don't use the standard complaint form or procedure
6 that the number of complaints. The intensity of
7 the complaints might reflect the program. That's
8 just more sophisticated in giving the clients a
9 chance to complain.

10 CHAIRMAN MENDEZ: Now before we touch on
11 that, there's two types of complaints. One is the
12 complaint that comes to your office nationally and
13 the second is the complaint that goes to the local
14 office?

15 MR. THIMELL: That's correct. These are
16 complaints that come into our Office of Compliance
17 Review in Washington, not necessarily the local
18 programs you see at their level.

19 CHAIRMAN MENDEZ: With regard to the
20 National Compliance, those are reasonably
21 standardized in form?

22 MR. THIMELL: Yes they're reasonably
23 standardized.

24 CHAIRMAN MENDEZ: With regard to the
25 local program, those are not standards?

1 MR. THIMELL: There's a regulation that
2 they have a procedure, but the procedures vary from
3 program to program and there's no requirement that
4 that goes before any fashion, uniform fashion of
5 the Corporation for any kind of resolution.
6 They're technically handled by the local board.

7 MR. UDDO: How do complaints get to the
8 National office?

9 MR. THIMELL: People who have a problem
10 will write. We have required programs to notify,
11 you know, that the Office of Compliance Review is
12 available to hear complaints. And the word has
13 basically spread from there. And there, you know,
14 it's self selection by the the people who chose to
15 complain.

16 MR. UDDO: We are talking about client's
17 complaints.

18 MR. THIMELL: They're not all client
19 complaints. They're also people in the community
20 who have a problem with the program and feel that
21 the program is not within the balance of the law.
22 I don't think this is the number one measure of
23 quality hear. I don't mean to imply that. I just
24 saw this as a means to cross check whether or not
25 this fit in.

1 MR. UDDO: I understand that, but I
2 guess what I'm trying to get at is are there other
3 things that should be taken into consideration; and
4 what you told me about where the complaints come
5 from give me a little bit of concern too, because
6 included in those complaints will be the complaints
7 of disgruntled, defendants, of people who lost
8 because the legal services office might have done a
9 good job.

10 Now the client may be well satisfied it
11 may have been a good job. And if the defendant is
12 disgruntled the defendant would complain. So it
13 may be you're getting more complaints from a
14 program that does the best job.

15 MR. UDDO: Let me ask you -- I thought
16 we were talking about client complaints. Let me
17 ask you one other question. Do you think something
18 like community education should be factored in.
19 For example a program that does a good job with
20 community education gets out in the community and
21 educates people on their rights and tells them of
22 alternative sources of resolving some of their
23 problems. If you have got a consumer complaint the
24 Attorney General's Office has an office.

25 In fact it reduces the number of cases

1 that they might have to handle, by doing a good job
2 of education. So their case closure rate might be
3 lower but their overall performance might be quite
4 good because poor people are getting educated and
5 protecting themselves and having less need for your
6 services.

7 MR. THIMELL: That's certainly a
8 possibility, and I think there were other criterion
9 which one could use. The problem is quantifying
10 that kind of community education, and I would feel
11 if you were going to allocate a substantial portion
12 of these fundings strictly on the basis of
13 performance, I might agree you would might want to
14 bring in another 5 or 6 factors and try to bring
15 those in if you're going to base the number of
16 those funds purely on that baseis. But we have
17 guaranteed everybody their '85 grant.

18 We have given the lowest funded program
19 a substantial increase and we have given everybody
20 a COLA, and then we simply say we are going to try
21 to help those programs that are most efficiently
22 serving their clients and give them some
23 recognition and a little bit of extra money so they
24 can continue to do that and handle these cases in
25 an efficient way. I don't have a problem. I'm

1 going to yield to Mr. Durant in a minute.

2 I agree with that and I think we are
3 probably moving in a direction that would be more
4 than 1 percent. My only concern is that we not
5 establish procedures which are counter-productive
6 and it seems to me that an efficient program that
7 uses community education, for example, very well
8 might look at this and say if case closures are
9 going to be the determining factor we had better
10 quit doing education and get more people to come in
11 here because that's how we are going to increase
12 our funding on the basis of this performance
13 standard.

14 I yield to Mr. Durant.

15 MR. DURANT: Mr. Thimell, in devising
16 the definition for your performance criteria, did
17 you have any contact or discussions with any
18 project directors?

19 MR. THIMELL: My discussions were
20 basically limited to those with Ted Roche. He has
21 made it very clear, as well as other field persons
22 that have spoken to this, that they would feel that
23 any kind of performance measures at this time are
24 not advisable, that quality is such an integral
25 thing that you can't quantify it and therefore

1 money should simply be distributed on the basis of
2 population. I think there's tremendous inequities
3 in population base formed. We see some programs
4 are getting double. I don't see this is going to
5 be any less equitable in any since.

6 MR. DURANT: I think while the quality
7 standards are somewhat difficult to quantify, it
8 does seem do me that if you -- in my limited
9 travels with some of the Project Directors, I have
10 talked to there is a definite desire to want to
11 have good quality and maybe by talking to more than
12 just one person who actually has hands on day to
13 day kind of experience, it would be possible to
14 develop criteria that would deal with quality that
15 is quantifiable rather than -- and I'm a little bit
16 uncomfortable because I think that I agree with Mr.
17 Wallace and Mr. Uddo, that you can't and I think
18 you will agree too, that complaints are not a
19 measure of performance criteria. It could be just
20 the opposite.

21 In other words because somebody did a
22 good job you're getting complaints. I have had
23 come complaints about my performance and anybody
24 who has been a lawyer in doing criminal defense
25 work is highly prone to getting complaints. In

1 fact Jim Drouillard, from the State Appellate
2 Defender's Office. I believe he's hear this
3 morning. And I have had cases where Jim has been
4 taken on appeal and prevailed on, but there are
5 still complaints filed. So that is a measure.

6 The other thing that I think is
7 important is I think it is important to talk with a
8 variety of project directors and staff attorneys
9 and those who are doing the work to seek assistance
10 in the end. The thing that we are trying to
11 achieve, how can we best reward programs that are
12 doing a good job, and I would feel more comfortable
13 in approving something that at least had that kind
14 of input rather than just, you know, from one
15 particular person. I know that that Ted Roche
16 happens to be a good friend, but he's only one
17 person and there are a variety of people in both
18 Washington and the Eastern quarter I think should
19 have and could have that valuable input. What
20 could be done in order to try and get that on this
21 criteria.

22 MR. THIMELL: I'm not sure. We invited
23 basically the entire field to comment, and their
24 suggestions. We sent out program notes to all of
25 the field programs.

1 MR. DURANT: On the questions?

2 MR. THIMELL: On these questions.

3 CHAIRMAN MENDEZ: You will recall at the
4 last meeting I invited comments from the field.

5 MR. DURANT: On how to determine --

6 MR. THIMELL: (Interposing) What should
7 go into performance criterion. Every program was
8 given that opportunity. I'm not sure how we can
9 get that kind of input after the Chairman has made
10 the request and after we have sent out a notice to
11 that effect.

12 MR. DURANT: I can suggest one method
13 with all due respect, is to pick up the telephone
14 and call Bob Rose in New Hampshire, Willie Cooke in
15 Washington, or other places, just to get the input.
16 I mean I think that would help in terms of trying
17 to define the criteria. I'm not saying there will
18 always be agreement, but I think that experience is
19 helpful in terms of trying to come up with -- Mr.
20 wall list. I will say this Mr. Chairman, in
21 defense of what is being done here I have had the
22 same with PAI, how to determine how whether or not
23 my private attorney is going to take good jobs, and
24 the numbers we come back with are closures. I was
25 aware, as anybody else, that case closures are not

1 a perfect measure. I have had a hard time getting
2 anybody to tell me a better measure than what PAI
3 is doing. As many reservations I have about this
4 formula all things being equal, it's better to
5 close more cases than fewer cases. If we haven't
6 got any way to measure all of the other things
7 maybe case closures are all we have got, it may be
8 better than nothing, and nothing is what we have
9 got now; and nothing is what, as far as I know, we
10 have had for a long time.

11 If we can come up with a better way to
12 figure in some of the complaints, to figure in some
13 of the other activities in the community, I'm all
14 for it. But I can understand Chairman Mendez'
15 problem in trying to come up with a formula,
16 because I have had the same problem with PAI.

17 CHAIRMAN MENDEZ: Mr. Durant, if we can
18 add some other factors in that we would add those
19 factors in. If they will come and tell us what
20 other factors they want included, we'll factor them
21 in. If we can get some good quantifiable numbers I
22 don't have any difficulty with that, but this is
23 the start, and if the Field wants to tell us what
24 other data they want us to collect for next year,
25 we will be happy to put that data out, and we'll be

1 happy to collect it and insure that we get the most
2 accurate top fourth and top third material.

3 I have a couple of questions for Mr.
4 Thimell, and I would like to advise the Board to
5 sort of work along with me. You have chart one on
6 page 13, I think.

7 Now this is for the top fourth quarter?

8 MR. THIMELL: That's correct.

9 CHAIRMAN MENDEZ: The first column is
10 basic '85 field and that's what the program would
11 be receiving again?

12 MR. THIMELL: That's correct.

13 CHAIRMAN MENDEZ: The Field's per capita
14 is how much they're receiving per capita?

15 MR. THIMELL: Right now.

16 CHAIRMAN MENDEZ: Right now.

17 MR. SMEGAL: Based on the '70 census?

18 CHAIRMAN MENDEZ: '80 census.

19 The funding step one is raising the
20 floor 50 percent. The per capita after step one
21 shows how much each one would get.

22 MR. THIMELL: Correct.

23 CHAIRMAN MENDEZ: Step two is the one
24 third per capita?

25 MR. THIMELL: That's correct.

1 MR. DURANT: Is the cost of equal per
2 capita share?

3 CHAIRMAN MENDEZ: All of this is per
4 capita share.

5 MR. SMEGAL: With the exception of those
6 above 1357 already.

7 CHAIRMAN MENDEZ: Right.

8 Then the ones I'm most interested in are
9 the top quarter funding, step three, and I would
10 invite the Board to examine that because when you
11 look at those numbers you see \$70,000, to Pine Tree
12 Legal Assistance and even with the \$70,000 increase
13 the per capita is \$8.75 and it's important to look
14 at that. Virtually all of these one-third of -- I
15 shouldn't say one-third. Virtually all of the
16 final funding are for the lowest fund programs, is
17 that a fair statement?

18 MR. THIMELL: That's pretty fair. Most
19 of those program are among the lowest funded.

20 CHAIRMAN MENDEZ: I don't want to quote
21 exactly, but I think there's less than ten that are
22 over \$10.00. That's about -- and one over \$13.57;
23 but that does offer them the opportunity to get a
24 share of this increase even if they are in an
25 especially productive program.

1 MR. SMEGAL: I mentioned it today. I
2 live in Alameda County, and I see they start off
3 with 11.22 and end up getting the highest amount of
4 \$61,000.

5 MR. THIMELL: Because they are a large
6 program.

7 CHAIRMAN MENDEZ: Large program and
8 large per capita basis.

9 MR. SMEGAL: On a percentage of their
10 total.

11 MR. THIMELL: They would all be getting
12 50 cents per capita. So if you're a million dollar
13 program you're getting more.

14 MR. SMEGAL: Once you're in the top 70
15 you get 50 cents per capita?

16 MR. THIMELL: That's correct.

17 CHAIRMAN MENDEZ: Does the Board
18 understand what we have done?

19 MR. WALLACE: We haven't done it yet.

20 MR. DURANT: Is there any reason in step
21 3 that the Legal Aid Society of Metropolitan Denver
22 gets the most?

23 CHAIRMAN MENDEZ: We have a very
24 effective Legal Aid Society in Metropolitan Denver.

25 MR. WALLACE: Let the record reflect I

1 have checked the Mississippi programs, and I don't
2 see us getting any money out of this.

3 Not every nest in the Committee is being
4 feathered.

5 CHAIRMAN MENDEZ: I can advise you that
6 Texas isn't being helped too much either.

7 In fact, well --

8 MR. SMEGAL: (Interposing) And step 3 is
9 the PR numbers. Is that how you get the step 3?
10 You qualify for the top 71?

11 MR. THIMELL: Case closures of litigated
12 case closures, and simple case closures. You have
13 to do well on all three if you don't have a good
14 score on any one so then you probably won't make
15 it.

16 I'd like to go through that criteria.
17 There's a bunch of material in one of our sections
18 that doesn't seem to be hear. There is a lot of
19 detail and some charts in maybe Bob's materials. I
20 have a bunch of --

21 I think you're referring to the PAI
22 charts. They're his committee and not really a
23 part of this formula. We did not use that
24 material.

25 MR. SMEGAL: Where is the back up for

1 page 31?

2 MR. THIMELL: Chart 3, page 33 through
3 38.

4 MR. WALLACE: And you have not broken it
5 into three separate charts for each ranking have
6 you? You have listed a -- this is a composite
7 ranking in chart 3, and you don't have a chart
8 listing PAI performance.

9 MR. THIMELL: Well, they have all three
10 on this chart. The ranking is on composite. We
11 did not -- initially. What I initially prepared
12 was one for each separate one and we felt it was
13 bulky.

14 CHAIRMAN MENDEZ: That's not exactly
15 true because you have arranged for PAI.

16 MR. THIMELL: You can find it. It's not
17 in order.

18 MR. WALLACE: If you don't want to know
19 the top ten.

20 MR. THIMELL: They're mostly in the top
21 ten as you will see.

22 MR. SMEGAL: Am I still on?

23 MR. WALLACE: I'm sorry.

24 MR. SMEGAL: What is a complex case? I
25 see the footnote here maybe, but an uncontested

1 dissolution that goes to a court decision. Would
2 that be a complex case?

3 MR. OSTERHAGE: Keith Osterhage, Manager
4 of Program Development and Substantive Support.

5 It's based on case closure codes and KSR
6 system used by the Corporation. Those closure
7 codes, we brought them in two categories, complex
8 and simple. Complex code would include Courts
9 decision closure codes, negotiated settlements with
10 litigation -- I think administrative agencies as
11 well. All other areas such as advise, surveys
12 negotiated without litigation we put in the simple
13 category. We divided our closure codes. We call
14 complex or simple.

15 MR. SMEGAL: An uncontested dissolution
16 is a complex case, is that what you're saying? You
17 get the Court decree.

18 MR. OSTERHAGE: The way the system is
19 currently structures, yes.

20 MR. SMEGAL: If it's a class action it's
21 a complex case also?

22 MR. DURANT: If there's no action filed.
23 In a potential class action it's simple. You don't
24 have protracted negotiations that still would --

25 MR. SMEGAL: But the key is whether the

1 litigation was filed in a code by way of the
2 litigation being dismissed.

3 MR. OSTERHAGE: Administrative agency
4 process that was formalized, yes.

5 MR. SMEGAL: So now I understand the
6 difference between complex and simple. By your
7 current criteria is total number of PAI cases for
8 ten thousand. You get that by adding one and two?

9 MR. OSTERHAGE: No, we are talking about
10 the cases completed by the field program. It's
11 only -- the PAI is only one-third of the criterion.

12 MR. OSTERHAGE: As you look other on the
13 chart --

14 MR. SMEGAL: All cases --

15 MR. OSTERHAGE: We have made PAI
16 one-third of the way, or one of the three criterion
17 in this formula.

18 MR. SMEGAL: Let's assume the entity
19 keeps track of phone calls and that these phone
20 calls were handled by either taking the matter and
21 referring it out. Where is that going to come? Is
22 that going to be number two here? That's a simple
23 case. You get a phone call, you keep track of that
24 phone call.

25 MR. OSTERHAGE: If they're counting it

1 as a PAI case --

2 MR. SMEGAL: What if it's something they
3 refer to another agency. They get a phone call and
4 keep track of those phone calls and they send it to
5 social Social Service Department, or something.
6 They don't refer it to a private attorney. Is that
7 a simple case?

8 MR. OSTERHAGE: It probably would be.
9 Some kind of involvement with a simple case where
10 they can send the client to a more appropriate
11 source.

12 MR. SMEGAL: So if one of our grant
13 recipients has a hot line they would have a case
14 closure each time they made a referral.

15 MR. OSTERHAGE: Depending on their
16 system. There's that possibility.

17 MR. SMEGAL: If they said they have
18 6,000 calls 6,800 which they referred they would
19 get 4,800 closures.

20 MR. THIMELL: We count them as closures.

21 MR. SMEGAL: If no one deems a grant

22 MR. OSTERHAGE: We are all quite aware
23 of staff that this is not a perfect system, but we
24 don't have more perfect information on which to
25 make a decision.

1 MR. DURANT: Did you talk to any of the
2 project directors?

3 MR. OSTERHAGE: When we were working on
4 this specific part of this segment in-house one
5 other thing had been on-going -- I wanted to jump
6 in earlier to address some of these questions.

7 On June 7 the Corporation came -- there
8 had been a discussion of improving or modifying the
9 Case Service Reports, the CSR system, and we had
10 pretested it last fall with six programs around the
11 country. On June 7 our office, and the Office of
12 Education and Management, advised us -- and we had
13 a very good discussion with those groups as to how
14 we could improve this CSR system, not necessarily
15 to adopt the one they tested, but what their
16 experience was.

17 Moreover, on Monday July 1, there will
18 be a meeting of the Corporation, of three regional
19 offices and six field programs around the country
20 and newly formed CSR advisory panel. The point of
21 this earlier meeting and advisory panel being
22 formed is to address the very question that you are
23 instinctively intuitively knowing here, that is the
24 imperfections in the system.

25 One of the things that was recommended

1 to us is by the pretest group when they were
2 distributing their recommendations, is that if we
3 are simply getting telephone calls and referring
4 them out we should give credit for it, but account
5 for it differently. Maybe we should have a count
6 for traditional case service and maybe we should a
7 count for the impact cases, maybe we should account
8 for those people we have had to reject; and as Mr.
9 Uddo suggested we should also make some allocation
10 of those community activities in terms of giving a
11 more complete picture and not lumping all things
12 together into one general CSR system.

13 MR. DURANT: Who was at the first
14 meeting?

15 MR. OSTERHAGE: I don't have the list.
16 I'll try and come up with a list for you.

17 MR. DURANT: Were you at the meeting?

18 MR. OSTERHAGE: Yes, I was. There were
19 6 programs from around the country.

20 MR. DURANT: The pretest --

21 MR. OSTERHAGE: They were the groups
22 that, based on their experience and what we had to
23 do, came up with a number of very positive
24 suggestions --

25 MR. DURANT: Would these be the advisory

1 Committee?

2 MR. OSTERHAGE: What we have done they
3 have participated in launching kind of a rigorous --
4 and their input -- we have taken and made a written
5 report, we have passed it out to pretest sites and
6 we have encouraged them to attach any admendments
7 they would have. We have forwarded the original
8 report to the new CSR advisory panel.

9 MR. DURANT: How long will it take you
10 to let me know who was at the first meeting?

11 MR. OSTERHAGE: I could check my
12 records. We expanded the Advisory Panel to a new
13 group because we wanted to expand, and we have let
14 the pretest group you know, comments are welcome.
15 We gave them a list We are not going to improve
16 that system unless we get that kind of input.

17 MR. DURANT: Before the end of the day
18 I'd like the list.

19 MR. OSTERHAGE: I just want to stress we
20 are trying to work toward a more improved system
21 to be more fair. Based dollars on the data we have
22 today we feel this is relatively fair and
23 relatively accurate based on the data we presently
24 have.

25 MR. SMEGAL: I would continue

1 encouraging you to continue that. I think what you
2 have in mind here and the progress you're making is
3 excellent. I have trouble with respect to these
4 numbers. They are somewhat meaningless, depending
5 on whether we are counting apples or oranges or
6 whether we are talking anything. When we get to
7 Mr. Wallace later may have some questions. The
8 figures can be made to be helpful, but I think in
9 this particular instance Mr. Mendez, we have
10 numbers that aren't helpful. But I'm encouraged by
11 the fact that Keith and the people responsible are
12 going to get us numbers that are significant in the
13 future.

14 MR. OSTERHAGE: We will also be
15 forwarding to you the Pretest Meeting report. Any
16 comments from the participants as well as future
17 meetings of the advisory panel.

18 CHAIRMAN MENDEZ: The portion I want to
19 encourage you to work on is the complaint portion.
20 I would really like to have a standardized
21 complaint portion. I would not only like to
22 examine the complaints that are filed nationally,
23 but I want to examine the complaints filed. I want
24 to have some sort of standardized documents for all
25 of these complaints.

1 MR. SMEGAL: Is there not a form? I'm
2 recalling now from working for the Bar Association
3 in San Francisco and it seems that have every time
4 that a client was referred to me that client got a
5 letter from the Bar Association and a form to fill
6 out as how I represented the person which was then
7 sent back to the Bar Association.

8 MR. OSTERHAGE: It varies from program
9 to program. Local programs have their own option
10 as to how they gather clients satisfactorily. Some
11 are very rigorous, other programs use a variety of
12 methods, some programs be may be --

13 MR. SMEGAL: (Interposing) This is a
14 pretty simple form.

15 CHAIRMAN MENDEZ: Let me just follow
16 this up.

17 CHAIRMAN MENDEZ: Would you agree that
18 we should have a national standards?

19 MR. SMEGAL: It sounds like a good idea,
20 and I suggest that if Tanya Yeaman hs not shown you
21 her form, or the form that --

22 CHAIRMAN MENDEZ: Carl Wright (ph) has
23 something as well.

24 MR. OSTERHAGE: This is an aside -- we
25 have come before the Board asking for your support.

1 All of those clients have the option. They're not
2 required of course, but we have used the input from
3 them. It's ten questions true-false and check the
4 box. And anyone who wanted to respond could
5 respond because we have always felt that's
6 important. We have used the same form.

7 CHAIRMAN MENDEZ: Mr. Valois is next.
8 Bob.

9 MR. VALOIS: Terry Roche's letter is
10 dated June 18, and I got it yesterday or the day
11 before. And the memorandum that we are discussing,
12 which begins on page 31 is dated May 30, but was
13 revised on June 17. I'm trying to figure out
14 whether or not Terry had an opportunity to see a
15 May 30 version of what begins on page 31, before
16 writing this letter of June 18 do you know.

17 MR. THIMELL: No, I did not see the May
18 28 memo.

19 MR. VALOIS: You did not?

20 MR. THIMELL: No.

21 MR. VALOIS: So he didn't see the
22 specific recommendation.

23 MR. THIMELL: That's correct.

24 MR. DURANT: I have been talking about
25 it here, about some sort of National complaint

1 form. I would like to see a National performance
2 thing, but I would like to share -- see where we
3 are spending taxpayers' money. I would like to
4 know some of the good things. I would like to know
5 what programs of performance and when they have
6 served their clients well and gotten good results
7 or may not have gotten good results. But they have
8 worked hard to get results for the clients. So if
9 we are going to prepare information where things
10 went wrong I would like to know also where things
11 went right.

12 CHAIRMAN MENDEZ: I just wanted to make
13 sure that we balanced it.

14 MR. THIMELL: I agree totally, and in my
15 mind the whole matter of the formula is that we are
16 attempting to recognize those programs that are
17 doing a good job and say congratulations, and we
18 are rewarding that. And I agree I would be very
19 much in favor of some simple sort of form which all
20 clients would be given an opportunity to give
21 positive input on what their programs are doing,
22 and some negative input if they have something they
23 would like to see changed. I think that would be
24 very beneficial to the entire system.

25 MR. SMEGAL: I'm talking about the form

1 the Bar Association in San Francisco uses is a
2 performance form.

3 MR. OSTERHAGE: Client satisfaction
4 form. That's what I was referring to.

5 MR. DURANT: Who devised that form?

6 MR. SMEGAL: I have no idea.

7 CHAIRMAN MENDEZ: We have something in
8 Colorado.

9 MR. OSTERHAGE: We have an outreach and
10 far more people in the office and you can close
11 more cases. If we're going to look at it for at
12 least a year, the message is closing cases pays
13 off. And if you do it at the expense of something
14 else, the formula does not allow for the advantages
15 the something else might have. I think we ought to
16 have all of the information in something we're more
17 confident in. I don't think there's great
18 confidence in this particular approach, and I think
19 we are really being percipitous in taking this
20 approach when we should stick to some other formula
21 for a year and coming up with something we have a
22 lot more confidence in.

23 MR. UDDO: Let me suggest an area I
24 think is very good if you will, for finding out
25 about quality of a program. And I don't know of

1 this through a field program but through our law
2 clinic.

3 We get a lot of feedback from judges on
4 the quality of the performance of the students in
5 the law clinic as to whether they think it's high
6 quality or not. A lot of unsolicited, but if you
7 solicit it I think you would find that judges are
8 very perceptive and they will tell you that some
9 grantee's lawyers are more prepared than the
10 average lawyer that comes in. Less prepared. I
11 think you can get some fairly accurate readings on
12 quality from the judges. At least we do in the law
13 clinic and find it very helpful to know what judges
14 think.

15 MR. WALLACE: Mr. Chairman, I think we
16 ought to keep our eye on what we are doing. We
17 were not distributing a whole quarter million
18 dollars on the basis of this formula. I think this
19 formula is inexact, and if we were distributing the
20 whole bundle I would not support it. But what we
21 are doing is the first step of trying to get off of
22 stringing everybody along and trying to look for
23 some criteria to recognize excellence. We are
24 using less than \$2 million to do it. This isn't a
25 perfect measure, but it is a measure. You have

1 asked, as I had, for a better measure than case
2 closures and we have found one. This is what we
3 have got. It seems to me to be the best way to get
4 into the business of ranking our programs
5 comparatively once we have done something. If it
6 isn't something we are going to hear a lot of
7 recommendations from the field on how to do it
8 better. And I think the first step is let's do it
9 and let's use this less than \$2 million.

10 As I said before, all things being
11 equal, it's better to close more cases than fewer
12 cases. It's worth the \$2 million investment if
13 only as an advertisement for the field to tell us
14 what are the things that aren't equal and how we'll
15 measure it than next year we'll measure better and
16 maybe we'll use more than \$2 million. But the
17 first step you have asked for on this issue I think
18 you have come up with the best selection you can
19 under the circumstances. It's a small step, but a
20 necessary first step. And on that basis I intend
21 to support it.

22 MRS. BERNSTEIN: I apologize, and if this
23 is a repetition, tell me. My only concern, and I
24 agree exactly with what Mike said. I think we need
25 to move in this direction. My concern though, in

1 terms of utilizing this in the next year is, have
2 you given attention to getting an acceptance of
3 what is the case. Did you already answer that
4 question?

5 MR. OSTERHAGE: We know that is a
6 primary issue, but I don't think we have an answer
7 to the solution.

8 MR. BERNSTEIN: Between now and the time
9 the grants for next year would allow that, we have
10 an acceptable definition across the board as to
11 what constitutes a case so we are not measuring
12 apples and oranges. And I know the CSR data has
13 been moving toward getting an acceptance of this,
14 but I think the definition of what is a case will
15 be especially important if we are now giving a
16 carrot to programs for closing cases and that
17 inexactitude is not going to harm us, I don't
18 think, substantially this year for the reason that
19 Mike said because we are dealing across the board.
20 But if you give individuals too much incentive to
21 just close cases then you also give them an
22 incentive to diminish the definition of what is a
23 case, and I think it is very important for us to
24 deal with that before the next grant procedures.

25 CHAIRMAN MENDEZ: I think that in terms

1 of that you are coming to make sure you divide your
2 case up into a lot of different segments; telephone
3 calls, advise, various aspects.

4 MR. OSTERHAGE: That is the direction
5 that the pretest group is going in terms of
6 bringing up different components.

7 MRS. BERNSTEIN: I don't want to take too
8 much of your time, but my concern is that there are
9 obviously programs that work on the idea that you
10 have a referral to a private attorney. If they
11 only consider the case after it gets to the private
12 attorney then they are going to have fewer cases,
13 and I think we have got to devise some sort of
14 mechanism that doesn't punish any particular
15 delivery medium.

16 MR. OSTERHAGE: I'll make sure on Monday
17 for this conference, I'll be bringing your
18 concerns.

19 CHAIRMAN MENDEZ: All right, the
20 Chairman moves the adoption of the formula, the
21 overall formula including the criteria for giving
22 bonuses to the performance of the various
23 individuals, and that includes the 50 percent to
24 the bottom, the one third to COLA, and the
25 approximate 16 percent as contained in the

1 criteria. Does the Chariman hear a second?

2 MR. WALLACE: I'll second that, Mr.
3 Chairman.

4 CHAIRMAN MENDEZ: Any discussion?

5 MR. SMEGAL: I would like to make it
6 clear I'm going to vote against that motion, Mr.
7 Mendez, because while I feel the direction we are
8 going is a correct one and at a future date we'll
9 be able to do it appropriately, but I think the
10 information we are operating on at this time is
11 insufficient for us to make a judgment based on the
12 case closures. We have to make a judgment that
13 will allow us to distribute this \$1,900,000 in the
14 particular way you have indicated.

15 MR. DAHLSTROM: Are you going to take
16 discussion from the floor before you take a vote?

17 CHAIRMAN MENDEZ: We are going to take
18 discussion from the remainder of the Board, if
19 there is any.

20 MR. UDDO: I'm not a member of the
21 Committee at this time so I can't vote, but I urge
22 the Committee to vote against it because I agree
23 with Tom. I think it's a good idea and I think we
24 should refine it, but I don't think we should jump
25 into it using criteria as uncertain as this that

1 maybe to establish patterns we don't want to
2 establish. I think we are acting much too quickly.

3 MR. DURANT: Could you elaborate?

4 MR. UDDO: The one I mentioned before is
5 community education, and outreach and funnel more
6 people in the office so you can close more cases.
7 No matter what we say we are going to look at it
8 and refine it for a year. The message is closing
9 cases pays off and if you do it at the expense of
10 something else the formula doesn't allow for being
11 sensitive to the something else that's suffering.
12 I think we ought to have all of the information and
13 something we are more confident in. I don't sense
14 any great confidence in this particular approach
15 and I think we are really being percipitous in
16 taking this approach when we can stick to some
17 other formula for a year and spend a year coming up
18 with something we have a lot more confidence in.

19 CHAIRMAN MENDEZ: I'll take public
20 comments.

21
22 MR. DAHLSTROM: Mr. Mendez, members of
23 the Committee, my name is Eric Dahlstrom from Four
24 Rivers Legal Services in Arizona; also a member of
25 the Funding and Criteria Committee. Mr. Roche was

1 unable to be here, and myself and Pat McMahon would
2 like to address you from the Funding Criteria
3 Committee.

4 On the formula, unfortunately I think I
5 just saw the data and the information this morning.
6 I don't recall receiving anything in the program
7 notes requesting information or comments or input
8 on how to measure performance. I believe you have
9 all received Mr. Roche's --

10 CHAIRMAN MENDEZ: (Interposing) Let me
11 ask a question. Weren't you in Washington at the
12 last meeting?

13 MR. DAHLSTROM: No, but I did see an
14 announcement. There was a program note that this
15 Committee had asked the staff to develop some
16 recommendations concerning program performance.
17 That I saw, but I don't recall there was a request
18 no, sir. I'm just speaking from memory and I don't
19 have it. So, I may be wrong.

20 MRS. BERNSTEIN: Wasn't there a request
21 given to Terry?

22 MR. THIMELL: It was, but it was clearly
23 stated in the bottom of the program notes that the
24 Committee invited the field to comment on this
25 matter, and it would be taken up at the next

1 meeting.

2 MR. DAHLSTROM: I didn't see it. I
3 think the process required to make this decision
4 requires more sophistication and effort on behalf
5 of staff and field before this Board should make
6 that kind of shift in policy. But let me make a
7 couple of comments. It's tempting to get into the
8 irregularity of the data and the weakness of the
9 data, but I think by doing that we miss some more
10 fundamental issues.

11 I'm sure the staff has well versed you
12 in the questions that have been raised and concerns
13 that have been raised thus far about the
14 unreliability of the data. But the policy question
15 I think, is more important, and that is that the
16 message saying that more cases closed is what this
17 Board is concerned about, and I think you need to
18 reflect on whether or not that is really what
19 you're trying to send the message to the field. In
20 other words are you concerned -- is volume the
21 measurement that you feel is what performance and
22 what you're trying to achieve in the legal services
23 community. And I ask you only to reflect on what
24 you would do if you were referring a member of your
25 family, or a friend to a lawyer. How would you

1 evaluate that lawyer? And I suggest that probably
2 either on the bottom of the list, or not on the
3 list at all would be the number of cases closed per
4 dollar per fee whatever, in the firm that you were
5 considering. I can't ever remember thinking about
6 that criteria when I was refering a friend to the
7 lawyer.

8 MR. WALLACE: Don't you consider what
9 it's going to cost you?

10 MR. DAHLSTROM: No question about that.

11 MR. WALLACE: It's a smaller bill for
12 the client.

13 MR. DAHLSTROM: But most attorneys bill
14 on a dollar. If what you were looking at is the
15 cost of delivering an hour of legal service I think
16 there would be some merit to that. But you're not
17 looking at that. You're looking at volume. You're
18 saying that the collection lawyer is more
19 productive than the person that engages in tax
20 litigation or securities work, and that's simply
21 not a valid statement of what performance is.

22 Secondly, or thirdly, I think what it
23 does is -- let's look at the medical field for a
24 second. What you are telling the poor people in
25 this country by this information is that they are

1 entitled to ask for surgery but not brain surgery.

2 If you set up a case closing system in
3 the medical field and fund it based on that, your
4 incentive then is to open up a clinic that
5 generates medical services by doing, say blood
6 pressure tests, and they get so much per client
7 that comes through the door; and they will
8 determine that no poor people are entitled to brain
9 surgery because it simply -- it's uneconomical.

10 MR. WALLACE: We do that in medicine.
11 Poor people don't get heart transplants unless they
12 find somebody that wants to experiment. There are
13 a lot of things that Medicare just won't touch.

14 Now you have got -- with limited funds
15 you're also going to be directing those funds
16 towards things that you can do in volume and get a
17 scale and not for brain surgery. I'm not against
18 brain surgery if we can do it. But when you're
19 dealing with limited funds you want to deal with a
20 problem a lot of people have, not focus on problems
21 that a few people have.

22 MR. DAHLSTROM: My last point is who
23 makes that decision, but I want to make other
24 points with a comment Mr. Durant made, and that is
25 trying to get the legal system out of certain -- in

1 other words delawyerize some of the dispute
2 resolution processes in the community. A lot of
3 legal services programs have devoted significant
4 efforts to getting court systems to handle divorces
5 in a way that doesn't require lawyers, and I think
6 that's a benefit to the low income community, the
7 middle income community and everyone else. Lawyers
8 have generally not a real productive role to play
9 in a lot of divorce situations. So what do you do?

10 CHAIRMAN MENDEZ: I have got a couple of
11 questions. I think we understand your argument.
12 You're telling us essentially by your arguments
13 that the 50 percent floor is okay.

14 MR. DAHLSTROM: Pardon me?

15 CHAIRMAN MENDEZ: The first 50 percent
16 is the bottom according to you. All right. You're
17 not disputing that.

18 MR. DAHLSTROM: The CSR position that's
19 has been given those options proposed thus far --

20 MR. DURANT: Do you have any objection
21 to raising the floor. Using using 50 percent to
22 raise the floor of the lowest funded program?

23 MR. DAHLSTROM: I would have to look at
24 my notes. All I'm commenting on is the one
25 circumstances, the performance.

1 MR. UDDO: I think the one -- this is
2 what he is taking about. One third, one third, one
3 third.

4 MR. DAHLSTROM: Right.

5 CHAIRMAN MENDEZ: Okay. I have know
6 further questions. Are there any other questions?

7 MR. DAHLSTROM: I had one final comment,
8 if I could.

9 CHAIRMAN MENDEZ: Very briefly.

10 MR. DAHLSTROM: That finally I think
11 what -- and most importantly it may be what are you
12 telling the local Board of directors by this
13 message. In other words local Boards of Directors
14 largely lawyers volunteering their time in
15 nonprestigious positions without out compensation
16 and reimbursement have the statutory duty to
17 determine whether or not they ought to have a high
18 volume divorce program or they're going to devote
19 their resources in some other way. That's where
20 the Statute suggests that discretion and decision
21 out to be. I'm suggesting that a useful rule for
22 the Board and staff would be to provide the
23 management information to that local Board so that
24 they can make intelligent decisions and to the
25 extent to which you can provide that information I

1 think you can trust local Boards who know the many
2 varieties of the local level to make appropriate
3 resource allocation divisions.

4 MR. DURANT: How would you measure
5 quality given the obvious problems of any program
6 of this magnitude?

7 MR. DAHLSTROM: I think it has to have,
8 you know, many components and parts. Certainly
9 it's client satisfaction. Part of it has to do, I
10 think there is a productivity element. In other
11 words I think there is something to be said for a
12 program that can generate more attorney time per
13 dollar. I think there's something to be said for
14 that. And I think finally, there is just a
15 management obligation that has to be done on the
16 local level to oversee. In other words I think
17 it's basically -- I'm not sure it's possible for a
18 quality determination to be made at the National
19 level. At least I can't think of a way.

20 MR. WALLACE: How do we split up the
21 money? I know it's hard to quantify, but we have
22 to every time we cut a check.

23 MR. DAHLSTROM: I think the suggestion
24 made in the letter by Mr. Roche is the right one
25 and that is look at the research that's been done

1 already and start with that. I don't think we can
2 engage in a 3 month -- the Board and people from
3 the public of the top of our heads make meaningful
4 complaints. We have the NLRB, the ABA.

5 CHAIRMAN MENDEZ: I'm GOING to cut you
6 off.

7 MR. THIMELL: One thing I wanted to
8 respond to is what are we telling the Board of
9 Directors of the program. What we are telling the
10 Board of Directors of the program is that we are
11 more concerned than more clients are served with
12 money if possible. Now of obviously the Board of
13 Directors do share a responsibility to see that
14 quality services are made, not just perfunctory
15 service in order to increase case loads and because
16 we have a local Board of Directors that has that
17 responsibility that is not a dangerous proposal.
18 What we're also telling the Board of Directors is
19 there are programs across the country who are doing
20 better or worse than you are and you have other
21 people to whom you are being compared and therefore
22 this is not simply a program in a vacuum in which
23 you are just getting a check every year and you
24 don't need to think about this because there are
25 programs that really are providing vast numbers of

1 services for a vast number of clients with the same
2 amount of money that you are, and therefore you
3 have got to think about this. And I think that
4 that message to the Board of Directors is going to
5 be an important message.

6 Now as far as looking at the study we
7 have done in the past that's important as well
8 because the discovery system study was not
9 prevailed to engage in productivity between
10 programs. The ABA, who performed the study for
11 the ABA says that the feeling that this Corporation
12 has had is that they have never been willing to
13 gauge programs against each other and provide more
14 mechanisms for rewarding those programs which are
15 productive; and that is where we need to start
16 moving, and we are dealing with case service
17 reports data which is not data that is in any way
18 biased or unrelated to actual experiences in the
19 field. Because we are moving toward this, before
20 we had people realize that they should try to
21 tamper with the case service reporting in some way
22 we are getting basically an accurate assessment of
23 how the programs felt they were doing and I think
24 it's valid.

25 CHAIRMAN MENDEZ: The Chair recognizes

1 this young lady over here.

2 MS. McMAHON: Patricia McMahon
3 representing the Funding Criteria Committee, and I
4 would like to mention that if you have not read the
5 memo me from Mr. Roche that was the memo responsive
6 to the discussions at the previous meeting on
7 Criteria and that was my understanding of what the
8 issue was to be today; not that there would be a
9 specific formula but we are prepared to respond.

10 MR. WALLACE: Where are you from?

11 MS. McMAHON: Milwaukee Wisconsin.

12 Our first concern is that to my
13 understanding no programs have yet received the
14 Board Book and therefore, I have talked to many
15 programs yesterday and no one had received a copy
16 of the Board book and, there is a tremendous amount
17 of data on which you're making decisions. The
18 programs haven't had a chance to look and say
19 whether this data is accurate or not. They haven't
20 had a chance to respond to it. I think that's a
21 concern you should have with this respect.

22 There was a question raised about the 50
23 percent formula. The FCC continuous to report the
24 one third, one third, one third allocation. We
25 believe our formula addressed the disparity issue

1 which the Corporation has reminded us is a problem
2 and we feel we address that problem better than
3 your formula.

4 CHAIRMAN MENDEZ: Tell me when, under
5 your formula, would the programs come into
6 compliance, when all of the programs would be equal
7 in a per capita.

8 MS. McMAHON: I don't know and I don't
9 know when your formula would create that because in
10 your formula, yes the first 50 percent brings up
11 the lower floor, but the next third further
12 increased the disparity, because it is a cost of
13 living.

14 CHAIRMAN MENDEZ: You think we should
15 cut the COLA out then?

16 MS. McMAHON: Could I finish my comments
17 on that? The last one goes 21 percent in -- that
18 is right, number 1. Twenty-one percent of the fund
19 goes to programs over \$8.77.

20 CHAIRMAN MENDEZ: Let's go back to
21 there. Should we cut to COLA out? Is that your
22 position?

23 MS. McMAHON: What I'm saying is that we
24 support the FCC, one third, one third, one third
25 allocation as more adequately addressing the

1 problem.

2 CHAIRMAN MENDEZ: What -- tell me what
3 it is.

4 MS. McMAHON: One third to bring up the
5 floor. One third to fill the cup which the --

6 CHAIRMAN MENDEZ: (Interposing) Could
7 you tell me what the formula is for that?

8 MS. McMAHON: What the formula is? That
9 depends on the increase.

10 CHAIRMAN MENDEZ: To fill up the cup.

11 MS. McMAHON: It takes one third
12 increase. You take that amount and make
13 proportionately -- you increase each program amount
14 by an equal percentage by which their funding level
15 per capita is under \$14.08 which is the per capita
16 goal. So you bring everybody's up Proportionately
17 you're closing the gap between the highest fund and
18 lowest fund. Under your formula 21 percent of that
19 money goes to programs funded over \$8.77. Also a
20 significant amount of proceeds to number four and
21 five highest funded programs. The program
22 receiving \$15.30, the program receiving \$14.44
23 benefits under your formula. In other words you're
24 increasing the disparity by this formula. I think
25 that the point has to be paid off. Thirty percent

1 of the funds are going to increase the disparity
2 under chart two which is the highest one third of
3 the programs.

4 I have left a lot and I apologize that I
5 missed the beginning of the meeting, but all I have
6 heard about is high quality, which is important.
7 But as indicated in Mr. Roche's memo, other factors
8 are important for low income persons. Local
9 priorities is a prime example. There's no way
10 under your charts that these numbers have any
11 relation to local priorities. A person could be
12 number 1 in the charts and doing fine and the local
13 community doesn't want it to be done. There's no
14 way you can test that.

15 MR. WALLACE: How can you test the
16 priorities I went through that and I'm not sure
17 that local programs are doing what communities want
18 done and your compiling the confusion if you use
19 priorities for allocating the funds.

20 MS. MCMAHON: The community service
21 mandates the setting of priorities on local levels
22 and mandates that high quality legal services
23 include programs --

24 MR. WALLACE: (Interposing) Congress
25 mandates a lot of things that can't be done well,

1 and I realize that local programs have the right to
2 set priorities. But nobody has been able to
3 explain to me how local program priority setting
4 relates to what our communities want. You accept
5 them and tell them to jump through a bunch of
6 hoops, and you hope they get it right. But nobody
7 has come to me with any evidence that local
8 priorities set by local Boards are any priorities
9 that clients would want.

10 CHAIRMAN MENDEZ: I have got a question
11 for you, too.

12 If you're saying that we have no measure
13 of when local Boards -- whether the local
14 priorities are being met -- aren't you telling us
15 that the local Boards aren't doing their job?

16 MS. McMAHON: No, sir. I'm saying that
17 the CSR data in no way -- there's no column in CSR
18 consist with your process.

19 CHAIRMAN MENDEZ: Aren't we allowed to
20 rely on the fact that local Boards are acting in
21 accordance with the rules and requiring their local
22 agencies to in fact act and act in accordance with
23 the priorities?

24 MS. McMAHON: If you took that position
25 consistently, but Mr. Wallace stated he had the

1 million dollars bond all of the country is going to
2 ignore the fiduciary obligation. It's not perfect,
3 but it's the one quantifiable number we have got in
4 any where in our system.

5 MS. McMAHON: First it is arbitrary and
6 you wait until you see the next quarter CSR
7 statistics. I think people will say wait a minute
8 I haven't been counting these phone calls. I
9 didn't realize other people considered those cases
10 I'm going to count them. Your statistics -- I
11 think the problem is --

12 MR. VALOIS: Would we achieve reporting
13 if every body does as you do?

14 MS. McMAHON: I doubt it.

15 The other concern that I have is that
16 these figures include non LSE resources. So one of
17 the top ten programs CSR data includes case by non
18 LSE resource. One of the top ten programs has a
19 law school in it's backyard. Twenty-one law
20 students working absolutely free of charge to in
21 the LSE program. They provide the supervision.
22 That's 21 bodies that see that many more clients.
23 Most of of the cases probably don't go to Court,
24 but they do add to factor 3 and get higher CSR
25 numbers.

1 Should we reward a program for putting
2 it's office near a law school? I don't think
3 that's something we have that much control over. I
4 don't think that has anything to do with high
5 quality. In a very objective sense, obviously
6 being near a law school you have those resources.
7 There's another program that has a large public
8 defender program. Those statistics show up in the
9 CSR statistics and that's also funds from the city.
10 That has nothing to do with LSE funds and that's
11 the instructions on CSR data people are following.
12 number

13 The number one program has written you a
14 letter telling you that CSR data for 1984 is
15 distorted because they received Title III money to
16 hire some staff to close out cases 4 and 5, 6 years
17 old because private attorneys who did them didn't
18 close them. So, I hired staff to get back and
19 close them. They then say their statistics are
20 over stated by 700 cases and they're the number 1
21 program in your formula. I don't criticize that
22 program. They're being honest that the problem --
23 the data is not reliable data.

24 I think it does say to programs you're
25 going to be required, if you do a high volume of

1 uncontested divorces and that factor, to get more
2 money, and people out there don't have enough money
3 to represent the clients now. It's our job to try
4 to get more money if we are told this is the way to
5 get more money. People will weigh that in the
6 factor of making their decision. It's not a
7 criticism of the programs. I think that's reality.

8 CHAIRMAN MENDEZ: Any other public
9 comments?

10 UNIDENTIFIED SPEAKER: I don't know if
11 Ms. McMahon is finished.

12 MS. MCMAHON: I would be willing -- I
13 can go with you through some of the top programs to
14 tell you why each one is where it is, and it is not
15 directly related to high quality legal services.
16 Not that they're not providing it. I don't
17 mean to say that, but it's due to other factors,
18 primarily non LSE resources that are factored in.
19 Thank you.

20 MR. UDDO: I want to make one point
21 about the fiduciary obligation of local Boards.
22 You also have an obligation to make sure your
23 program states adequately funded and if the amount
24 of money became significant enough they would also
25 have to try and consider what would happen to their

1 program funding if they didn't incur more case
2 loads.

3 CHAIRMAN MENDEZ: You think fifty cents
4 per capita is significant?

5 MR. UDDO: If this becomes more money
6 using the same formula is what I'm talking about.

7 MS. EISENBERG: Eleanor Eisenberg, and I
8 agree with the comments made previously by Ms.
9 McMahon and Mr. Dahlstrom. I would like to point
10 out the CSR reports do not always include cases
11 which are not LSE funded. We know from the past a
12 unit which receives Legal Services funding is
13 primarily eviction defense which means it's either
14 going to be litigated or negotiated. With
15 settlement litigation those cases are not reported.

16 In affect not only will you be rewarding
17 programs for doing uncontested divorces, but you
18 will be punishing communities which, threw the
19 priority setting process, have decided not to do
20 uncontested divorces and things of that sort. To
21 answer one of your questions programs are requiring
22 priority setting regulations to submit to regional
23 officers their priority setting plan. Those are
24 reviewed and either approved or disapproved. And
25 unless you're suggesting that programs are not in

1 good faith compliance with their own priority
2 setting plans the Corporation does have a sense of
3 what the programs are planning to do in terms of
4 their priorities.

5 MR. WALLACE: No suggestion on good
6 faith. I'm suggesting possibly to get data from
7 every effective member in the community, and we
8 went through communities told them what to do
9 procedurally. But I'm not sure we have ever
10 figured out a way to assure the substance. No bad
11 faith is assumed. It's an inherently subjective
12 process.

13 MS. EISENBERG: In terms of private
14 attorney involvement, like with theft cases I don't
15 think you have a valid measure in number of cases
16 closed. There's at least one California program.
17 All of their private attorneys who are working on
18 cases are working, on very, very complex issues. I
19 would suggest that the number of persons who are
20 going to be benefited by that litigation probably
21 exceeds the number of persons benefited by a
22 program which does high volume uncontested
23 dissolutions. And in response to your question of
24 what is a valid criterion I suggest it would be the
25 number of persons benefited; and you may have one

1 case close that has taken years and years and
2 complex litigation which gets closed as one case
3 but in which there may be millions of poor people
4 who benefited from that one case.

5 There have, in the past, been
6 competitive or rewarding kinds of funding. There
7 was a time when there was special needs funds
8 available and programs that were working together
9 in more of a creative or complex litigation. And I
10 think you might consider setting aside a part of
11 money, not necessarily salary taking it from the
12 Basic Field allocation that programs could apply
13 for under special needs or for special litigation
14 that would benefit more people than you could
15 allocate on that basis if you were looking to
16 reward programs for work done.

17 I don't think that you can analogize to
18 the medical situation, and I don't think it's
19 necessarily right either, that poor people can't
20 get heart transplants or have brain surgery, and I
21 think that's saying that okay is not okay. If we
22 are talking about equal justice, then we are
23 talking about the rights of poor people access to
24 the court system.

25 MR. VALOIS: I didn't think Mr. Wallace

1 said it. He said that's the way it is.

2 MS. EISENBERG: That doesn't mean we
3 sanction it and do the same thing here.

4 MR. VALOIS: That's the way it is now.

5 MS. EISENBERG: Yes, it is.

6 MR. DURANT:. Mrs. Eisenberg, may I ask
7 you a question? What with the one-sixth that's a
8 available on the performance criteria question that
9 the Corporation simply has set up a separate
10 program or whatever, but where all of anybody who
11 is in the business giving legal services to the
12 poor in fact would submit proposals for grants
13 under that money. Based upon performance as an
14 argument as to why this kind of performance or the
15 sort you're talking about, or whatever is the way
16 to measure in terms of that allocation. So it's a
17 form of competitive bidding, but it allows programs
18 and their proposals to make decisions about
19 performance quality.

20 MS. EISENBERG: I don't think that
21 should be with part of the money taken out from the
22 basic field allocation. I think there should be
23 money set aside for special litigation and
24 programs. There should be a reward for activity
25 and when a program can establish it wants to do

1 something creative that will benefit a large number
2 of people it should not come off the basic field
3 allocation.

4 MR. DURANT: But in terms of letting the
5 field -- we have the staff and what ever has come
6 up with particular criteria based on certain
7 amounts of work and investigation and whatever
8 there is for field programs or whatever, for
9 letting those criteria be established. Why is that
10 not a problem?

11 MS. EISENBERG: Why is it not a problem?
12 You say the money should go to --

13 MR. DURANT: I say money should to to
14 field programs. It may be a nice way of generating
15 interest in terms of the performance criteria. I
16 think my question is -- but second, we do have to
17 allocate this money. We don't want to send the
18 message that we are looking for a variety of
19 performance criteria, and we'll do that with the
20 decisions made by the Corporation on the award of
21 that money.

22 MS. EISENBERG: The problem is you're
23 making decisions on incomplete and inaccurate data
24 which does not begin to reflect community
25 priorities or quality. If that's something you

1 a perpetuation of the same thing and one-third to
2 fill up the cup which is a partial perpetuation of
3 the same thing. You're saying two-thirds to
4 perpetuate the same old model. And it has been
5 shown by studies you also wanted us to rely on,
6 that they were based on political decisions. In
7 fact, Allen Hausman (ph) says they were based on
8 political decisions. You want us to make these
9 allocations on the basis of political decisions.

10 MS. EISENBERG: I would like to say we
11 are not suggesting inequities, prejudices and
12 passes that are incorrect be perpetuated. We are
13 saying if you're going to make changes then you
14 should do it right instead of starting over the
15 whole new set of inequities injustices, and false
16 premises.

17 MRS. BERNSTEIN: I think one of the
18 things I was able to be provided that this
19 productivity approach, this one-third, one-third
20 one-third on the closed cases, litigated cases, and
21 PAI as a criteria is appropriate for one very
22 important reason, and that is that we -- this was
23 completely objective on those bases and not -- and
24 even the programs that have been higher funded were
25 not going to be penalized. We were making it on a

1 different criteria. You still have a problem with
2 the figures. You have a problem with the fact that
3 if you have been told to keep the program, keep a
4 particular pattern -- we have a problem with per
5 capita because it does not take into account other
6 funding available in that community, and we have a
7 community where we are funding at \$15 for a poor
8 person. But in addition it is exacerbated by the
9 program and the poor people in that area also have
10 access to another \$15. I don't think that's an
11 exacerbation. If the program is fortunate to be
12 able to generate other funding then I think you can
13 probably be assured they are.

14 We are basing this business about
15 filling up the cup on inaccurate data.

16 MS. EISENBERG: That may be.

17 CHAIRMAN MENDEZ: The Chair overrules
18 both of you and recognizes Mr. Valois.

19 MR. VALOIS: How often are the
20 statistics reported to you in CSR?

21 MS. EISENBERG: Quarterly.

22 CHAIRMAN MENDEZ: I think everybody has
23 got a valid point, whether it's chocolate or
24 vanilla, but I think that one point is clear. If
25 we adopt this formula as imperfect as it is someone

1 will know what the rules are. There will be some
2 uniformity of records. Get a lot of phone calls
3 because I don't get points and so forth. People
4 are going to comply with that and hopefully
5 uniformly.

6 MS. EISENBERG: I cannot imagine telling
7 my receptionist that for every phone call in the
8 office where the person appears to be eligible
9 she'll have to refer that to a staff person, do an
10 intake form, establish eligibility. I don't know
11 that all programs are doing that and whether it's a
12 determination on whether or not they then count
13 that as a case even if it's a referral.

14 MR. WALLACE: What do you do with people
15 who call and appear to be eligible?

16 MS. EISENBERG: We have people who can't
17 complain. They can't get through busy signals.
18 I'm not going to tie up phones with people waiting
19 for service that have problems that are going
20 beyond information and referral so we can keep
21 those kinds of statistics and report to you and
22 inflate our cases.

23 MR. VALOIS: Assuming that most
24 everybody will, at some point will get some modicum
25 of uniformity and I think you would have to make

1 COLA to \$13.57?

2 CHAIRMAN MENDEZ: \$13.57.

3 MR. SMEGAL: I think Eleanor's point or
4 the last one she made is the one I would focus on
5 in response to Mike she doesn't want to tie up the
6 phone system with her staff taking the intake
7 information that would be required. It seems to me
8 we can accomplish what we want, which is to get
9 more significant data rather than using the
10 arbitrary data we have now, if we made a
11 distribution to each of the programs with the
12 understanding that what they were getting was money
13 to accomplish the kind of record keeping you want,
14 to bring in another telephone line, a paralegal to
15 take the kind of information that Eleanor's staff
16 is not able to take right now. So it seems that we
17 can do that. And I just had some numbers. I have
18 no disagreement with 50 percent Pepe, to bring up
19 the floor I have no disagreement with a third being
20 used to fill up the cup.

21 CHAIRMAN MENDEZ: Or COLA?

22 MR. SMEGAL: A sixth could be used in a
23 COLA since with specific instructions that we want
24 you to go out there and we want you to get another
25 telephone line or paralegal so that three months

1 from now, or whenever this funding is effective
2 you're able to give us data, but at least we'll be
3 getting standardized data and the carrot by which
4 we would get it is here is a COLA increase and we
5 expect you to use it in a certain way.

6 CHAIRMAN MENDEZ: My motion is as
7 follows. I'll restate it. It's 50 percent to the
8 floor, one-third cost of living increase, \$13.57
9 and one-sixth to performance based criteria.

10 All right. Hortencia, are you for it or
11 against it?

12 MS. BENAVIDEZ: Against.

13 CHAIRMAN MENDEZ: Leanne?

14 MRS. BERNSTEIN: Yes.

15 CHAIRMAN MENDEZ: Mendez, yes.

16 MR. WALLACE: Wallace, Aye.

17 MR. SMEGAL: Smegal, No.

18 CHAIRMAN MENDEZ: The motion fails.

19 The Chair makes the further motion in
20 lieu are of that that 50 percent to the floor one
21 -hird COLA, one-third performance to be based on --
22 one-sixth to be based on the combination of
23 factors, bids for projects.

24 MRS. BERNSTEIN: Only the projects and
25 open competitive bidding, bidding to bar

1 associations or only to projects?

2 CHAIRMAN MENDEZ: Only to projects,
3 because we originally made the commitment this
4 would only go to project.

5 MRS. BERNSTEIN: I'll second the motion.

6 MR. WALLACE: Let me ask the Chair what
7 he has in mind and maybe the best question would be
8 to ask the staff if there's any track record of
9 what we have done in the past when we put money up
10 to bid. Obviously you're looking for good ideas
11 from the field to fund. Is there a track record on
12 this?

13 MR. DAUGHERTY: We had awarded
14 competitive grants in the past for special needs
15 category. And two years ago we awarded -- we
16 solicited funds, applications against fund
17 balances that have been received, a number of very
18 good applications. I don't think that the -- we
19 will provide you information on that.

20 MR. WALLACE: Was that open ended, Mr.
21 Secretary? Did we say, we've got this pot of money
22 and we want you to come up with ideas how to use as
23 much of it as you want for any project that you
24 want. We would like you to get it. Is that
25 basically the way it works?

associations or only to projects?

CHAIRMAN: Only to projects.

because we originally made the comment that

would only go to project.

MRS. BENTLEY: I'll second the motion.

MR. WALLACE: Now we ask the Chair what

he has in mind and maybe the next question would be

to ask the staff if there's any paper record of

what we have done in the past when we put money up

to it, obviously you're looking for good ideas

from the staff to fund. Is there a paper record on

that?

MR. BENTLEY: We have answered

cooperative grants in the past for special needs

category. And last year we answered -- we

collected funds, applications against fund

balances that have been received, a number of very

good applications. I don't think that's -- we

will provide you information on that.

MR. WALLACE: Was that open ended, Mr.

Secretary? Did we say, we've got this pot of money

and we want you to come up with ideas how to use as

much of it as you want for any project that you

want. We would like you to get it. Is that

basically the way it works?

1 MR. DAUGHERTY: There's was a little
2 more specificity. For example in 1983 the
3 solicitation specified that it had to be for direct
4 delivery. It could be accomplished by the end of
5 the calendar year. And in the past in the special
6 needs category oftentimes there was a requirement
7 of impact trying to meet -- addressing some special
8 access problem. Oftentimes there have been
9 criteria specified as to what types of proposals to
10 look for, but I don't think the funds -- the
11 projects that were funded were all of one
12 particular topic, were all across the board.

13 MR. WALLACE: Tell me how the 1983
14 program worked out? Do you remember how much
15 money? I know you're on the spot, Mr. Secretary
16 because you didn't come prepared to talk about it,
17 but can you remember how much money it was?

18 MR. DAUGHERTY: We solicited, I believe,
19 applications against a pot of money, a rather small
20 pot of money, from two to five million dollars as I
21 recall.

22 MR. WALLACE: Two million is about --

23 MR. DAUGHERTY: Applications were
24 received that were well in excess of that, I think
25 two and three times the amount of funds available.

1 Relatively little was awarded because the
2 Corporation decided we did not have any money to
3 allocate, except a small amount which was
4 voluntarily surrendered by programs that were
5 continuing the alien cases were no longer possible.

6 MR. WALLACE: So you used it to clean up
7 things that were permissible?

8 MR. DAUGHERTY: To finish cases already
9 undertaken. There were a number of proposals.

10 MR. WALLACE: So the experienced way --
11 may I put words in your mouth -- that you have got
12 some good -- if the funds were there you would have
13 funded the projects. Those did not come to me, Mr.
14 Wallace, they came to the Office of Field Services.
15 I reviewed and --

16 MR. WALLACE: (Interposing) I was speaking
17 in the sense of the Corporation and staff and I
18 understand. I appreciate how much you know about
19 it not having been required --

20 CHAIRMAN MENDEZ: We will take a
21 ten-minute recess.

22 (Recess.)

23

24

25

1 relatively little was awarded because the
 2 corporation decided we did not have any money to
 3 allocate, except a small amount which was
 4 voluntarily surrendered by program staff were
 5 continuing the alien cases we no longer possible.
 6 MR. WALLACE: So you used it to clean up

7 things that were permissible?
 8 MR. BARNHART: To finish cases already
 9 undertaken. There were a number of proposals
 10 MR. WALLACE: So the experienced way --

11 may I put words in your mouth -- that you have got
 12 some good -- in the hands were there you would have
 13 funded the projects. Those did not come to me, Mr.
 14 Wallace, they came to the office of Field Services.
 15 I reviewed and --

16 MR. WALLACE: (Interposing) I was speaking
 17 in the sense of the corporation and staff and I
 18 understand. I appreciate how much you know about
 19 it not having been implied --

20 CHAIRMAN BARNHART: We will take a
 21 ten-minute recess.

22 (Recess.)

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1 CHAIRMAN MENDEZ: On the Chair's motion,
2 The Chair is reconsidering and wishes to rephrase his
3 motion.

4 MRS. BERNSTEIN: The second to the motion
5 is agreeable to your withdrawing that and starting
6 a new one.

7 CHAIRMAN MENDEZ: The Chair's motion is
8 50 percent to the floor with one third to COLA,
9 with a \$13.57 cap, and the remainder to
10 performance. The factors that we presently have
11 listed exclusively we do not feel enough. We
12 want the staff to work on some more factors and
13 consult more with the field with regard to those
14 factors. But we will be able to give one-sixth to
15 performance if my motion passes. Do I hear --

16 MRS. BERNSTEIN: (Interposing) Second.

17 CHAIRMAN MENDEZ: Any discussion?

18 MR. SMEGAL: What happens if we get more
19 than \$305 million? We are talking about the \$11
20 million.

21 CHAIRMAN MENDEZ: If it's more than \$305
22 million the difference between \$305 million and
23 whatever we would get we would have to allocate at
24 a later date.

25 MR. SMEGAL: So we will come to that

1 issuing you at some other time. That's not going
2 to be proportionately --

3 CHAIRMAN MENDEZ: (Interposing) No.

4 MR. SMEGAL: All we're talking about
5 here is \$11.3 million.

6 CHAIRMAN MENDEZ: That's right. We may,
7 at a later date if it's more than \$305, decide this
8 might be an appropriate way to do it.

9 MR. DURANT: We'll address it at that
10 time.

11 MR. SMEGAL: So the assumption in your
12 motion is that we are getting \$305 or \$11.3 which
13 is the transfer around as we have discussed and it
14 would be my understanding that it would be
15 distributed as you have indicated.

16 CHAIRMAN MENDEZ: Any further questions?
17 Not hearing any, all in favor say aye. Opposed.
18 None appearing -- there's nothing like a ten minute
19 break.

20 MR. WALLACE: May I say, Mr. Chairman,
21 if everybody runs for the Senate in Colorado next
22 year, you ought to go for one of those House seats.

23 CHAIRMAN MENDEZ: We are now down to
24 what I thought was going to be the difficult
25 portion, Midyear Budget Review.

1 Now I have asked for a supplemental
2 memorandum. Has that been passed out?

3 With regard to the supplemental
4 memorandum did you give this to everybody on the
5 Board?

6 MR. GESSNER: Yes.

7 CHAIRMAN MENDEZ: Please explain
8 attachments 1 and 2.

9 MR. GESSNER: All right. David Gessner,
10 Budget Director. In response to the Board's
11 concern at the last meeting, the Budget Office has
12 been preparing the monthly expense report on a line
13 item basis. The May report was sent on June 18.
14 On the 17th, Mr. Robinson approved some
15 modifications to the Corporation Management and
16 Administration. For that reason I have restated in
17 the May report showing those changes.

18 In addition attachment 2 takes the
19 unexpended balance as of May 31 and I have added
20 some columns to show planned expenses and
21 commitments to 9-30-85 and the expended uncommitted
22 balance at the year end.

23 As far as available money to be
24 reallocated most of that which appears in the
25 expected uncommitted year-end balance is available.

1 There's still a few questions is about some of
2 those figures. If you have any specific questions
3 I can address where those numbers come from.

4 CHAIRMAN MENDEZ: On looking at
5 attachment 2 page 1 of 2, The Fellowships. That
6 shows \$836,000. What is that?

7 MR. GESSNER: Okay. That -- out of the
8 total amount available we have assumed there are
9 113 \$1,000 training grants, 113 first year grants
10 at \$17,920, 100 second year grants at \$19,040,
11 management and administrative costs of \$100,000 and
12 training \$254,000. That totals \$4,395,960. The
13 \$836,368 is that amount remaining out of the \$5.2
14 million. The reason that is so high is \$5.2
15 million is predicated of course, on the "Reggie"
16 program being run at Howard University. That
17 program is now being run in-house and so there are
18 considerable administrative overhead costs by the
19 program not being run by Howard.

20 CHAIRMAN MENDEZ: Will we be able to
21 move that within various line items?

22 MR. GESSNER: You can move that any way
23 you want.

24 MR. WALLACE: Sixteen percent, that
25 comes within reprogramming, doesn't it? We will

1 have to notify Congress on that.

2 MR. GESSNER: If you move that out of
3 the supplemental service provision, that will
4 require 15 days notice.

5 MR. WALLACE: Which is the line item?

6 MR. GESSNER: The reportable items to
7 Congress are the all caps.

8 MR. WALLACE: And is it 10 or 15
9 percent?

10 MR. GESSNER: Ten percent, \$250,000.

11 MR. WALLACE: So if we move that out,
12 Congress has to know about it.

13 MR. GESSNER: Yes, sir.

14 MR. WALLACE: Fine.

15 CHAIRMAN MENDEZ: And I notice that we
16 haven't done anything with the the summer
17 internship.

18 MR. GESSNER: No. That's one of the
19 items that I'm not certain about. I would
20 recommend holding on to that until a later date.

21 MR. WALLACE: Who administers that?

22 MR. GESSNER: That's run out of the law
23 school program in New York. It's a mini Reggie
24 type program.

25 MR. WALLACE: So it's June and we don't

1 know whether they have spent the money or not?

2 CHAIRMAN MENDEZ: It has been given to
3 them.

4 MR. WALLACE: I say the question I mean
5 it's June. Either we have got it or we don't. And
6 if don't, if we don't have interns I'd like to know
7 why, but we ain't going to get them at this point,
8 let's spend the money.

9 CHAIRMAN MENDEZ: Let's bring the people
10 up that know the answer to that.

11 Charles, do you have an answer to that?

12 CHARLES: The only answer I have is that
13 the money has not been spent.

14 CHAIRMAN MENDEZ: For the record.

15 MR. MEYER: I'm John Meyer, the
16 Associate Director Office of Field Services.

17 CHAIRMAN MENDEZ: With regard to the
18 summer internships we have not expended those
19 funds?

20 MR. GESSNER: We have not yet expended
21 the funds. We are in negotiations on the actual
22 details of the contract. It shows some
23 deficiencies but we are in negotiations.

24 MR. WALLACE: Well, have they got summer
25 interns on the payroll now or don't they?

1 MR. GESSNER: They don't have the people
2 on the payroll, but I -- they have the refunding
3 rights, though. They have that. They will
4 probably be gone by Friday.

5 MR. WALLACE: It's June. I hope they
6 have gone far head in planning.

7 CHAIRMAN MENDEZ: What do you expect
8 giving some final decision on this?

9 MR. GESSNER: I expect that -- we were
10 in the process of drafting special conditions so
11 that we would have a contract document. So, I
12 would expect that. I can't say exactly. I would
13 expect sometime next week.

14 CHAIRMAN MENDEZ: Now turning the the
15 fellowships. I don't know who has those.

16 MR. GESSNER: Reggie.

17 CHAIRMAN MENDEZ: Are those Reggie
18 numbers the same as last years?

19 MR. GESSNER: I would expect --

20 CHAIRMAN MENDEZ: (Interposing) Joel,
21 can you answer that?

22 MR. THIMELL: I'm not sure.

23 MR. VALOIS: You're talking about actual
24 numbers of Reggies?

25 MR. WALLACE: Actual number of warm

1 bodies.

2 MR. VALOIS: I can answer that if you
3 give me a second.

4 CHAIRMAN MENDEZ: Tom, one of the things
5 the last go around we presented the midyear budget
6 review, but the most current documents we have
7 available are not from the midyear budget. It's
8 from the --

9 MR. SMEGAL: I see that. I'm looking at
10 it.

11 CHAIRMAN MENDEZ: There was a May
12 unexpended balance before it was sent out. And
13 this is another one which I had them put an extra
14 column in on the client expenses. I had to do that
15 on Monday. But the other one, the document one was
16 mailed out approximately ten days ago, is that
17 right?

18 MR. GESSNER: June 18. It was the basic
19 May report.

20 MR. WALLACE: Mr. Gessner if I could ask
21 you a question while we are ing collecting out the
22 number of Reggies.

23 Everything under Roman numeral III is
24 zero except for --

25 MR. GESSNER: It is expected to be zero,

1 but we are expecting to get it to zero by spending
2 half of our money over the next 4 or 5 months. Let
3 me explain.

4 MR. WALLACE: please.

5 MR. GESSNER: One, our internal budget
6 process is set up in such a way that at the end of
7 the quarter, in this case it happened at the end of
8 the quarter, we examine budget plans for each
9 operating division and if there are surpluses, we
10 move them into an allocated -- if there are
11 expended amounts that would be required in addition
12 to the basic preparations we'll make those
13 adjustments with the attachment.

14 There was an attachment to the midyear
15 budget review that shows the modifications that
16 were made, and these are done internally by the
17 Corporation president. And the reason those are
18 zero is that we are assuming that the adjustments
19 that were made will be enough.

20 CHAIRMAN MENDEZ: That's on page 1.
21 I've got it.

22 MR. VALOIS: Mr. Chairman, according to
23 page 31 of the Committee the of Business and Legal
24 Services, which convenes tomorrow, LSE intends to
25 award 113 first year fellowships for the coming

1 year.

2 CHAIRMAN MENDEZ: How many did we do
3 this last year?

4 MR. VALOIS: I believe the number is
5 105.

6 MR. SHUBERBROOKS: My name is John
7 Shuberbrooks. (ph). I'm Deputy Director of the
8 Office of Field Services.

9 Last year we awarded 115 Reginald Heber
10 (ph) Smith first year fellowships. That's a
11 program that runs for two years once you're in the
12 program so that we also had approximately 95 second
13 year Reggies. What's happening this year is we
14 have just finished the final selection phase for
15 the upcoming year. We intend to award 113
16 fellowships. As of day, 108 of these fellows have
17 actually been selected and the letters of
18 notification have been prepared and they should be
19 sent out by the end of this week. That's tomorrow.

20 The reason that only 108 have been
21 selected is that five of the programs for various
22 reasons have not responded yet. We have -- we are
23 in the process of contacting those. At least two
24 of the programs turned in their slots. On one of
25 those instances we mailed a substitution.

1 But next year we will have 113 first
2 year Reggies and at present we can't give you how
3 many second year Reggies we are going to have
4 because there are a number of factors. The primary
5 one is that there is has been required that in the
6 second year Reggies must be Barred.

7 So we have sent letters to all of the
8 projects that currently employ second year Reggies
9 who are Barred, thereby automatically assuming they
10 perform satisfactorily, automatically return them
11 to a second year and those not barred as of yet a
12 justification that is to be offered by the project
13 director, and we are in the process of approving
14 and assessing those. I would estimate we will have
15 somewhere in the neighborhood of 200 to 210 Reggies
16 for the program year '85 and '86 including first
17 and second year.

18 MR. VALOIS: Including first and second
19 year?

20 MR. SHUBERBROOKS: Correct.

21 CHAIRMAN MENDEZ: When will you know
22 finally concerning the numbers.

23 MR. SHUBERBROKS: We'll know finally --
24 well that's tied in with the response rate from the
25 programs. We would ask -- the way the process

1 works is that --

2 CHAIRMAN MENDEZ: (Interposing) Two
3 months?

4 MR. SHUBERBROOKS: By the end of this
5 month, June.

6 CHAIRMAN MENDEZ: June, or July?

7 MR. SHUBERBROOKS: I'd say by mid July.
8 The problem is the responses not coming in.

9 CHAIRMAN MENDEZ: Would you think by
10 August we'll know have a --

11 MR. SHUBERBROOKS: (Interposing) Well
12 have a firm number.

13 CHAIRMAN MENDEZ: And that date we'll
14 also have a more firm number concerning the total
15 carryover or total not available on the Reggies?

16 MR. SHUBERBROOKS: Yes.

17 MR. WALLACE: Mr. Gessner, I asked a
18 question about where we were on Roman Numeral III.

19 MR. GESSNER: Page 101 attachment 4
20 Consolidated Projection Work Sheet. That statement
21 shows the modifications made in support of the
22 internal budget review process. Those
23 modifications were based on revised budget plans
24 column 5.

25 MR. WALLACE: let me ask you a couple of

1 questions. Why are we putting \$123,000 out of
2 audit, because I thought audit was something maybe
3 we can't spend the rest of the year but --

4 MR. GESSNER: The original budget was
5 based on some assumptions of rapid build-up in
6 hiring. There have been considerable delays in
7 getting those people on board. And this represents
8 basically salary savings from the original
9 estimates.

10 MR. WALLACE: Is this a delay or saving?
11 My question is, is this money we are going to need
12 next year so we ought to leave it unallocated so we
13 can pump it into audit next year when we are
14 reallocating the fund balances?

15 MR. GESSNER: I'm not in a position to
16 say whether the original plan will of expenditures
17 will continue as originally planned whether there
18 will be some changes. I would recommend not moving
19 any of that unallocated money in category III at
20 this time.

21 MR. WALLACE: Well, I'm going to give
22 you a chance to tell me why because it looks to me
23 like when we we've got half of our budget planned
24 to be expended over the next 4 months that's as
25 nice a cushion as you can ask for. A decision to

1 cut out \$380,000, looks like that's ready to go.

2 MR. GESSNER: Okay. Let me mention a
3 couple of things. One, 37.6 percent of the budget
4 was expensed through March 31. In the monthly
5 reports I have been sending you I have indicated
6 that running a monthly rate of April and May of 9.7
7 percent. If that rate were to continue, we will
8 have expended 95.5 percent of \$11,283 million as of
9 September 30. That would leave a balance of
10 somewhere around \$500,000.

11 MR. WALLACE: Where did \$11,283 million
12 come from?

13 MR. GESSNER: That's the 1985 amount of
14 the '85 budget. The difference between \$11,783 and
15 \$12,969 is the carryover.

16 MR. WALLACE: And that's what we
17 specially allocated for audit.

18 MR. GESSNER: Yes.

19 MR. WALLACE: I'm with you so far.

20 MR. GESSNER: We have a few major
21 uncertainties, one of which is there's a
22 supplemental working it's way through Congress
23 right now, one provision of which I think provides
24 reimbursement to Board members for expense incurred
25 since January. I know many of you have been to

1 quite a bit -- do quite a bit of travelling on your
2 own expense and would like to be reimbursed for
3 that and I don't know how much that's going to run
4 into. There are other uncertainties as far as the
5 organization of the Corporation that are in
6 discussions right now. We are hoping that a lot of
7 this money won't be needed. I recommend very
8 strongly, holding on to that and deferring any
9 decision until the third quarter review.

10 CHAIRMAN MENDEZ: And third quarter --
11 when will the third quarter review documents be
12 completed?

13 MR. GESSNER: We'll have the Management
14 and Administration portion completed for your
15 September meeting.

16 MR. WALLACE: September meeting will not
17 be -- the third quarter end this weekend, ends
18 tomorrow, and we will not have a budget review
19 until Lake City on the first and second of August.

20 MR. GESSNER: It's virtually impossible.
21 The way the accounting system is set up we can't
22 produce the budget reports until half way in July.
23 It's going to take a couple of weeks anyway to get
24 this -- get some of those numbers final. And of
25 course the later we go the more experience we'll

1 have even in the fourth quarter of the -- full
2 month of experience

3 MRS. BERNSTEIN: Can I, just to make sure
4 I'm on the right track in terms of the way this has
5 happened in terms of the money. We draw down the
6 money from Treasury as we actually need it?

7 MR. GESSNER: That's correct. There's
8 no --

9 MRS. BERNSTEIN: (Interposing) There's
10 nothing sitting anywhere. We are expending --

11 MR. GESSNER: (Interposing) Just daily
12 operations.

13 MR. WALLACE: Is there anything in this
14 disposition of unexpended balances under 1, 2 or 3
15 that you believe is still, that you believe it is
16 safe to assume is still going to be sitting here
17 unexpended at the end of the year?

18 MR. GESSNER: Yes. With the exception
19 of the summer internship money which as of
20 yesterday when this report was completed, I wasn't
21 certain what column to put that in. Most of that
22 money -- there is some concern about the migrant
23 money, whether all of that should go out, whether
24 we can hold onto to 25 percent of that in case we
25 need that for proposals that may be coming in now

1 to the end of September.

2 The other amounts as you can see are
3 fairly small.

4 MR. WALLACE: There's a fairly being
5 drig and drab under development called planned
6 expenses of almost \$3 million, and if we have got
7 contracts to spend that that's one thing. But
8 that's a gleam in somebody's eye.

9 MR. GESSNER: The asterisk also
10 indicates that under that column we are including
11 contractual and program commitments as of right now
12 approximately half of \$3.2 million has to be
13 expended. I was told before this meeting started,
14 that Program Development has every expectation of
15 committing all but that \$140 thousand by year end.
16 This is one reason that the later you wait in the
17 fiscal year to move money, the more accurate data
18 you're going to have on which to make the decision.

19 Of course the later you move money, the
20 less --

21 MR. WALLACE: (Interposing) The less you
22 can do with it trying to spend it all in a month.

23 MR. GESSNER: Now you don't have to get --
24 if you move money you don't have to push it out the
25 door. That's not the proven way to do it.

1 MR. WALLACE: I hope so.

2 Those are my questions, Mr. Chairman. I
3 apologize for stepping on your toes.

4 CHAIRMAN MENDEZ: No problem, Tom.

5 MR. SMEGAL: I would like to focus on
6 attachment 1 Page 2/2, Roman Numeral III, and I'm
7 going to look at five lines there, and I made a
8 comparison the last few minutes between where we
9 were after the first quarter and where we are now
10 after two months.

11 And let me go down to A2 and start with
12 the Executive office. The first six months of the
13 year that particular operation involved \$45
14 thousand per month. During the last two months you
15 have expended, if my math is correct, \$150 thousand
16 more or \$75 thousand, if I'm right. If I
17 extrapolate that out to four more months and add
18 another \$300 thousand to that expenditure, I am
19 left with a surplus on that line of \$300 thousand.
20 That's assuming that you continue to expend as you
21 have in April or May.

22 MR. GESSNER: \$300 thousand on that line
23 is the allocation for special studies that was made
24 at the last meeting.

25 MR. SMEGAL: In the executive office

1 line.

2 MR. GESSNER: Yes. MR. SNEGAL: So far
3 I'm 100 percent right now.

4 I don't have an adding machine. Okay,
5 now. All right. Now that I have sucked you into
6 this one let's go on to the biggies.

7 I want to look at 89, Division of
8 Administration. Here again for the first 6 months
9 you were operating at \$110 thousand a month. The
10 last couple of months indicated to be \$260 thousand
11 increase, \$130 thousand a month if we add \$130
12 thousand for the next 4 months, \$520 thousand I
13 come out with a \$350 thousand surplus on that line.

14 MR. GESSNER: Here's the \$350 thousand.
15 \$250 is the amount allocated for the Corporation's
16 move. That's a big question, how much that's going
17 to cost.

18 MR. WALLACE: And whether it's going to
19 happen.

20 MR. GESSNER: We are getting close to
21 knowing when it's going to happen. The additional
22 \$100 thousand -- well, the additional \$90 thousand
23 is the increased rent cost. That is virtually
24 doubling. Ten thousand -- off the top of my head,
25 I can't give you that.

1 MR. SMEGAL: We won't quibble over \$10
2 thousand. Go to line 10 here. Again I do to same
3 math. For 6 months the Office of Field Services
4 expended \$110 thousand. During the last 2 months
5 you're all of the way up to \$140 thousand. If I
6 had 4 times that their \$560 thousand to the \$923
7 thousand expended I come up with a surplus of a
8 million and a quarter.

9 MR. GESSNER: The million is the special
10 monitoring catch all.

11 CHAIRMAN MENDEZ: Which hasn't started.

12 MR. GESSNER: Yes, the quarter of a
13 million. Again I can't give give you an
14 explanation off the top of my head, but I can
15 assume that's normal increases in activity in the
16 second half of the year.

17 CHAIRMAN MENDEZ: Part of that -- what
18 is the closure on Field Services?

19 MR. GESSNER: Where is that?

20 CHAIRMAN MENDEZ: Yes. What line is
21 that?

22 MR. GESSNER: The assumption in the
23 midyear review that the reorganization, because the
24 Board had not yet made a decision, was not going to
25 happen. The latest figures I have been given that

1 if the reorganization is approved tomorrow, and
2 begun in the middle of July, after notice to
3 Congress, that the entire amount would be required
4 to do the consolidation, that there won't be any
5 one time savings because it's delayed several
6 months beyond.

7 CHAIRMAN MENDEZ: Tom.

8 MR. SMEGAL: Okay. I'm going to move to
9 the next line Regional Offices. First 6 months of
10 the year, \$210 thousand per month, last 2 months
11 \$260 thousand per month.

12 MR. GESSNER: Normally the regions
13 operate their monitoring schedule very heavily in
14 the spring and summer.

15 MR. SMEGAL: What is the spring?

16 MR. GESSNER: From March or April
17 through September.

18 MR. SMEGAL: So they have had 2 months
19 of the \$260 thousand per month. If I extrapolate
20 that out the next 4 months I'll add a million 30
21 and I end up with a \$400 thousand surplus.

22 MR. GESSNER: I think you have to
23 assume, one, that you can't extrapolate regional
24 offices on a straight line basis, that's the much
25 higher cover as the year progresses. There may

1 still be some surplus unidentified in the regions
2 and that's what the the third quarter review will
3 shake out, particularly after a decision is made
4 tomorrow on whether the consolidation will affect --

5 MR. SMEGAL: So that's -- my comment may
6 be correct there may be some money left over.

7 MR. GESSNER: There may be given current
8 assumptions. Given past assumptions there probably
9 will not changed assumptions.

10 MR. WALLACE: Past assumptions means
11 approval of the plan tomorrow?

12 MR. GESSNER: Yes.

13 MR. SMEGAL: With respect to line A12
14 unallocated reserves, you have no expenditures for
15 the first six months, no expenditures for the next
16 two months and you have a note on page 94 is the
17 reason it had to be increased and the reason it
18 should be maintained is because at sometimes prior
19 to September 30, the Board direction may be to
20 under projects and programs not currently funded.
21 It's June 27. We are meeting next on August 1. I
22 can't imagine the Board doing anything in the next
23 four months that's going to involve the expenditure
24 of that \$400 thousand

25 MR. GESSNER: Some of that definitely

1 will be required. Should the language prevail on
2 the supplemental vote to reimburse the members.

3 MR. SMEGAL: Isn't that the \$19 thousand
4 you have transferred over?

5 MR. GESSNER: No, that amount is based
6 on activity over and above that which was
7 originally planned for, or originally foreseen when
8 the original budget was put together. Also the
9 added cost of the presidential search.

10 MR. SMEGAL: But some of that's already
11 in there. We have had a lot of meetings. We have
12 been meeting twice a month.

13 MR. GESSNER: It's based on a full year
14 plan. That's add on based on the revised plan
15 given the first half actual data.

16 MR. SMEGAL: I understand, but even if
17 the bill you're referring to and is retroactive, it
18 is year.

19 MR. GESSNER: That's not covered.

20 MR. SMEGAL: I'm suggesting the amount
21 involved is nowhere near the amount of numbers we
22 are talking about.

23 MR. WALLACE: If we run up -- We're not
24 talking about --

25 MR. GESSNER: I would strongly recommend

1 taking a close look at that third quarter review.
2 There are just too many you uncertainties right
3 now.

4 MR. SMEGAL: Well, as I commented at the
5 last meeting, and seems to me that we have -- we
6 are going to come in today in spite of what you
7 said, and I understand and appreciate your comment
8 and it's almost as if my question were put to you
9 before. You had good answers I appreciate that.

10 MR. GESSNER: You're picking up on
11 obvious discrepancies.

12 MR. SMEGAL: at the moment we are
13 \$2,150,000 thousand under budget in this category,
14 and it seems we are going to end up a lot a money.
15 I'm willing to wait another month or so to see
16 another quarter but I think if we see at the end of
17 the third quart there that these numbers are over 2
18 million dollars I think we have got to do something
19 because money is sitting around.

20 CHAIRMAN MENDEZ: I think we should make
21 a real -- take another close look in Salt Lake
22 city. We should have --

23 MR. GESSNER: We'll have actual expenses
24 through the end of the third quarter. We -- what
25 we won't have in Salt Lake City are different plans

1 for the use of the balances through late September.
2 We can't --

3 CHAIRMAN MENDEZ -- (Interpoisng) We have
4 it now this is not directed to you. This is
5 directed to the rest of the staff. You have 30
6 days to really us how those monies are going to be
7 expended with some fairly definite budgets.

8 MRS. BERNSTEIN: With all due respect, I
9 think part of the uncertainties would be resolved
10 if we make some decision one way or another
11 regarding reorganization. And the move of the
12 Corporation, as I understand it, it's planned now
13 for the end of July. So we would know definitely
14 by August whether we moved.

15 MR. GESSNER: We'll know whether we
16 moved. We may not know the cost.

17 MRS. BERNSTEIN: But at least we would
18 know there is a certain amount of money being
19 expended for at that. And also the reorganization
20 we would know one way or the other. I understand
21 the concern that both of you have, but I will say
22 from what I have heard taking the totality of the
23 information part is out of their control because of
24 the decisions we have not made.

25 MR. SMEGAL: The point I want to make is

1 when we saw the six-month figures were 2.25, two
2 and a quarter million under budget. We have got
3 eight month figures, and we are still two and a
4 quarter under budget. Let me exchange that
5 sentence then. The budgetary difference -- and I
6 just get that by simple math -- at the end of six
7 months of the 12.9 million is available, and 4.2 is
8 expected, and half of 12.9 is six and a half. If I
9 held it for two more months, and after two-thirds
10 of the year the budget amount is 8.6 we have
11 expended 6.4. There we are again, three and a
12 quarter million still there. And I appreciate
13 there are a lot of things that are going to happen;
14 but I am saying to you it seems we are seeing a
15 pattern here, a consistent pattern of being
16 significantly under budget.

17 MR. GESSNER: I'd like to share with you
18 the part we put together in the budget office.

19 MR. SMEGAL: Is it in this budget?

20 MR. GESSNER: No, it is not.

21 I looked at 1982, '83 and '84 quarterly
22 expense else as percentages of total expense in
23 management administration. What we found basically
24 is that there's absolutely know consistency in the
25 quarterly expenditure and I think this reaffirms

1 what I have been saying all along, is that you
2 can't make any assumptions that we are under budget
3 or under planned because we have expense less than
4 50 percent of the budget in 50 percent of the year.

5 MR. WALLACE: This is for
6 administration?

7 MR. GESSNER: Yes. You can pass that
8 around. I didn't make copies because I didn't
9 think I was going to be talking about that.

10 MR. WALLACE: Well, Mr. Gessner, I'm
11 like Mr. Smegal. I'm willing to wait for Salt Lake
12 City to see what some of these numbers are looking
13 like, but it would be my inclination in Salt Lake
14 City to put at least roughly \$1 million, which is
15 this 1C line, to some alternative use, and I would
16 put a good chunk of that unallocated reserve under
17 3A to some use; and I hope what somebody will tell us
18 in Salt Lake City is how much we can safely shuffle
19 around and where we ought to shuffle it because we
20 don't want to be going through next year, what we
21 went through this year trying to find a home for \$5
22 million that didn't get spent.

23 MRS. BERNSTEIN: But the unallocated
24 reserve -- let me just say that I would suggest
25 that maybe a little bit of history in terms of how

What I have been saying all along, is that you
can't make any assumptions that we are under budget
or under planned because we have expense less than
50 percent of the amount in 50 percent of the year.

MR. WALLACE: This is for

administration?

MR. GROSSER: Yes. You can pass that

around. I don't make copies because I didn't
think I was going to be talking about that.

MR. WALLACE: Well, Mr. Grosser, I'm

like Mr. Saegert. I'm willing to wait for Salt Lake
City to see what some of these numbers are looking
like, but it would be my inclination in Salt Lake
City to put at least roughly \$1 million, which is
this is fine, to some alternative use, and I would
put a good chunk of that unallocated reserve under
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in Salt Lake City is how much we can safely shuffle
around and where we ought to shuffle it because we
don't want to be going through next year, what we
went through this year trying to find a home for \$5
million that didn't get spent.

MRS. BERNSTEIN: But the unallocated

reserve -- let me just say that I would suggest

that maybe a little bit of history in terms of how

1 much, over the years of the Corporation, what is
2 prudent fiscal practice. Maybe the auditors can
3 help us, because it seems to me with a Corporation
4 this size with the possibilities that are reported
5 in a given time are going to tell us that we cannot
6 make the grants we decided because they are going
7 to overturn some other policy decision we made
8 earlier that maybe that unallocated reserve is not
9 large enough.

10 So, I would suggest that maybe we ask
11 our auditors to look at some history on that, not
12 just the figures.

13 MR. WALLACE: I'm prepared to be
14 persuaded, Mrs. Bernstein, but I do agree with Mr.
15 Smegal that we are consistently under, and I don't
16 want to go through the agony we went through last
17 spring, fiscal --

18 MR. GESSNER: (Interposing) I hope
19 that's done well before the spring. But in any
20 case, I could usually support moving a million
21 dollars.

22 MR. WALLACE: We don't expect you to
23 tell us where to move it. It's your job to figure
24 out how much there is, but I hope somebody will
25 tell us where to move it from Program Development,

1 Field Services, whoever helps figure how to spend
2 money.

3 CHAIRMAN MENDEZ: I would like you to
4 come back in in August and tell us -- your job is
5 to tell us how much we are to move from where we
6 can move it too and your job over here is to tell
7 us where we can move it to and what is the best way
8 to expend it. And we invite the Field to make any
9 comments they want to make about the expenditures.

10 Is there any public comment now on the
11 budget?

12 MS. McMAHON: Yes, I'd like to make some
13 comments. I'm concerned the pattern, and it's a
14 pattern we have talked about consistently with the
15 LSE Board of underspending based on inaccurate
16 projections on the year. I have Mr. Roche's, memo
17 that was provided to you in May raising those
18 issues, and I would like to ask that you provide
19 copies to the members of the Committee of a memo I
20 did in February 1984 raising the same issues.

21 And I listened in wonderment as the
22 Project Director, who was faced with budgetary
23 implications and trying to come within the
24 Corporation's fund balance requirements, not
25 because it's just a requirement of the Corporation

1 because we want every dime serving clients, and we
2 want to come as close to our grant as possible
3 without going over or without going under; and I
4 consistently LSE coming under huge fund balances,
5 money that's not spent to serve clients, and that
6 bothers me. The figures are -- the fund's balance
7 last year was approximately 30 percent of the money
8 that you control, not 30 percent -- once you have
9 sent the money to the Field programs, it's not
10 yours to spend, and it's a fund balance with
11 problems of it's own. But the money you can
12 control and vote on today and say spend this money,
13 give it to the field, set up certain programs, you
14 come up with a 30 percent fund balance and yet you
15 hold us to the 25 percent.

16 That is inconsistent; but I think it's
17 not just a technical issue it's service to clients;
18 and that we see this time after time, where we need
19 more money to spend; and our needs out there we
20 talked about earlier having some money to do some
21 experimental things. We can take that money,
22 rather than fooling around with the formula --

23 MR. WALLACE: (Interposing) I don't
24 think any of us disagree with what you're saying.
25 You hear me and Mr. Smegal arguing on a whole lot

1 are things, but we are sitting here singing the
2 same song that you are today, and I think we are
3 going to allocate some money in Salt Lake City.
4 Now, I realize that's another month of service that
5 people aren't getting in the Field, but we are new
6 at this job and we are not ready to push seven
7 digit numbers around without being sure we know
8 what we are doing. But we are on your side on this
9 one, I think.

10 MS. McMAHON: Well, except I can provide
11 a solution that would get service to clients
12 immediately. Serve those clients, and open the
13 phone lines and handle cases immediately tomorrow
14 if the money goes out. If you have to set up
15 projects, you have lead time to mail out, get the
16 specifications, mail them out et cetera, et cetera.
17 You know how much time that takes. So it's just a
18 concern -- and it's a song I have been singing for
19 years. It's nice to have people joining, but we
20 never seem to come to an end.

21 MR. VALOIS: Nobody has trouble spending
22 money. Some people have difficulty spending money
23 wisely.

24 MS. McMAHON: I'm concerned. I don't
25 think there is any indication that the Field

1 programs are not spending their wisely. I don't
2 think there's any justification for that.

3 MR. WHITE: I have one comment. I do
4 hear some comments and concerns about the process
5 the Corporation staff goes through in making the
6 projections.

7 As the Corporation Controller two things
8 that I'm concerned about; not only that we spend
9 the money, I'm also concerned about the money that
10 is spent that we have available that is spent
11 wisely, and there's no, -- what I can see, fourth
12 quarter dumping where we try to catch up and spend
13 the money around September -- August, September
14 just to meet a goal. And I would prefer, although
15 I know there's a concern that we put the money out
16 and have it available to the Field programs and
17 that is-- or the two other vehicles, I am as
18 concerned that that money is spent wisely. If it
19 means there are projects that are targeted that we
20 should hold up and not spend then I think we, as
21 Corporation staff, have to also hold that money up
22 and to have it available as you call it, and fund
23 out. I think the percentage of 30 percent is not
24 accurate if you look at what it is that we have had
25 over the past fiscal year.

1 And secondly, the budget process is one
2 that where almost 50 to 60 percent of the dollars
3 we look at are labor intensive costs. We have we
4 have exact projection on the costs that it would
5 take the Corporation to run. Another about 75 to
6 80 percent is fixed costs. Those things you don't
7 have control; and the rest of them are those costs
8 which the Corporation has to use good judgment to
9 be sure that the money is spent wisely. I have --
10 and the Committee that had been formed to overlook
11 this process is quite concerned that money is
12 pulled out. We have things such as litigation,
13 opinion litigation reserve that from a Corporation
14 standpoint we have to be sure that the proper
15 amount of money is allocated. And from a management
16 standpoint I don't think you should zero out your
17 management administration. So that one or two
18 percent is not unreasonable. And again that is
19 supported by our Corporate auditors, if you want to
20 have them come to testify to that. So, I didn't
21 think in this fiscal year pending -- if the Board
22 makes decision on other issues that are before them
23 that concerns the Corporation's staff, you won't
24 have that problem. So, I -- in August we will be
25 ready. But again, there are certain projects that

1 I know that the Board wants. I want to be sure
2 that the money is spent wisely and not just put out
3 because I know we are capable of putting money out,
4 and we are capable of spending it and bringing it
5 down to the target.

6 MS. McMAHON: We have the same concern.
7 I think we have different opinions as where it's
8 going to come September 30, 1985 and I think we
9 will see a significant fund balance of money not
10 going to the field. I'm also concerned with some
11 management, administration, program development,
12 training and technical assistance. Those are lines
13 which Congress specifically, in the Statute
14 mandated limitations on the amount of funds to be
15 allocated for compliance. The Corporation adopted
16 a different COB and changed the names of things.
17 But an apple is an apple, and I think Congress
18 recognized it, and I think this Board should be
19 concerned about how Congress is going to view
20 increasing lines that it had indicated it did not
21 want to see increased spending in. That's a
22 concern. You can decide how you want to approach
23 it.

24 I'm also concerned at the last meeting
25 apparently there was \$1.2 million to go out to the

1 field; and we have not seen it yet, and we were
2 wondering what the status is of those funds.

3 CHAIRMAN MENDEZ: Can you answer them?

4 MR. GESSNER: The 1.2 million was
5 subject to reprogramming 15 days notice to the
6 Congress. My understanding is that that 15 day
7 period from the time the letter was sent to just
8 about -- there was a delay maybe 10 days or so from
9 the time that letter was sent.

10 MR. WALLACE: How long does it take to
11 get the money out after the Congress is --

12 MR. GESSNER: Two weeks. It should be
13 going out tomorrow.

14 MR WALLACE: Okay.

15 MS. McMAHON: I would like to point out
16 in the budget documents -- I just received the May
17 figures. The six point figures, particularly in
18 management in the administration the projected fund
19 balance -- and that line is almost equal to the
20 amount you allocated in addition to increase that
21 particular portion of the budget and it's like Y
22 allocated there and you're going to have it
23 available at the end of the year I realize the
24 arguments made by Mr. Gessner and Mr. White still
25 apply.

1 MR. GESSNER: I would like to -- The
2 fund balance projected to be approximately \$391
3 thousand in unallocated and the \$850 --
4 approximately \$800 or \$850 thousand that would be
5 remaining to catch up that will be committed fund
6 balance that we are anticipating now is only that
7 amount in the unallocated line.

8 MS. McMAHON: I recognize that we'll see
9 what they say in September.

10 MRS. BERNSTEIN: We have got to at some
11 point get to the bottom line. We make a policy
12 decision at some point to catch up, that we will
13 finish that task with the money it takes to finish
14 that task, and it really doesn't behoove the Field
15 to come and try to beat us over the head with the
16 fact we didn't expend all of that money during a
17 certain time period to finish that task, because
18 what our objective was there not to expend a
19 certain amount of money in a certain amount of
20 time. It was to finish a task. And at some point
21 we have to decide, yes we are going to commit
22 ourselves to finishing a task.

23 MR. GESSNER: If the field were put in
24 this situation and we had set you up with a line of
25 credit and you only used your money as you used --

1 as you were going to use it your fund balance would
2 look different.

3 MR. VALOIS: The other point, as Mr.
4 White has pointed out to the extent that these
5 overages are as the result of not expending them on
6 personnel, manpower, those are things over which he
7 has no particular control and things which are
8 reflective of personnel decisions made or not made
9 by other officers of the Corporation. And to me,
10 you know, it's to their credit that this money has
11 not been expended when not necessary to be expended
12 then I think you're trying to criticize them for
13 something I want to congratulate them for.

14 MS. McMAHON: I don't think money should
15 be thrown out the window and I guess my experience
16 is precisely that that money be spent on a marginal
17 basis; but I don't see how your decisions are
18 different from our Board decisions which we field
19 out our allocation for fiscal 1985 is going to be X
20 dollars and we decide on taps. We are going to
21 open up a clinic on eviction representation. We
22 have to decide can we accomplish that task. We
23 can't say we started that, you have to keep funding
24 us. We are responsible for the implications we
25 make as Board. The same with the Legal Services

1 Corporation Board. It has no lesser
2 responsibility. Congress provides allocation of
3 funds for fiscal year 1985 and you have an
4 obligation to expend those funds consistent with
5 the purposes of the Act. I'm not suggesting that
6 any money be thrown away. I'm suggesting that I
7 think more money can go to serve clients. And what
8 I have seen is consistently money for the special
9 projects that have never happened and not being
10 used to serve clients; and that is my concern. I'd
11 be the last to want to see money wasted.

12 CHAIRMAN MENDEZ: Do you have a
13 question, Hortensia?

14 MR. BENOVIDEZ: No.

15 CHAIRMAN MENDEZ: I'm going to ask the
16 Board, is it everyone's general feeling that we
17 postpone any further action on the expenses,
18 whether we are going to distribute any funds until
19 the August meeting in Sale Lake City. Do you agree
20 with that Hortensia?

21 MS. BENOVIDEZ: Yes.

22 CHAIRMEN MENDEZ: Lorain?

23 MS. MILLER: Yes.

24 CHAIRMAN MENDEZ: Tom?

25 MR. SMEGAL: I'm not going to the

1 Corporation Board. It has no lesser
 2 responsibility. Congress provides allocation of
 3 funds for fiscal year 1985 and you have an
 4 obligation to expend those funds consistent with
 5 the purposes of the Act. I'm not suggesting that
 6 any money be thrown away. I'm suggesting that I
 7 think more money can go to serve clients. And what
 8 I have seen is consistently money for the social
 9 projects that have never happened and not being
 10 used to serve clients; and that is my concern. I'd
 11 like the fact to want to see money wasted.

12 CHAIRMAN MEMBER: Do you have a

13 question, honorable?

14 MR. REMOVIDER: No.

15 CHAIRMAN MEMBER: I'm going to ask the

16 board, is it everyone's general feeling that we
 17 postpone any further action on the expenses,
 18 whether we are going to distribute any funds until
 19 the August meeting in Salt Lake City. Do you agree
 20 with that honorable?

21 MR. REMOVIDER: Yes.

22 CHAIRMAN MEMBER: Losing?

23 MR. MILLER: Yes.

24 CHAIRMAN MEMBER: Tom?

25 MR. SMOGAD: I'm not going to the

1 meeting and I'd like to leave Mr. Wallace my proxy.

2 After 6 months we were 17 percent under
3 budget. The only thing you have done in the
4 intervening two months is to extend the amount that
5 would have been budgeted in two months.

6 MR. GESSNER: For the 12 month period I
7 understand there's a bunch of things trailing
8 along, but it seems to me that if Mr. Wallace, as
9 my proxy sees that same pattern --

10 CHAIRMAN MENDEZ: (Interposing) I feel
11 the same way you do Tom and I want to see us
12 distribute some of the funds, but specifically I'm
13 interested in the Smith Fellowship fund.

14 MR. WALLACE: But I'm a little more with
15 Tom on that. I'm also interested in this
16 Management and Administration. I don't want to
17 shuffle money out of the last quarter so there's
18 nothing left over. I realize what you say Mr.
19 White, it may be very smart for us to have more
20 than \$391 thousand left over in Management and
21 Administration, but I have seen your chart. I
22 don't know how we get those ping pong quarterly
23 expenditures.

24 MR. MESSNER: There are some. There are
25 some some --

1 MR. WALLACE: I think there are dollars
2 to be spend under Roman numeral three, but I'm
3 willing to be persuaded to the contrary, but
4 there's some money we ought to move around.

5 CHAIRMAN MENDEZ: Basile, do you feel
6 comfortable waiting until Salt Lake City? You do?

7 MR. UDDO: Yes.

8 CHAIRMAN MENDEZ: Mr. Valois:

9 MR. VALOIS: It's irrelevant.

10 MS. McMAHON: I want too make a brief
11 statement. With respect to the first motion in
12 terms of the formula, I just wanted to clarify the
13 Attorney General's position. It is our position
14 increased funds comes from increased appropriations
15 and not from taking the chance and cutting the
16 other programs. That's our position. I wanted to
17 clarify.

18 CHAIRMAN MENDEZ: Any other comments, or
19 are we free to go to lunch?. Not puting any
20 pressure on anyone. MR. WALLACE: I move lunch,
21 Mr. Chairman.

22 (Adjournment at 12:15 p.m.)
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STATE OF MICHIGAN)
COUNTY OF WAYNE)

I, ELIZABETH E. MONTGOMERY, Notary Public, in and for the State of Michigan, County of Wayne do hereby certify that I reported stenographically the foregoing proceedings at the time and place hereinbefore set forth; that the same was thereafter reduced to typewritten form under my supervision by means of computer-assisted transcription; I further certify that this a true record of the foregoing proceedings.

Elizabeth E. Montgomery
ELIZABETH E. MONTGOMERY, RPR, CSR-2230
Court Reporter

Notary Public
Wayne County, Michigan
My commission expires: September 9, 1987