

LEGAL SERVICES CORPORATION  
BOARD OF DIRECTORS MEETING

The La Fonda Hotel  
New Mexico Room  
100 East San Francisco  
Santa Fe, New Mexico 87504

March 25, 1988

**Diversified Reporting Services, Inc.**

1511 K STREET, N.W. SUITE 547

WASHINGTON, D.C. 20005

(202) 628-2121

## PARTICIPANTS

## Board Members:

William Clark Durant, III, Chairman

Robert A. Valois, Vice Chairman

Hortencia Benavidez

LeaAnne Bernstein

Pepe Mendez

Lorain Miller

Thomas F. Smegal

Claude G. Swafford

Michael B. Wallace

Paul Eaglin (via telephone)

Basile J. Uddo (via telephone)

## Staff Members:

John H. Bayly, Jr., President

Timothy Shea, General Counsel

Maureen R. Bozell, Secretary

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## M O T I O N S

	PAGE
Motion by:	
Mr. Valois to approve agenda	64
Mr. Valois to amend 1898 budget request	82
Chairman Durant to extend gratitude to Charles Jarvis	102
Mr. Wallace to allocate \$300,000 to voucher project	107
Mr. Wallace to remove \$300,000 from uncommitted category and put in functional accounting	122
Mr. Mendez to table discussion on \$300,000 to local programs	127
Mr. Durant for President Bayly to find and report where board could get \$300,000 to let to poor people for resolution of their disputes	136
Mr. Mendez to adopt FY 88 consolidated operating budget as previously discussed	147
Mr. Smegal to publish amended numbers	151
Motion by Mr. Wallace to adjourn meeting	157

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## AMENDED MOTION

PAGE

Amended motions by:

Mr. Wallace to take items 3 and 4 and move them behind item 8, report on functional accounting	65
Mr. Smegal to remove money from voucher program and put it on hold	113
Mr. Smegal to put \$300,000 in National Client's Council	122

## SUBSTITUTE AMENDMENT

Substitute Amendment by:

Mr. Mendez to send \$300,000 to local programs for client education	124
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## I N D E X

	PAGE
Statement of Judge Lorenzo Garcia	6
Statement of Seth Montgomery	9
Statement of Dr. Wallace Ford	15
Statement of Oma Jones	26
Statement of Michael S. Greco	44
Statement of Charles Moses	103
Statement of Jim Podgers	115
Statement of Joe Mesar	119
Statement of Randy Chapman	127
Statement of Regina Rogoff	128
Statement of Timothy Shea	149
Statement of Laura Watchempino	154

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1           CHAIRMAN DURANT:    The Board of Director's Meeting for  
2 the Legal Services Corporation scheduled for today, March 25, is  
3 now commencing following the Appropriations Committee Meeting  
4 that recently concluded.

5           The invocation will be given by Dr. Wallace Ford of  
6 the Conference of Churches of New Mexico. Dr. Ford.

7           (Invocation given by Dr. Ford)

8           CHAIRMAN DURANT:    We have a couple of brief opening  
9 remarks before we get into the formal part of the meeting. The  
10 Honorable Lorenzo Garcia, a Judge of the New Mexico Court of  
11 Appeals is here. Judge Garcia, if you would come forward. It  
12 is nice of you to be here. I know it is busy. I promised you  
13 we would start right at 10:00 and we did.

14                                 STATEMENT OF JUDGE LORENZO GARCIA

15           JUDGE GARCIA: Thank you very much, Mr. Durant, Mr.  
16 Chairman, members of the board. Bien Venidez a Santa Fe,  
17 welcome to Santa Fe. I am very pleased and honored to have  
18 received an invitation by your Executive Director Mr.  
19 DuSchweinetz (phonetic) to share just a moment or so of my  
20 thinking and to extend a welcome to the board as it begins its  
21 deliberations on some very important matters here in northern  
22 New Mexico.

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1 My association with the Legal Services program is a  
2 long duration. I have been on the bench for 10 years, but I  
3 started my legal career as a staff attorney with the Santa Fe  
4 Legal Aid Society and worked with northern New Mexico Legal  
5 Services Corporation, served as a trial skills trainer with  
6 Legal Services Training Institute and have been a long time or  
7 formally was a long time board member with the northern New  
8 Mexico program.

9 I am appearing today simply as an emissary and a  
10 representative of my court to extend a welcome to you as you  
11 engage in your business here in the state. I wish to extend  
12 warm wishes to you and hope your visit in New Mexico is  
13 productive and enjoyable.

14 I am also pleased to be here because it gives me an  
15 opportunity to express support for the work of the Legal  
16 Services programs in New Mexico. The work of Legal Services is  
17 important and extremely necessary through the dedication and the  
18 diligence of the staff attorneys, paralegals and the support  
19 staff in these programs.

20 Countless thousands of individuals are helped and have  
21 been helped over the years. These are individuals who but for  
22 the intervention of the program would not have their rights

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1 protected. The court joins with me in expression of support for  
2 the fine work of Legal Services.

3 We are honored by your presence here because we  
4 believe that it underscores your own belief in the importance  
5 and the ongoing work of all of the programs administered by the  
6 Legal Services Corporation here in New Mexico.

7 To that, Mr. Chairman, and members of the board, I  
8 wish you God speed during your deliberations, and thank you for  
9 attending here and offer the services of the court or its  
10 offices in any way that we can help you here in your stay here  
11 in New Mexico.

12 Thank you.

13 CHAIRMAN DURANT: Thank you, Judge, very much. It was  
14 nice to have you here. Did you have some other people that you  
15 also wanted to speak?

16 A PARTICIPANT: Mr. Durant, we had two panelists here  
17 to speak very briefly; Dr. Ford and Seth Montgomery.

18 CHAIRMAN DURANT: Please come forward. Mr.  
19 Montgomery, it is nice to see you. Glad you could be here. Dr.  
20 Ford and Mr. Montgomery, the floor is yours, and we are glad  
21 that you are here. Please make sure for the sake of our court  
22 reporter that you speak directly into the microphone.

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## STATEMENT OF SETH MONTGOMERY

1  
2 MR. MONTGOMERY: Thank you very much, Mr. Chairman and  
3 members of the board. My name is Seth Montgomery. I am a  
4 practicing lawyer in Santa Fe, New Mexico, of course, and a  
5 member of the Board of Bar Commissioners of the State Bar of New  
6 Mexico.

7 I am here this morning in place of our President Buck  
8 Cuddy (phonetic), who is the president of the State Bar who very  
9 much wanted to be present to address you and to welcome you to  
10 Santa Fe and to New Mexico, but asked me to attend because he  
11 had a conflict and had to be in New Orleans this morning.

12 So, I am please to be here and to extend to you on  
13 behalf of the entire bar of the state of New Mexico and  
14 especially the Board of Bar Commissioners and especially the  
15 President of the State Bar a very warm welcome to New Mexico and  
16 to Santa Fe and hardiest greetings from Bishop Cuddy and the  
17 rest of the Board of Bar Commissioners.

18 I would like to say a word to you about the extent to  
19 which the State Bar of New Mexico is committed to the objectives  
20 of the Legal Services Corporation and endorses the programs that  
21 are carried out in the state by the corporation and has involved  
22 itself in the provision of legal services to low income people

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1 in the state.

2 First, before I do say a word or two about that, let  
3 me tell you a word or two about myself so that you will know who  
4 is addressing you and the perspective from which I speak. I was  
5 born and raised in Santa Fe. I went away to college, Navy and  
6 Law School and returned here to practice in 1965 and have been a  
7 member of the private bar and a practicing lawyer in Santa Fe  
8 since that time.

9 In the late 1960s, I was asked by some people who were  
10 involved in the Model Cities program of the city here to help  
11 establish a Legal Aid Society. I did do that. I participated  
12 with them in the establishment of what was then the Santa Fe  
13 Legal Aid Society and what became and still is the recipient of  
14 your program grant monies, the Legal Services of the Northern  
15 New Mexico Legal Services, Inc., northern New Mexico, one of the  
16 five programs which is administered under the auspices of the  
17 Legal Services Corporation today in New Mexico.

18 At that time, I was also a member of the Legal  
19 Services Committee of the State Bar which was active in trying  
20 to figure out how legal services could best be provided to poor  
21 people in the state.

22 There was, at that time as I am sure you know, quite a

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1 debate, probably nationally and certainly in New Mexico, between  
2 the advocates of the so-called OEO funded programs, programs  
3 funded by the Office of Economic Opportunity and Judicare  
4 administered programs which would be largely carried out by the  
5 private bar probably with considerable tax support.

6 That debate continued through the end of the 60s and  
7 into the early 70s and I am sure after that. In 1971, I was  
8 diagnosed with multiple sclerosis, withdrew from bar activities  
9 and concentrated my efforts on my practice and other things and  
10 did not resume my interest in bar activities, really, until the  
11 mid 1980s.

12 Two years ago, I was elected to the Board of Bar  
13 Commissioners on which I have served since 1986. So, one other  
14 historical point: In 1974, I was appointed by then Governor  
15 Apadaca (phonetic) as chairman of the New Mexico Advisory  
16 Council to the Legal Services Corporation.

17 That is a position that I still hold, although, as I  
18 am sure you know, the Advisory Council in New Mexico and  
19 elsewhere, I assume, throughout the country is defunct and is  
20 not functioning actively at this time; it has not for a good  
21 many years.

22 With that history, I think I do have some knowledge

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1 and can speak with some authority about the perception of the  
2 Legal Services programs in New Mexico here in the late 1980s. I  
3 am pleased to say that the debate that I witnessed in the late  
4 1960s and early 1970s has largely subsided.

5           The divisions that existed at that time have largely  
6 disappeared. There is a general and widely shared consensus  
7 among the attorneys in the state today and certainly among the  
8 leaders of the bar -- the President of the Board of Bar  
9 Commissioners, the other officers -- that unanimously support  
10 the efforts of the Legal Services programs in the state today.

11           The consensus certainly supports the activities of the  
12 Legal Services Corporation and very much wants to see those  
13 activities continued and strengthened. Possibly apropos of  
14 what may be occupying your attention now would oppose any  
15 reduction in the funding of the Legal Services Corporation from  
16 the levels at which it has been funded in recent years.

17           As I have said, we do -- the State Bar does almost  
18 with a --not unanimously throughout the bar I am sure -- but  
19 unanimously through the leadership of the bar support the  
20 programs that now exist.

21           There are, as I am sure you know, five programs in the  
22 state: The Northern New Mexico Legal Service, Inc., of which I

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1 have spoken that occupies and administers services throughout  
2 the northern half of the state; a corresponding agency  
3 throughout the southern part of the state; the Albuquerque Legal  
4 Services Program that administers programs in Albuquerque; and  
5 then two native American programs that provide services on the  
6 Navajo Reservation, that is the DMA and a similar program that  
7 provides services in the Indian Pueblos throughout the state.

8 The activities of the State Bar, which I represent,  
9 are not limited to endorsing and supporting and giving aid and  
10 comfort, I hope, to those five programs. The State Bar itself  
11 is involved in activities to the same objectives.

12 The most prominent aspect of that is a lawyer referral  
13 for the elderly program that the State Bar established about  
14 three or four years ago. That provides services to the elderly  
15 in New Mexico through the participation of about 600 lawyers  
16 offering pro bono services on a volunteer basis.

17 The recent session of the New Mexico legislature  
18 passed a memorial commending the State Bar for this program,  
19 noting that it has provided about \$250,000 worth of services to  
20 the elderly this past year and noting, I think -- or at least it  
21 is true -- that the program provides, in the last year, services  
22 to about 2600 or more eligible elderly recipients in the state.

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1           The State Bar is going forward with a study of a  
2 similar program to provide lawyer referral services throughout  
3 the state which would not be limited to low income people but  
4 certainly would include them as a substantial component.

5           The State Bar has an active Pro Bono Committee that is  
6 working otherwise to provide different kinds of services  
7 throughout the state. The State Bar, about two years ago,  
8 established an IOLTA, Interest on Lawyer Trust Account program  
9 that is administered by the New Mexico Bar Foundation.

10           This was done through a grant from the Legal Services  
11 Corporation and the State Bar using that grant and the services  
12 of lawyers in the state and established that program, committed  
13 to expend 80 percent of the monies raised from that program in  
14 the support of legal services programs in the state.

15           So, I think it is true that the State Bar is doing a  
16 lot; no doubt it could do more, but it does strongly support the  
17 Legal Services programs and the activities of the corporation  
18 and the private lawyers in the way that I have mentioned.

19           Thank you very much. I appreciate the opportunity to  
20 address you. I will certainly be glad to answer any questions.  
21 I extend to you our best wishes for a pleasant and successful  
22 and productive program here in Santa Fe.

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1 CHAIRMAN DURANT: Mr. Montgomery, thank you very  
2 much. Before we do any questions, if there are any, I would  
3 like to go with Dr. Ford if we could.

4 STATEMENT OF DR. WALLACE FORD

5 DR. FORD: I would like to take this opportunity now  
6 to welcome you to Mexico and give you our best hopes for your  
7 deliberations here. I was asked to share with you, briefly, a  
8 sketch of the conditions of poverty in New Mexico. I would like  
9 to take just a few moments to do that.

10 The historical richness of our state and of this  
11 region is a great inheritance to all of us, a richness that  
12 reaches back over two millennium. We certainly have here in our  
13 state a sense of history and a sense of the cultural diversity  
14 that makes up our state.

15 Yet, in spite of this richness, we find ourselves here  
16 in New Mexico in a context of stark contrast. Dr. Lee Zinc, who  
17 is a Professor of Economics at the University of New Mexico and  
18 Director of the Institute of Applied Research has suggested that  
19 perhaps a helpful way to understand the economic situation in  
20 New Mexico is to draw several analogs between our region and  
21 third world economies.

22 It may seem strange that in these days, in the United

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1 States, that we would draw these kind of analogies, but the  
2 regional characteristics that we find here in our state suggest  
3 that these analogies deserve our attention in order to  
4 understand the dynamics of what happens here in our state.

5 To summarize these conditions, one notes that up until  
6 World War II, the economy of this region was primarily  
7 subsistence agriculture. Then, without passing through any  
8 significant industrial phase, New Mexico became primarily a  
9 service-sector economy, with the Department of Defense and the  
10 Department of Energy being the number one employer in our state  
11 followed by state and local governments.

12 To illustrate the starkness in which I have tried to  
13 sketch for you, if you were to peak over the mountains just east  
14 of here, you would look down into Mora (phonetic) County, a  
15 county in which the unemployment rate continues to hover around  
16 35 percent and the per capita income is about \$3100 per year.

17 If you then look to the west up on the mesa to Los  
18 Alamos County, you would find unemployment there less than four  
19 percent and the per capita income being over \$11,000 per year,  
20 primarily because of the presence of the Los Alamos Laboratory.

21 These stark contrasts are realities we live with here  
22 in New Mexico every day. Two years ago, the New Mexico

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1 Conference of Churches wanted to find an adequate profile of  
2 poverty in our state, but we could not find any. So, we  
3 undertook the task on a volunteer basis to create a  
4 comprehensive study and profile of poverty.

5 I have here a report of that study. I will give it to  
6 you for your information so that you can better understand the  
7 situation here in New Mexico. We found a number of poverties  
8 that exist in our state as similar to other states.

9 We found persons in poverty who were in poverty  
10 because they had been uprooted from their homes by the changing  
11 employment patterns in our state. We found those who were  
12 homeless; the persons in poverty who are single parent families;  
13 citizens in poverty who are the elderly; persons in poverty who  
14 are those with disabling conditions; persons in poverty because  
15 of the rural crisis, the farmers and the ranchers; those who are  
16 chronically underemployed and unemployed.

17 Each of these types of poverty, even though we talk  
18 about it in an objective way, are human pain. Each must be  
19 dealt with in their own way. Let me share with you for just a  
20 moment some of the statistics that we discovered. Statistics  
21 always are, perhaps, too inhumane.

22 Behind the statistics are personal stories of which I

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1 am sure you know personally in other studies. One in every  
2 seven New Mexico family lives below poverty, while almost one in  
3 three Indian families, one in four Black families, one in every  
4 five Hispanic families do.

5 Over half of the minority families headed by a female  
6 and having children live in poverty. One in five New Mexican  
7 children lives in poverty, but the number jumps to half when we  
8 consider Indian children and one in four Hispanic children and  
9 one in three in Black children live in poverty.

10 One in five older New Mexicans live below poverty.  
11 One in four New Mexicans, both female and old, are poor. The  
12 adjusted estimates of New Mexico poverty show over 290 thousand  
13 people living in poverty in a state with a population of about  
14 1.3 million.

15 This represents a 30 percent increase in poverty in  
16 our state since the 1980 census was taken. State and local  
17 spending on welfare as a percentage of total spending in 1981  
18 and 1982 in New Mexico was 7 percent of our state budget. New  
19 Mexico represents the -- ranks 42 in all states in this  
20 category.

21 In 30 out of our 33 counties, over 30 percent of all  
22 households have income less than 10 percent per year. Persons

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1 in poverty need essential services. I do not think there can be  
2 any question about that. Certainly, one of the essential  
3 services in our kind of society in the latter part of the 20th  
4 century is adequate access to legal assistance.

5 This was reinforced for us in the Conference of  
6 Churches recently when, during the establishment of our world  
7 support network, we began working with farmers and ranchers who  
8 were facing either foreclosure or bankruptcy.

9 As we talked with them in response to their calls,  
10 hundreds of calls over our agricultural hotline, what we  
11 discovered their needed was someone to talk to about helping  
12 them to understand the complex structures of their financial  
13 condition.

14 They did not need just financial advice, they needed  
15 legal advice. Since most of our agricultural activities in the  
16 eastern part of our state, the Legal Service office in Clovis  
17 could not even begin to handle this growing need.

18 This is but one example of how citizens of our state  
19 who, for a variety of reasons, find themselves excluded from  
20 resources which are required to live effectively in our society.  
21 I urge your careful consideration of the implications of the  
22 need for legal services here in our state for the persons who

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1 are experiencing poverty.

2 Again, let me thank you for this opportunity to share  
3 these remarks with you. I, too, would be open for any questions  
4 that you might have. Thank you.

5 CHAIRMAN DURANT: Thank you, Dr. Ford. Dr. Ford, what  
6 specifically -- you mentioned kinds of legal assistance on those  
7 hotline calls that you named. What specific assistance did you  
8 find was most necessary?

9 DR. FORD: I would categorize it primarily as helping  
10 them to sort through, first of all, what their options are other  
11 than just foreclosure and to look at the complex structure of  
12 loans that were taken without fully understanding the  
13 implication of those loans; helping a farmer who knows how to  
14 farm but does not understand some of the implications of the  
15 decisions that he or she may have made or understand what the  
16 implications are, for example, of foreclosure over against  
17 bankruptcy over against having someone who would be an informal  
18 mediator with a lender.

19 That whole range of requests have come through our  
20 hotline.

21 CHAIRMAN DURANT: Any other questions?

22 MR. WALLACE: I have got some questions. Let me ask

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1 one question to Dr. Ford because I have got several for Mr.  
2 Montgomery.

3 What sort of farmers in bankruptcy are we dealing  
4 with here? In Mississippi, we have got a lot of farmers in  
5 bankruptcy. Anybody in bankruptcy, I suppose, is poor. Many of  
6 ours are not the sort of people that I would think of when I am  
7 thinking of Legal Services program.

8 They are basically small businessmen who went wrong on  
9 interest rates and met wrong on farm prices and have had plenty  
10 of land and plenty of equipment and got to the point where they  
11 could not pay for it.

12 I am not unsympathetic to those people, but they are  
13 not small subsistence family farmers who just got ground down  
14 into the dirt. What is the profile with the type of farmers in  
15 New Mexico that you found going into bankruptcy?

16 MR. MONTGOMERY: Well, we do have, still here in New  
17 Mexico, a number of the subsistence type farms. Those are the  
18 persons that you normally would think of. We also have a number  
19 of persons who are farming who are doing that on leased land.  
20 They do not have assets. Those would be the second category of  
21 persons.

22 MR. WALLACE: Let me ask Mr. Montgomery a couple of

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1 things. I was interested that you had been on the Governor's  
2 Advisory Council. We had someone come before us about two  
3 meetings ago asking us to get those things reestablished.

4 Certainly, having sworn to enforce the law, it  
5 bothered me a little bit that they are the part of the law that  
6 is just lying their dormant. What did the Advisory Council do  
7 in the days that you were on it -- I guess you are still on it--  
8 - in the days that it was active in New Mexico?

9 MR. MONTGOMERY: We received, Mr. Wallace, a number of  
10 complaints about -- which is the function of the Advisory  
11 Committee, I think, to receive complaints about whether the  
12 recipients are administering their programs in accordance with  
13 the statute and the regulations.

14 We investigated those complaints. The purpose, as I  
15 recall the statutes -- it has been a long time since I have  
16 looked at it -- it says that you shall make an investigation to  
17 determine whether to recommend to the corporation that there is,  
18 I think, the existence of probable cause, something like that,  
19 for further action.

20 We did not find any in the instances that we  
21 recommended. However, we did solicit reports and not  
22 affidavits exactly but letters from the complainants and other

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1 people who might be witnesses as well as the recipients and then  
2 made a determination whether to or not to make the  
3 recommendation that the statute contemplates.

4 MR. WALLACE: Why did the system fall out of disuse?

5 MR. MONTGOMERY: The primary reason was that the  
6 complaints simply stopped being submitted. That occurred, I  
7 would say, probably as long as five or six years ago. It has  
8 been that long at least, if not longer, that I have received, as  
9 Chairman of the Advisory Council, any kind of a written  
10 communication expressing either a complaint or the opposite.  
11 There has been silence from everyone as to the operation of  
12 these programs.

13 MR. WALLACE: Let me ask you one other line of  
14 inquiry. We have a regulation that mandates a 12 and a half  
15 percent of grantee budget be used for private attorney  
16 involvement.

17 I do not know how much money that amounts to in New  
18 Mexico programs and maybe you do not either, although if anybody  
19 does, I would love to hear it. Do you know how the private  
20 attorney involvement money is being used in New Mexico to get  
21 private attorneys involved?

22 MR. MONTGOMERY: I do not know, but I do know that the

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1 northern New Mexico Legal Services program that I mentioned  
2 before is involved in the lawyer referral for the elderly  
3 program that the State Bar is administering.

4 So, that is at least part of the answer. It may be  
5 more widespread than that. There may be -- the recipients may  
6 be participating in that program throughout the state.

7 MR. WALLACE: That is interesting. How much money  
8 that bars own do you know is being committed to the various pro  
9 bono and referral programs that you have described to us today?  
10 Obviously, you are putting plenty of hours and work into it. Do  
11 you know how much cash the bar is putting into the programs?

12 MR. MONTGOMERY: No, sir, I do not. I cannot give  
13 you a figure either in absolute dollars or in percentage of the  
14 total budget. There is a portion of the budget devoted to the  
15 administration of the Lawyer Referral for the Elderly program.

16 There is the -- I do know that the IOLTA funds that  
17 were distributed from the bar foundation last year amounted to  
18 \$150 thousand which is not a large sum, obviously, but in New  
19 Mexico it represents something.

20 That is, approximately 35 percent of the practicing  
21 bar is presently participating on a volunteer basis in the IOLTA  
22 program.

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1 MR. WALLACE: I appreciate that. Thanks, Mr.  
2 Chairman. If there is anybody from New Mexico here that can  
3 tell me about PAI, I would love to hear it sometime today.  
4 Thank you, Mr. Montgomery. I appreciate that.

5 MR. MONTGOMERY: You are welcome.

6 CHAIRMAN DURANT: Any other questions?

7 MR. WALLACE: One followup, Mr. Montgomery. How big  
8 is that Mexico bar?

9 MR. MONTGOMERY: The Mexico Bar has about 3600  
10 members. Many of those are public employed lawyers. The  
11 private bar consists, I would say, of approximately 2600 or 2700  
12 members, something like that.

13 CHAIRMAN DURANT: What was the other number, Mr.  
14 Montgomery? I did not hear it.

15 MR. MONTGOMERY: 3600 in total.

16 MR. SMEGAL: The 35 percent you just mentioned are of  
17 the 3600?

18 MR. MONTGOMERY: I was counting those as a percentage  
19 of the private lawyers.

20 MR. SMEGAL: You have about 800 lawyers and there are  
21 about 900 that are contributing \$150 thousand voluntarily?

22 MR. MONTGOMERY: That is what I understand.

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1 CHAIRMAN DURANT: Dr. Ford and Mr. Montgomery, thank  
2 you both very much. I would also like to put on the record  
3 before we again get into the formal part of the agenda and  
4 whatever, our thanks to Clark DuSchweinetz for arranging us an  
5 opportunity to go to the Indian Pueblo Legal Services in New  
6 Mexico.

7 I was not able to go on that, but to the people I did  
8 talk to that did go, Clark, they tell me that it was helpful. I  
9 appreciate -- John Bayly tells me it was far beyond the call of  
10 duty. It was more than just a tour. We all thank you for that  
11 opportunity.

12 Oma Jones from the Client's Council in Albuquerque  
13 asked me if she could have an opportunity briefly to address the  
14 board. Ms. Jones, we are glad that you are here and that you  
15 drove up from Albuquerque. It is nice to see you, and the floor  
16 is yours.

17 STATEMENT OF OMA JONES

18 MS. JONES: Thank you very much. Listening to  
19 everybody else up here is so professional and behind a long line  
20 of achievements. I must tell you now that I am not even in that  
21 category.

22 I would like to introduce myself. I name is Oma Jones

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1 and I am from Albuquerque, New Mexico. I am with the  
2 Albuquerque Client's Council. I work with the state Client's  
3 Council, and I am a member of the Regional Seven Client's  
4 Council.

5 We are under the umbrella of the National Client's  
6 Council, and we operate under the bylaws starting from the  
7 national to the regional, state and the local bylaws. I am just  
8 a common individual. I speak to you today from my heart.

9 I am an advocate of the poor people. After listening  
10 to Dr. Ford, I am now sure that my belief that I must -- and  
11 solicit the help of others -- the need to help the poor people  
12 in the state of New Mexico.

13 If I am successful, then every state in the union will  
14 profit meaning that poor people will no longer suffer the  
15 indignities. Because they are poor, they cannot get the proper  
16 legal representation that they deserve based on priority system  
17 laid down by whomever.

18 I do not question that, but I think it needs to be  
19 addressed. The poor people will never succeed in gaining their  
20 dignity until those issues are addressed. Albuquerque Client's  
21 Council, I have, for anyone who would like to review or look at,  
22 some of the things that we do for the poor people.

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1           We assist with the problems in the following areas--  
2 mind you, we assist, not practice laws -- AFDC, food stamps,  
3 medical, social security, social services, housing, legal  
4 services. We have child and spouse abuse problems, immigration,  
5 community problems, every bit of it.

6           We, as Client's Council, do not set a 9:00 to 5:00  
7 schedule. We are open to the community 24 hours a day. We have  
8 gotten up out of our beds at 4:00, 5:00 or 6:00 in the morning  
9 to provide shelter and food for the homeless.

10           We continue to do that without even a thought of how  
11 much money a budget, which we do not have. We operate on  
12 whatever we can get. I solicit your help, your concerns about  
13 the Albuquerque's Client's Council and its needs for the poor.  
14 If you wish, we can do a report individually, collectively.

15           We will get this to you for your information. Any  
16 questions?

17           CHAIRMAN DURANT: Thank you, Ms. Jones. When you  
18 mentioned the priority setting, do the clients in the  
19 Albuquerque Client's Council, what role do they play, if any, in  
20 setting those priorities in the local area?

21           MS. JONES: When it involves a legal matter and the  
22 client has been turned down or has been told that they are

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1 unable to be helped by the Legal Services, it is then the  
2 responsibility of the Albuquerque Client's Council to ban  
3 together to get either the monies that it takes to get a private  
4 or a public attorney, whatever the case may be, because we do  
5 not enter into what or the whys. That is their business. I am  
6 not here to attack. What I am here for is to express to you,  
7 the body and the public, that the Albuquerque Client's Council's  
8 first objective is to never stop until that client has received  
9 its just dues, whether it be legal, medical or what. That is  
10 the priority system in the Albuquerque Client's Council. We are  
11 not lawyers, so we cannot practice law. That does not mean that  
12 we are ignorant of the law. We each can interpret the law in  
13 the proper fashion if we are given the opportunity. We are not  
14 recognized that well. I hope today, and from these days  
15 forward, that everyone in this room that has any connection with  
16 this will know who we are.

17 CHAIRMAN DURANT: When you say that you are not  
18 recognized that well, you are not recognized by whom?

19 MS. JONES: When we mention who we are, no one -- I do  
20 not care what section of the society we speak -- we get no  
21 response from the state. When we are having our meetings,  
22 workshops. we are asking for their assistance to come in and

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1 help rid this state of its problems.

2 Let's work together as a community. So, I am saying,  
3 if I speak, take a client for a legal matter, a housing matter,  
4 they do not know who we are. So, it is up to us to let the  
5 world know that we are the Albuquerque Client's Council.

6 We are to be reckoned with because we advocate for the  
7 poor -- all right -- medical, legal, all the way across the  
8 board. I might add that when we go to our regional, we also  
9 are given training in how to assist other clients, the poor, to  
10 be self-reliant.

11 They do not need to have to have somebody give them  
12 something all the time. They can be given an opportunity to  
13 become self-reliant if someone believes in them. The Client's  
14 Council does and every other researcher's organization, they  
15 study the poor.

16 I am saying, go down to the alleys. Go down on the  
17 streets, on the empty lots and see these people and live with  
18 them. Then you will know that they do need a little bit more  
19 than statistics or ideas and ways to decide that this should be  
20 done.

21 They need it. I beg of you, consider it, all needs of  
22 the poor and help the Albuquerque Client's Council through all

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1 aid to the state, regional and the national Client's Council  
2 secure that for those poor people.

3 CHAIRMAN DURANT: Ms. Jones, I have one other question  
4 and then I will open it up to any others that there are. In the  
5 different areas that you are talking about -- AFDC, food and  
6 social security, whatever -- give me just a couple of examples  
7 where members of the Client's Council or individual, eligible  
8 clients do perform the specific administrative or advocacy rule  
9 when there is a particular kind of "legal problem."

10 MS. JONES: Sure. Say a client goes to the welfare  
11 and they are turned down. Perhaps, there is a legal implication  
12 here. They go to the Legal Aid Society and, for whatever the  
13 reasons are, they are turned down.

14 Then we pick them up. Usually, I cannot tell you if  
15 we just followup and say they are going into the legal aid and  
16 they are going to turn them down. Somewhere along the line, we  
17 run across the people.

18 We work with them, talk to them, ask the questions and  
19 we do some investigating on our own. We find that they  
20 mishandled their case. We present this either to the  
21 authorities, the welfare, the case workers or we will go back to  
22 Legal Aid.

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1           With the evidence that we have collected, then they  
2 can review that case and put those people back on the road.  
3 However, while they are on the road, we talk to these people and  
4 try to get them into school, get skills for them so they can get  
5 off welfare.

6           They are not happy being on welfare, but they cannot  
7 get jobs because they do not have the skills. You cannot find  
8 this -- I do not blame the Legal Services for not providing this  
9 -- that is where we come in.

10           We talk to them and try to get them into school and  
11 try to get them in another direction, not directly into -- oh,  
12 well, let's do this for them. Let's do that for them. They  
13 want to do it for themselves if they have a place to go.

14           So, where the Albuquerque's Client's Council comes in  
15 is we contact the agency, even restaurants, different places  
16 where they may be hiring. Then we work with the people who are  
17 uneducated. How can they hold a job if they do not even know  
18 how to fill out an application. So we work with them on those  
19 issues.

20           CHAIRMAN DURANT:       Thank you, Ms. Jones.       Ms.  
21 Swafford.

22           MS. SWAFFORD: I just have a couple questions. They

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1 are really not related. Let me start with this one first: You  
2 said they mishandle the case. Who is they?

3 MS. JONES: The they I am speaking of is if a person  
4 goes into the welfare office and the application process takes  
5 place, it is either through a case worker or through anyone  
6 employed by the state in that particular department. That is  
7 the they that I am saying, in that particular area of welfare of  
8 food stamps.

9 However, when they go to the Legal Aid for legal  
10 assistance and they are turned down or they are not helped by  
11 the legal system, that is the they I am talking about. The  
12 theys involve those which handle the client's case, whatever it  
13 is.

14 I was speaking strictly -- if the person is one  
15 welfare and goes to file for benefits and they are turned down  
16 and it is unjust, then they go to the Legal Aid Society for  
17 help. If they cannot help them, then we pick them up and go  
18 further.

19 In the meantime, if they are not on assistance, we  
20 provide food and shelter for the people. We do not just leave  
21 them out there just because they cannot be helped through that  
22 system.

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1 MS. SWAFFORD: What size is your Client's Council in  
2 Albuquerque? How many members?

3 MS. JONES: How sad it is dwindling because we are  
4 losing our people because they are so disillusioned by the  
5 inability to get support to help the poor people. We were up as  
6 much as 30 to 40 people, but now we are down to about 12 to 15.

7 It is going to be difficult to hold them and convince  
8 them to work with the poor when they are looking at so much  
9 confusion. When I say that, it seems like now I am going on the  
10 attack.

11 I am just here to state to you that for the poor  
12 people and what we advocate, we are not getting the proper  
13 support that we need to help the poor; old, young, handicapped,  
14 welfare, you name it.

15 Even people who have worked for years have lost their  
16 jobs and they are suddenly out of it. They do not have anywhere  
17 to go. That is not a legal problem, but it does fit in with us  
18 to reach and grab those people and help them get back into  
19 another avenue -- take them down another avenue where they do  
20 not have despair sent in and they either commit suicide or they  
21 just go to the streets.

22 CHAIRMAN DURANT: It is not more lawyers that

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1 necessarily would be helpful.

2 MS. JONES: No.

3 CHAIRMAN DURANT: No what?

4 MS. JONES: No, we do not need a whole lot of lawyers  
5 to feed the poor. We need lawyers to handle legal affairs, but  
6 we do not need lawyers to go out there in that society and feed  
7 and educate and assist the poor in ways of helping themselves  
8 come back up, the dignity line.

9 If you have never lost your dignity, you do not even  
10 know how painful it is to beg and plead and have that door  
11 slammed in your face.

12 MR. MENDEZ: You said that you had about 12 now and  
13 you were up to 30 or 40. How many years ago were you at 30 or  
14 40?

15 MS. JONES: Five years ago, four or five years ago.

16 MR. MENDEZ: Four or five years ago?

17 MS. JONES: Correct.

18 MR. MENDEZ: How many cases does your group work on a  
19 year?

20 MS. JONES: We never keep count. We just do them day  
21 by day. It would be probably a little bit more businesslike to  
22 do that, but when you are dealing with the poor and they are

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1 asking you for food, you do not put a check mark on it. I know  
2 we should keep tabs and have a long list.

3 When they call you on the phone, you do not check them  
4 off and make a list and say, "Oh, well, here is another one."  
5 You just reach out and reach out and keep reaching out until you  
6 have finally laid it on the line that these people are now able  
7 to help themselves.

8 They will not have to come and put the burden on the  
9 other -- we do not have enough funding for this. YOU do not  
10 need the funding if the people have the ability to work for  
11 themselves. If the doors are constantly closed in their faces,  
12 you are going to always have the problem of funding for  
13 something, of them knocking on that other door.

14 It is going to cost more and more money to provide for  
15 them over here when they can easily come in here and help do for  
16 themselves. I preach this. I work with them. I do not know if  
17 I can get the point across.

18 Until you have walked in those shoes, you probably  
19 will never know what it is not to have a meal, to be put out of  
20 your house, to live in the cold and to watch your friends die on  
21 the street.

22 MR. MENDEZ: Have you ever gone to the Albuquerque

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1 United Way or whatever and asked for funding through them?

2 MS. JONES: No.

3 MR. MENDEZ: Have you ever gone to the Albuquerque  
4 City Council and asked for funding from them?

5 MS. JONES: No.

6 MR. MENDEZ: Can I ask you why you have not?

7 MS. JONES: The thought entered my mind and this is  
8 something that we are working on, is to reach out to other  
9 agencies other than the Legal Aid Society. That is where we get  
10 our funding, most of our funding. It is from the Legal Aid  
11 Society.

12 MR. MENDEZ: How much do you get from the Legal Aid  
13 Society?

14 MS. JONES: Well, I do not have -- we have submitted a  
15 budget for about \$2,000. I am not sure if that has been  
16 approved. Maybe one of the other members that was at the  
17 meeting might have that information, but we did submit a budget  
18 for that amount of money. That would include travel for our  
19 training.

20 MR. MENDEZ: When did you submit that request?

21 MS. JONES: It was submitted on January, I believe, 27  
22 of this year at a board meeting.

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1 MR. MENDEZ: Was that submitted in writing or did you  
2 go and present your case?

3 MS. JONES: It was in writing, but we were at the  
4 meeting. It was mailed to the Executive Director and it was  
5 also given to, hand carried to the President of the Board.

6 MR. MENDEZ: How were you treated during your  
7 presentation?

8 MS. JONES: Well, they tabled it. In other words,  
9 they did not approve the budget at that time. There was a  
10 stipulation that we must -- in that budget, we had a proposal  
11 and an agenda set up, a tentative agenda for the year of  
12 workshops that we were going to put on. It would have helped to  
13 have had the money. They told us that we had to have those  
14 workshops and send in a report before they would consider giving  
15 us the funds or approving those funds.

16 MR. MENDEZ: In effect, they turned you down?

17 MS. JONES: They turned us down at that meeting.

18 MR. MENDEZ: Did you get a fair hearing there?

19 MS. JONES: Well, no, not that I know of. I have not  
20 been to a meeting and I have not been informed of any action on  
21 that. So, whenever that money is approved, we will take it and  
22 do what is necessary. It is far short of enough money.

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1           We did not ask for anything other than what we asked  
2 for and maybe that is because that is all we thought we were  
3 entitled to and that is to do our training. We go to the  
4 training, to our regional training workshops. It is effective.

5           It does work in the community because we bring it back  
6 and give it back to the community. We have given them an  
7 outline in a report. So they are aware of it. Apparently--  
8 the reason I am speaking about the Albuquerque Client's Council  
9 is because I have received word that the monitoring system took  
10 place.

11           From that monitoring report, the Albuquerque Client's  
12 Council is not doing anything. I think we can clear that up. If  
13 you have access to that report, I would like very much to get  
14 the other members together, and we will give you a report that  
15 is absolutely the opposite. We are doing a great deal.

16           MR. MENDEZ: Do you know who indicated to the monitors  
17 that the Client's Council was not doing anything?

18           MS. JONES: It came down out of the Legal Aid Society  
19 because that is where we get all of our information about us,  
20 through them.

21           MR. MENDEZ: You mean the Legal Aid Society told the  
22 monitors that the Client's Council was not doing anything?

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1 MS. JONES: Correct.

2 MR. MENDEZ: Your expenses to come up here, did you  
3 get any assistance on that?

4 MS. JONES: I did not. There is a procedure from the  
5 Legal Aid office, I have to have 14 days. I did not have 14  
6 days before I could submit any reimbursement.

7 CHAIRMAN DURANT: Any other questions?

8 MS. BERNSTEIN: Is the Client's Council a separately  
9 organized as a 501-C(3) organization, do you know, as a  
10 charitable organization separately or is it a non-profit  
11 corporation or association?

12 MS. JONES: It is a trickle down, you might say, from  
13 the National Client's Council. It goes to the regional. It  
14 covers seven states then to the state of New Mexico where we are  
15 from then to the city which is Albuquerque.

16 So, it is all the same. It is just a different  
17 terminology. In other words, Albuquerque is not the national,  
18 it is just Albuquerque local. It is based on the same primacy.  
19 It is a corporation come down to the local.

20 We deal with the local problems under the bylaws of  
21 the -- we have our bylaws for the local, but we cannot be that  
22 different from the national. It has to come all the way down

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1 but apply only to the local.

2 MS. BERNSTEIN: If you were getting funding from, say,  
3 the local Legal Aid Society or United Fund or somewhere, would  
4 they be funding the Client's Council directly as a charitable  
5 organization?

6 MS. JONES: Yes.

7 MS. BERNSTEIN: You are separately organized from the  
8 National Client's Council?

9 MS. JONES: No, we are not separate. We are part of  
10 it. We are affiliated. So, we are not separate from them. We  
11 have to stay under the guidelines of that bylaws from the  
12 national level down.

13 However, if we are funded by someone else -- and I am  
14 sure they must have their own procedures of accountability of  
15 those funds -- I am not questioning that at all. It is just to  
16 say that when we do need the money and we present it in writing  
17 and there is proof that we need that money, I just do not see  
18 the need to be treated like, Well, you know, what is --

19 When you have the proof, you do not need further  
20 proof, if you follow me.

21 CHAIRMAN DURANT: Do you have any other questions?

22 MS. BERNSTEIN: No.

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1           CHAIRMAN DURANT:  Would you prefer if you were funded  
2 directly from the -- where you would submit a proposal to the  
3 national as opposed to having to do it through the local  
4 program?

5           MS. JONES:  That would be fine.  However, the National  
6 Client's Council is defunded.

7           CHAIRMAN DURANT:  I am saying if you submitted it--  
8 not you submitting it to the National Client's Council but you  
9 submitting it as simply a provider of direct services.

10          MS. JONES:  If we did that, we would have to be self-  
11 sufficient ourselves.  The local Client's Council, we just do  
12 not have the funds currently to withstand that type of  
13 operation.  We need other money.  So, when it does come from the  
14 Legal Aid Society, we appreciate it.

15                 It is just that that is the procedure; that we submit  
16 a budget and a proposal.  We do this.  I do not know that we  
17 need much more than that.  It is there in writing, and it is  
18 there bold for anyone to understand of any great intelligence.

19                 So, if we have to go through -- continue to go down  
20 another road in order to get these funds -- if it happens once,  
21 it may happen again and again -- then surely we are going to  
22 have to start thinking of another means of being funded.

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1 CHAIRMAN DURANT: Any other questions?

2 MS. MILLER: I would just like to ask a question of  
3 the board. Ms. Jones was invited at the request of Ms.  
4 Benavidez to come down. Is it possible that we could reimburse  
5 her for coming down?

6 CHAIRMAN DURANT: I do not know why not. Mr. Bayly,  
7 is there anything against that? We can do that; can't we?

8 MR. BAYLY: Yes, indeed.

9 CHAIRMAN DURANT: Without any objection, I would ask  
10 that we do that.

11 MS. JONES: Thank you very much.

12 CHAIRMAN DURANT: Submit your expenses to Mr. Bayly,  
13 and we will take care of it.

14 MR. MENDEZ: Remember this is a bureaucracy. (laughter)

15 MS. JONES: Thank you. My dear sir, that is nothing  
16 unusual.

17 CHAIRMAN DURANT: Thank you very much for coming. I  
18 very much appreciate your comments. I know they came from the  
19 heart.

20 MS. JONES: I thank you so kindly for being patient  
21 enough to listen and caring. If there is any questions, if you  
22 need my address on how to communicate with me, I will be more

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1 than glad to. I do not want to leave it up in the air because  
2 it is for all of us to work together. It is from my heart for  
3 the poor. Thank you.

4 CHAIRMAN DURANT: Thanks very much. At this point, I  
5 need to get into the printed agenda. Before we get into the  
6 official agenda, I also promised Mike Greco that he would have  
7 an opportunity to address the board. Mr. Greco, if you would  
8 like to come forward.

9 Mr. Greco is the former President of the  
10 Massachusetts Bar Association and also the New England Bar  
11 Association, now President of the Massachusetts Bar Foundation  
12 and carries on a number of other activities both near and far.

13 STATEMENT OF MICHAEL S. GRECO

14 MR. GRECO: Thank you, Clark. Thank you for taking me  
15 a little bit out of order. I thank the members of the board for  
16 giving me this opportunity to address you this morning.

17 Just for the record, my name is Michael S. Greco. I  
18 am a private attorney with a Boston law firm called Hill and  
19 Barlow. As Mr. Durant said, I did serve as President of the  
20 Massachusetts Bar Association two years ago.

21 I served as President of the New England Bar  
22 Association for a year. I am currently President of the New

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1 England Bar Foundation which is the charitable arm of the New  
2 England Bar Association.

3 In addition, in 1986, I was one of the three founders  
4 of the National Ad Hoc group called Bar Leaders for the  
5 Preservation of Legal Services for the Poor which now represents  
6 more than 100 state and local bar associations in 39 states.

7 I appear today to speak on behalf of the bar leaders  
8 in those 100 plus state and local bar associations across the  
9 country. My primary purpose for appearing before you today is  
10 to urge your support for an adequate federal appropriation for  
11 legal services for the poor.

12 In my opinion, the \$400 million appropriation level  
13 urged by the Project Advisory Group is absolutely necessary. In  
14 a moment, I will discuss why that \$305 million current level is  
15 inadequate. In my view, the \$250 million level requested by the  
16 Reagan Administration is so appallingly low as to be  
17 disgraceful.

18 I say that with all due respect. When I heard that  
19 this board would consider at today's meeting the possibility  
20 that it would reevaluate its own decision of \$305 million and  
21 consider endorsing the \$250 million Reagan budget line item, I  
22 was shocked; shocked because the \$305 million, in my view, is

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1 lower than adequate; shocked because at the very least the \$305  
2 million figure is a figure which you on the board have found  
3 some basis for endorsing.

4 I disagreed with that basis, let me say, but at least  
5 it is your own independent process in arriving at that \$305  
6 million. Unless your board can demonstrate that the Reagan \$250  
7 million figure, there is any rational relation to the actual  
8 need in this country, then I believe you open yourself up to  
9 severe criticism on behalf, not only of the bar leaders across  
10 the country who think the \$305 is inadequate but among rational  
11 people who will wonder why you have abdicated your own  
12 independent judgment.

13 Agree -- if you do agree and I hope you do not -- if  
14 you do agree to the \$250 million level, it cannot escape  
15 criticism because I do not believe the Reagan request is founded  
16 on anything near the kind of reporting and analysis that your  
17 board has done.

18 So, let me turn to my specific remarks about why the  
19 \$305 million figure is inaccurate and why the \$400 million  
20 figure I urge upon you. The need of this nation's poor people  
21 for federally funded legal services is greater now than ever  
22 before.

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1           We heard from Dr. Ford a moment ago about the increase  
2 in the numbers of poor people in New Mexico. There has been a  
3 30 percent increase in New Mexico alone since 1980. The  
4 combination of an ever-expanding poor population and shrinking  
5 federal funding for legal services programs continues to plague  
6 both poor people and the beleaguered overworked and underpaid  
7 legal services lawyers of this nation.

8           The necessity for adequately funded civil legal  
9 services for the poor was demonstrated even more clearly to me  
10 this past December when we, in Massachusetts, issued the report  
11 of an 18 month long comprehensive statewide study of the civil  
12 legal needs of the poor.

13           That report entitled, "Massachusetts Legal Services  
14 Plan for Action," documented that we in Massachusetts are able  
15 to meet only 15 percent of the civil legal needs of the poor  
16 each year.

17           I have copies of the executive summary of that report  
18 with me. The report itself is a much longer document. I will  
19 leave copies of the summary. Anyone on the board who would like  
20 a full report, I would be happy to provide those as well.

21           In Massachusetts, therefore, we are meeting only one  
22 in six of the civil legal problems which confront poor people.

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1 Over 320,000 legal problems each year in Massachusetts are  
2 unmet.

3 In a state which is committing as much or more state  
4 and local funding to legal services on a proportionate basis as  
5 any other state in the nation, Massachusetts is a clear example  
6 that we are not doing nearly enough.

7 In 1980, the Legal Services Corporation provided 63.5  
8 percent of all civil legal services funding in Massachusetts.  
9 By 1986, the LSC percentage had dropped to 44.4 percent.

10 CHAIRMAN DURANT: Michael, what was the first one?

11 MR. GRECO: The first figure, 1980, the Legal Services  
12 Corporation provided 63.5 percent of all civil legal services  
13 funding in Massachusetts. By 1986, that percentage had dropped  
14 to 44.4 percent.

15 Taking to heart this board's urging that there be more  
16 state and local funding and charitable foundation funding to  
17 fill the gap, Massachusetts created Massachusetts Legal  
18 Assistance Corporation. The state bar and local bars were urged  
19 to contribute both lawyer time and dollars.

20 I can report to you that whereas LSC funding dropped  
21 in real dollars from 1980's figure of 6.8 million to 6.6 million  
22 in 1986, there was a 900 percent increase in state and local

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1 funding for legal services.

2           The real dollars there are in 1980, the state and  
3 local funding provided about \$400 thousand. In 1986, it was  
4 \$3.5 million. Charitable contributions from foundations in 1980  
5 totalled \$609 thousand; in 1986, \$1.8 million.

6           These sound like impressive numbers. Yet, I repeat,  
7 in 1988, we are still only meeting 15 percent of the existing  
8 need for legal services in Massachusetts. Let me discuss in  
9 some specific terms the impact in Massachusetts of inadequate  
10 federal funding and of our inability to meet the legal needs of  
11 the poor.

12           Today in Massachusetts, there are approximately 32,000  
13 lawyers. These are members of the bar. That number increased  
14 by 2,000 in the fall of 1987. Yet, the number of staff legal  
15 services attorneys providing representation to the poor in civil  
16 cases declined by 30 percent from 1980 to 1986.

17           Why? The decline was directly attributable to funding  
18 cutbacks which this board has voted and which Congress, while  
19 not agreeing fully, has followed, at least in some measure, your  
20 inclination to underfund -- in my view -- legal services in this  
21 country.

22           The 1980 census found that there were 760,000 people

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1 in Massachusetts who were eligible for free legal assistance.  
2 It is undisputed that the number is higher in 1988. In 1980,  
3 there were 37 million people in the United States eligible for  
4 free legal assistance. By 1984, the number had reached over 46  
5 million.

6 Not only are there more poor people in 1988 than there  
7 were in 1980, but they are worse off now than they were then.  
8 Because the federal poverty guideline is only adjusted for  
9 changes in the Consumer Price Index and does not reflect changes  
10 in medium family income, a family of four existing on a poverty  
11 level income in 1985 was receiving only 34 percent of the median  
12 income for a family of that size in the country.

13 When the poverty guideline was first adopted in the  
14 1960s, a similar family would have received 50 percent of the  
15 median family income. Families with small children -- and I  
16 point out that the figures we heard from Dr. Ford moments ago in  
17 New Mexico are absolutely consistent with the figures in  
18 Massachusetts contained in the report that I had with me.

19 In a nutshell, we found that families with small  
20 children, particularly families with small children that have  
21 only one income which are most often headed by a woman,  
22 statistically have the most legal problems and are the least

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1 able to get legal assistance.

2 Our study found a positive correlation between the  
3 number of unmet legal problems suffered by a household and the  
4 number of members of the household. We also found that  
5 households which had one or more members under 18 had one and a  
6 half times as many unmet legal problems as did households which  
7 had members between the ages of 18 and 59.

8 One consequence of inadequate federal funding is that  
9 65 percent of the poor people we talked to in Massachusetts did  
10 not even know that free legal assistance is available to them.  
11 One of those people is an 83-year-old woman who lives alone in a  
12 small town in Franklin County in northwestern Massachusetts.

13 She lives on supplemental security income, Medicaid  
14 and \$10.00 a week in food stamps. When we talked to her during  
15 our survey, she had been out of a nursing home for several weeks  
16 and was unable to get home health care assistance.

17 She told us in her own words, "They say they do not  
18 have the money. My friend has to drive 50 miles to do my food  
19 shopping and help me in the house." It is almost impossible for  
20 this woman to get public services because of lack of  
21 transportation.

22 She told us that she was assured that if she moved

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1 into elderly apartments, she would have transportation. There  
2 is no transportation. She was able to avoid eviction from an  
3 apartment once before with the help of Legal Services lawyers in  
4 Greenfield, Massachusetts.

5 On that occasion, some years back, the landlord had  
6 raised the rent by \$200 and she could not pay. The landlord  
7 took her to court and the judge, with the assistance of the  
8 Legal Services lawyer, decided in her favor. She was not  
9 evicted from her apartment.

10 Now she lives in a town only five miles from  
11 Greenfield where she got the legal services years ago, and she  
12 does not know how to find free legal services in her new area.  
13 Without an adequate federal appropriation for LSC and increased  
14 state funding, that elderly woman and thousands like her, the  
15 children in poor families in the Roxbury section of Boston and  
16 throughout the commonwealth of Massachusetts and throughout the  
17 nation and those poor people facing evocation, recent immigrants  
18 who are discriminated against and other poor people in my state  
19 and throughout the country will remain ignorant of their rights  
20 and responsibilities under the law and will continue to suffer  
21 injustices that a citizen in this country should not endure.

22 There was a question earlier which asked what has been

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1 the level of involvement of the bar in providing legal services  
2 to the poor. I can tell you that in Massachusetts, the Legal  
3 Services programs and private pro bono lawyers have increased  
4 manifold the number of poor people whom they served each year  
5 since 1980.

6 However, the demand for those services have also  
7 greatly increased, forcing only emergency responses to many of  
8 the problems of the poor. In 1980, 60 percent of all legal  
9 services cases were closed through brief service, so-called  
10 brief service.

11 This included a consultation of brief phone calls,  
12 some legal research, but no more than possibly a letter written  
13 on behalf of the client. By 1986, 71 percent of all poor people  
14 were receiving only such brief emergency service, again because  
15 of the lack of resources caused by cutbacks in federal funding.

16 CHAIRMAN DURANT: You do not know whether the problem  
17 is solved or not solved?

18 MR. GRECO: The problem is not solved.

19 CHAIRMAN DURANT: No, the particular problem on those  
20 closed cases?

21 MR. GRECO: There is every indication that the people  
22 who, after getting the brief emergency advice, unless they come

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1 back a second and third time, it is anyone's guess whether those  
2 problems are really solved for the person involved.

3 Under ideal circumstances, if a lawyer had time to do  
4 more than emergency triage type of consultation, we can assume  
5 that the problem, more likely than not, would be solved. The  
6 figure I stated earlier, there are 320,000 legal problems in  
7 Massachusetts alone each year which go unaddressed at all,  
8 emergency brief consultation included.

9 Well, I have taken too much time already. In my view,  
10 a \$400 million federal appropriation would not solve all the  
11 problems of access to justice in this country. It would,  
12 however, help move us closer to rather than further from the  
13 promise contained in our constitution, which is equal justice  
14 under law to all.

15 I urge you not to go to the \$250 million level. I do  
16 that, first, because I am appalled at the thought that when the  
17 demonstrated need in this country is such that it is in  
18 Massachusetts and in New Mexico among other states to go to a  
19 figure which is even lower than your own already low figure, I  
20 think is unconscionable. I think you would have to have a  
21 strong explanation of why, in your independent judgment, you --

22 Let me put it this way. I believe it would be an

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1 abdication of your independent judgment to move away from your  
2 own figure. I would urge that you reconsider your own figure of  
3 \$305 million.

4 I think the ABA's figure of \$360 million plus  
5 inflation is still not enough; \$400 million is not enough. I  
6 think rather than repeating myself, I will stop. I am happy to  
7 answer any questions you might have.

8 CHAIRMAN DURANT: Any member of the board?

9 MR. WALLACE: Mr. Chairman, I want to ask Mr. Greco  
10 the same question I asked Mr. Montgomery. First, I want to  
11 correct what I think is the facts on this statement of Mr.  
12 Greco's testimony.

13 He said he missed -- difficulties that the program is  
14 having in Massachusetts and suggested that those occurred  
15 because of cutbacks voted by this board. If my memory is  
16 correct, Mr. Chairman, the budget of this corporation was \$305  
17 million when we came in. It is \$305 million today.

18 This board has voted no cutbacks in the years we have  
19 been here. Not to spoil the suspense, but I plan to vote for  
20 the President's budget today and you can blame me in the future  
21 for anything bad. What has happened to this point is certainly  
22 not the result of any cuts made by this board.

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1 MR. GRECO: I disagree, Mr. Wallace, to what you have  
2 just said for several reasons.

3 MR. WALLACE: Numbers are numbers; they are there.

4 MR. GRECO: They are there, but even -- bear in mind  
5 that if your board had had its way, the figure would not have  
6 been \$305 million. Even at \$305 million, let me point out that  
7 inflation has been eroding that \$305 million to the point where  
8 the percentage in real dollars of legal services that that money  
9 can purchase is much lower.

10 MR. WALLACE: The board has consistently voted for  
11 \$305 million and Congress has consistently voted for \$305  
12 million. Here it is suggesting that we really wished we could  
13 cut it below \$305 million.

14 MR. GRECO: Well, it is a fact that the budget mark  
15 was \$321 million, I believe, in 1981 or 1982. We have never  
16 seen anything close to that coming from this board as a  
17 recommendation.

18 CHAIRMAN DURANT: Mike, when we came in, the budget  
19 when we came in that December meeting in 1984, our budget at  
20 that time as passed by Congress was \$305 million. What it was  
21 prior to that -- it was apparently at one time \$240 million.  
22 There was another time it was \$320 million. Our budget that we

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1 have passed each time has been \$305 million.

2 MR. GRECO: I would ask only this. What has passed is  
3 passed. I think we have to deal with what the reality is today.  
4 You have heard from two people this morning, myself and Dr.  
5 Clark.

6 You have documentation which shows that the need is  
7 greater than ever before. I see it as a logical impossibility  
8 for you to move away from your own \$305 million figure.

9 MR. WALLACE: Let me get to the questions I asked Mr.  
10 Montgomery. What is the PAI money being used for in  
11 Massachusetts?

12 MR. GRECO: I am not going to give you the definitive  
13 answer because I do not profess to have the complete answer.  
14 The Massachusetts Bar Association has been very actively  
15 involved in ensuring that monies designated for private attorney  
16 involvement, in fact, go to the private attorneys throughout  
17 the state as they provide legal services for poor people.

18 It takes different forms. Whether a local legal  
19 services program engages private lawyers, whether the  
20 Massachusetts Bar Association or the Boston Bar Association,  
21 through our various programs, makes sure that private lawyers  
22 are enlisted and then are paid, there are different models, Mr.

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1 Wallace.

2 I have no doubt that that requirement is being met in  
3 Massachusetts.

4 MR. WALLACE: How is the Massachusetts Bar financed?

5 MR. GRECO: How is it financed?

6 MR. WALLACE: Yes.

7 MR. GRECO: We charge annual dues. We have, of the  
8 32,000 practicing attorneys in Massachusetts, we have roughly  
9 20,000 members, voluntary members, two out of every three  
10 practicing lawyers.

11 Those 20,000 members pay annual dues that range  
12 anywhere from \$50.00 a year to \$120.00 or \$130.00 a year. That  
13 is our complete funding. We do not receive any funding from any  
14 state or federal agency.

15 MR. WALLACE: So, there is no mandatory membership and  
16 mandatory license fee like we have in Mississippi?

17 MR. GRECO: We do have a license fee. You must  
18 understand that in Massachusetts which is not a unified state, a  
19 lawyer who wants to belong to a bar association -- and many  
20 belong to the Massachusetts Bar Association plus a local or  
21 county bar -- that is one set of dues.

22 Every lawyer in the state must also pay, in addition,

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1 an annual fee to the board of our overseers to practice law.  
2 That fee is about another \$100.00 apart from the voluntary dues  
3 paid to the Bar Association.

4 MR. WALLACE: What are those funds used for?

5 MR. GRECO: Which?

6 MR. WALLACE: The mandatory fees?

7 MR. GRECO: Mandatory fees are used -- the board of  
8 our overseers has in place a mechanism for enforcing the Cannons  
9 of Ethics. Funds go to what is called the Client's Security  
10 Fund. That fund is used to reimburse clients who have been  
11 harmed by attorney misconduct where it occurs.

12 So, those funds are earmarked not for anything that a  
13 bar association would undertake.

14 MR. WALLACE: In Massachusetts as in other states,  
15 there is ethical requirement to service the poor; is that not  
16 right?

17 MR. GRECO: Yes, there is.

18 MR. WALLACE: If we took PAI money and gave it back to  
19 the program to do as they pleased to make up some of the cuts  
20 that -- they have not happened yet but may happen soon -- could  
21 the Commonwealth of Massachusetts increase the mandatory fees to  
22 take up the slack and enforce its ethical requirement for pro

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1 bono services?

2 MR. GRECO: Let me make sure I answer in a way that  
3 creates no confusion. Right now in Massachusetts, state funding  
4 results principally from a surcharge on fees paid by litigants  
5 who file a complaint in court.

6 That surcharge has been \$5.00 on cases brought in  
7 Superior Court and \$2.00 in small court, District Court.

8 MR. WALLACE: That is a service to the poor; correct?

9 MR. GRECO: That is used exclusively to provide legal  
10 services for the poor.

11 CHAIRMAN DURANT: Mr. Greco, would you give Maureen  
12 your executive summary?

13 MR. GRECO: The only way that there could be an  
14 increase in state funding, Mr. Wallace, for legal services for  
15 the poor in Massachusetts would be to increase that surcharge.  
16 Presently pending in Massachusetts legislature -- and I  
17 testified in support of it a week ago -- is a bill which would  
18 double the surcharge from \$2.00 to \$4.00 and \$5.00 to \$10.00 in  
19 those two categories.

20 If that bill is enacted, we would have available to us  
21 another million and a half dollars per year of state funding.  
22 That funding, again, is going to be a drop in the bucket because

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1 what we might be able to do is go from addressing the needs of  
2 15 percent of the poor in Massachusetts to maybe 17 percent or  
3 18 percent.

4 The overwhelming majority of legal problems in  
5 Massachusetts, 85 percent and more, will continue to go unmet  
6 unless we have funding levels from Congress which are adequate.

7 MR. WALLACE: If you double the mandatory fee of  
8 \$100.00, if there are 36,000 lawyers in Massachusetts, you have  
9 an extra \$3,600,000 to put into the service of the poor.

10 MR. GRECO: No. Let me -- again, I think there is a  
11 little confusion and maybe I caused it. If I did, I apologize.  
12 The fee that is paid by every lawyer in the state as a condition  
13 for practicing in Massachusetts, that fee goes not to Legal  
14 Services, it goes to the Supreme Judicial Court and then it is  
15 used to fund the operations of the board of our overseers and  
16 the Client Security Fund.

17 A doubling of that fee would have no impact whatsoever  
18 on funding for legal services in Massachusetts.

19 MR. WALLACE: What would it take to divert that money  
20 to legal services? Active legislature or order of the Supreme  
21 Judicial Court or something else?

22 MR. GRECO: Either probably. I think you are mixing

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1 apples and oranges because the legislature has already enacted  
2 legislation which funds legal services and that is the  
3 surcharge.

4 I do not know of any state in the country that has the  
5 equivalent of the board of our overseers which is the group that  
6 enforces lawyers ethical obligations that uses that funding for  
7 anything other than that specific purpose and for the Client  
8 Security Fund to reimburse clients who have been harmed by  
9 lawyer misconduct.

10 MR. WALLACE: Let me just close, Mr. Chairman. Your  
11 Governor did spend a lot of time campaigning in my state, but as  
12 I understand it, his chief basis for running for President is  
13 that Massachusetts is rolling in money right now.

14 It seems to me that since the federal government is  
15 not rolling in money, an extra \$100.00 license tax on lawyers in  
16 the prosperous Commonwealth of Massachusetts would do much to  
17 replace the PAI money which we have used for that purpose for  
18 quite some time.

19 Frankly, I do not see any reason, if we do endorse the  
20 President's budget, why we should not consider giving the PAI  
21 money back to the program and letting the local bar associations  
22 put their money where their mouth has been.

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1           It seems like a good idea to me. I do not know why  
2 Massachusetts of all places could not afford to do that,  
3 whatever the mechanism for that would be.

4           MR. GRECO: Well, you have touched on several subjects  
5 in your comments, Mr. Wallace. I am not here to give political  
6 endorsements of Governor Dukakis. His platform is wider than  
7 you suggest it is.

8           His platform for running for President is a more  
9 comprehensive one. I want, for my account, to disagree with you  
10 because I do not believe that fee the lawyers are charged to  
11 practice law or renew their license should be, in any way,  
12 confused with the efforts of lawyers in Massachusetts to deliver  
13 pro bono services in overwhelming hours and dollar amounts  
14 already, with the efforts of the legislature on the surcharge,  
15 with the efforts of the Massachusetts Legal Assistance  
16 Corporation which the legislature set up.

17           I think we have bled the stone dry, if you will. I  
18 would say that the federal budget can more easily afford an  
19 increase from \$305 million to \$400 million than citizens  
20 throughout each of the states can afford to triple or quadruple  
21 their already high contributions.

22           MR. WALLACE: That is true as long as the Japanese

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1 will continue to lend us the money. Thank you, Mr. Greco.

2 MR. GRECO: You are welcome, Mr. Wallace.

3 CHAIRMAN DURANT: Any other questions from board  
4 members?

5 (No response.)

6 CHAIRMAN DURANT: Mr. Greco, thank you as always.

7 MR. GRECO: Thank you very much for your kindness and  
8 your courtesy.

9 CHAIRMAN DURANT: Mr. Mendez has a question for you.

10 MR. MENDEZ: Mr. Greco, could you forward me a copy of  
11 your complete program?

12 MR. GRECO: Yes, I would be happy to.

13 CHAIRMAN DURANT: I would like that also, Mike. Why  
14 don't you just send it to the board? Thank you. The first item  
15 on the agenda is the approval of the agenda.

16 MOTION

17 MR. VALOIS: I move that we approve the agenda.

18 MS. BENAVIDEZ: Second.

19 MR. WALLACE: Could I ask a question before we vote on  
20 that, Mr. Chairman?

21 CHAIRMAN DURANT: Yes, Mr. Wallace.

22 MR. WALLACE: I am a little concerned about ratifying

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1 the 1988 budget before we hear the report on the voucher program  
2 and the report on functional accounting. I would like to do  
3 both of those things this year. I do not know if we have got  
4 the money to do both of those things this year, but before I  
5 vote to ratify the budget, I would kind of like to hear both  
6 presentations.

7 CHAIRMAN DURANT: Do you want to make a friendly  
8 amendment?

9 MR. WALLACE: I will ask the committee -- I will ask  
10 somebody whether there is money to do both in the budget. If  
11 there is not, should we just put the budget back to the end  
12 after we have heard the substantive programs being discussed.

13 MR. MENDEZ: Let's see. The first question, there is  
14 not enough money to do everything. Secondly, I think probably a  
15 good place to put it is at the end. We can see what we can do  
16 with that.

17 CHAIRMAN DURANT: Your motion or your amendment, Mr.  
18 Wallace, is to move item number 4.

19 AMENDED MOTION

20 MR. WALLACE: Let's take 3 and 4. I would move to  
21 take Mr. Mendez' report and ratification. Let's take 3 and 4  
22 and move those behind number 8, reporting on functional

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1 accounting. Then we can get to the regulatory matters at the  
2 very end. I would make that motion at this time.

3 CHAIRMAN DURANT: Well, it is an amendment to Mr.  
4 Valois' motion?

5 MR. WALLACE: It is an amendment.

6 CHAIRMAN DURANT: Any discussion?

7 (No response.)

8 CHAIRMAN DURANT: All those in favor signify by saying  
9 Aye.

10 (A chorus of ayes.)

11 CHAIRMAN DURANT: Opposed?

12 (No response.)

13 CHAIRMAN DURANT: Motion carries.

14 The next item is the approval of minutes. Why don't  
15 we just take a second and review them again. Ms. Benavidez or  
16 Mr. Smegal, do you or any member of the board have any  
17 amendments, modifications or whatever to the minutes?

18 MR. SMEGAL: Yes, I do. I have several in fact. They  
19 are in layered -- one of the amendments I have to these minutes  
20 are the fact that I arrived on page 3 in the middle of the page.  
21 As a consequence, I did not have an opportunity to correct the  
22 minutes of the prior meeting which were approved in my absence.

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1 I would like the opportunity to do that now if I  
2 could. There are a few small changes to the January 29 minutes  
3 that I did not have an opportunity to address. I passed these  
4 on to Maureen at that time when I got to the meeting.

5 She advised me in a letter dated March 7 that she did  
6 not believe she had the authority to make these changes.

7 CHAIRMAN DURANT: On page 3, what specifically is it  
8 that --

9 MR. SMEGAL: Which minutes?

10 MR. MENDEZ: Tom, are they substantive?

11 MR. SMEGAL: They are directed at accuracy, I guess.  
12 They are substantive in a sense. They are not corrections to  
13 spelling and grammar. They are of substance.

14 CHAIRMAN DURANT: Are we looking at page 3 of February  
15 26 minutes?

16 MR. SMEGAL: Yes. The only think -- I believe you  
17 have in front of you is page 3 where I would ask that the  
18 paragraph in the middle of the page which starts out, "The next  
19 order of business," at the end of that sentence and before  
20 Chairman Durant turned the floor over to Mr. Wallace, I would  
21 like it to reflect that Mr. Smegal joined the meeting. I would  
22 propose that we introduce words such as, "As Mr. Smegal joined

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1 the meeting, Chairman ..." and so on.

2 The reason I would like that there is because I would  
3 prefer to have the opportunity to correct the prior meeting's  
4 minutes.

5 A PARTICIPANT: I have several other corrections to  
6 these minutes.

7 MR. VALOIS: I have a different recollection. If it  
8 is not material, I will withdraw my suggestion. It is just the  
9 point that once Mr. Smegal arrived, it was during the vote on  
10 the issue of creating the subcommittee. If that is not a  
11 material difference, then --

12 MR. SMEGAL: The reason I put it in there, Bob, is  
13 that I do not recall being present for -- I was in the room, but  
14 I was not aware of what was going on.

15 CHAIRMAN DURANT: Are you saying, Mr. Valois, that you  
16 are talking about adding that language just prior -- in the  
17 previous paragraph? Is that what you are saying?

18 MR. VALOIS: I meant -- I am not quite sure what we  
19 are trying to establish here. If we are trying to establish the  
20 time or the point in the minutes at which Mr. Smegal arrived, I  
21 have a specific recollection of that. I am not sure why.

22 CHAIRMAN DURANT: Did he arrive, under your

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1 recollection, just after Mr. Wallace seconded the motion of what  
2 was taken or was he in the room at that time?

3 MS. BERNSTEIN: He was in the room the whole time.

4 MR. VALOIS: He was in the room at the time that  
5 motion was made and the vote was being taken.

6 CHAIRMAN DURANT: Do you have any objection?

7 MR. SMEGAL: That is not my concern. I did not  
8 participate in that vote. If I was there and Bob knew I was  
9 there, fine. I have no objection to putting it in somewhere. I  
10 would like that to be there, so I would have the opportunity to  
11 make some changes now.

12 MR. MENDEZ: Mr. Chairman, we approved the January 29,  
13 1988 minutes. I would suggest that we just ask Tom to attach  
14 his recollection and the changes.

15 MR. SMEGAL: Well, I tried to do that.

16 CHAIRMAN DURANT: Do you have copies that you can just  
17 submit to the board.

18 MR. MENDEZ: Tom, that is what I am saying now -- as a  
19 board member, I am just saying that --

20 MR. SMEGAL: That is fine with me.

21 CHAIRMAN DURANT: What are the changes?

22 MR. SMEGAL: If you do not have the minutes in front

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1 of you, let me just tell you what they are. Neither you nor I,  
2 Clark, were at the afternoon session on January 29. I would  
3 like the minutes to reflect that.

4 There is a statement attributed to Mr. Wallace on page  
5 13 of those minutes that indicates there were several violations  
6 of the Act. I would like that sentence to reflect that it is  
7 his view that there are violations of the Act.

8 Certainly, there is no proof of that with the  
9 statement he added that such interpretation led to violation of  
10 the Act. I do not agree with that, and I do not believe that he  
11 said that. He said, "in his view."

12 CHAIRMAN DURANT: Maybe the way to do this is to  
13 either to take it to have your corrections or suggestions, if  
14 they are the sort that you are talking about -- do you have  
15 copies that you can submit to the board with the others or we  
16 can just take it up at the next meeting or what?

17 MR. MENDEZ: Why don't we just attach Tom's changes to  
18 these minutes?

19 MR. SMEGAL: I have a modification on page 12 and page  
20 13 of the January 29 minutes. I will submit them to Maureen for  
21 attachment.

22 MR. WALLACE: Let me make sure what we are doing

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1 because I have not got the minutes in front of me or the  
2 transcript. If my statements are about to be amended, what I  
3 would like to do is have a chance to see the minutes, see the  
4 proposed amendment, and see the transcript. A lot of things are  
5 not opinion. This board is taking some provisions as a matter  
6 of fact.

7 MR. MENDEZ: My motion is that we attach Tom's view of  
8 these things to them. We have already approved those minutes.

9 CHAIRMAN DURANT: You are saying that that makes --

10 MR. MENDEZ: It does not make -- It makes it Tom's  
11 view of the minutes. I do not have any problem with it.

12 MR. WALLACE: Let's read the sentence. This is about  
13 1607.6 where we amended the regulation to get rid of the  
14 interlocking board, the interlocking directorate situation. Ms.  
15 Bernstein seconded the motion.

16 Mr. Wallace then explained that the amended 1607.6  
17 clarified the definition of a recipient which appears in the  
18 existing regulation by changing a to any so it would not be  
19 interpreted as the.

20 He added that such interpretation has led to the  
21 violation of the act by which the employees of one recipient had  
22 served on the boards of the other recipient. That is not just

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1 my view. That is the view of the General Counsel. That is the  
2 view of the President, and that is the view of the majority of  
3 the board.

4 That is the policy of this board by the board's vote.  
5 I would strongly object if any amendment would be admitted to  
6 suggest that this is some idiosyncrasy of my own. It is now the  
7 law and we ought to enforce it.

8 MR. MENDEZ: Mike, my view was not that we are  
9 changing the minutes, that we are just asking to attach Tom--  
10 because Tom was not present -- his correction to the minutes.  
11 They are not substitute changes.

12 MR. WALLACE: That is fine with me. No problem there.

13 CHAIRMAN DURANT: Any objection to that?

14 (No response.)

15 CHAIRMAN DURANT: You have unanimous consent, Tom.

16 MR. SMEGAL: Thank you. Now I am back to the minutes  
17 of the February meeting. I am on page 5. There is a statement  
18 attributed to Mr. Houseman which I believe is inaccurate there.  
19 I do not think Mr. Houseman ever suggested that there should not  
20 be a quorum requirement for our funding agencies board meetings.  
21 That is not what Mr. Houseman testified to.

22 The discussion was over whether proxies could be used

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1 with respect to meeting attendance. There is a long exchange  
2 between Mr. Houseman and, I believe, LeaAnne. Mr. Houseman  
3 never testified that we should not insist upon quorum  
4 requirements.

5 CHAIRMAN DURANT: Why don't we ask Maureen to simply  
6 check the records? Do you have any objection to that?

7 MR. SMEGAL: That is fine by me.

8 CHAIRMAN DURANT: Maureen, would you check the record  
9 on that?

10 MR. SMEGAL: Page 8 -- it is very seldom that I get a  
11 motion carried without objection and therefore, I would like  
12 credit for it. The middle of the page, Mr. Wallace has alleged  
13 to a move, and I believe he will acknowledge that. I pointed  
14 that out to him when he made that motion.

15 MR. WALLACE: I think it was certainly your idea, Mr.  
16 Smegal. I think what I said at that point was in accordance  
17 with what Mr. Smegal earlier said. I moved to follow. I think  
18 that is what happened.

19 I would be delighted to say Mr. Wallace moved in  
20 accordance with Mr. Smegal's previous question because I think  
21 that is the way it came about.

22 MR. SMEGAL: I will be more than happy with that.

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1 CHAIRMAN DURANT: Any objection to that?

2 (No response)

3 CHAIRMAN DURANT: See, Tom, there is another unanimous  
4 one.

5 MR. SMEGAL: I have got one more. On page 9, there  
6 was a long discussion that I had with respect to the McCollum  
7 Amendment after which Mr. Uddo took the opportunity to share  
8 some of my views of which is referred to here in the last  
9 sentence of the next to the last paragraph: "He added that in  
10 his opinion "locality" did not mean the whole of the United  
11 States."

12 I believe the discussion had gone somewhat different  
13 than that. I would propose that we amend that to be: "He added  
14 that he shared Mr. Smegal's opinion that locality did not ..."  
15 The transcript will reflect that I discussed it at some time.

16 MR. WALLACE: That is clearly true. I do not remember  
17 what Basile said he was agreeing to at the time, but, in fact,  
18 he did.

19 CHAIRMAN DURANT: What is your specific -- in his  
20 opinion and Mr. Smegal's?

21 MR. SMEGAL: "He added that he shared Mr. Smegal's  
22 opinion that ..."

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1 CHAIRMAN DURANT: I doubt that Mr. Uddo would have any  
2 objection to that.

3 MR. SMEGAL: I have no other problems.

4 CHAIRMAN DURANT: That was done in unanimous consent.  
5 Any other modifications, corrections, or changes to the minutes?

6 (No response.)

7 CHAIRMAN DURANT: All those in favor signify by  
8 saying, Aye.

9 (A chorus of ayes.)

10 CHAIRMAN DURANT: Opposed?

11 (No response.)

12 CHAIRMAN DURANT: Motion carries.

13 The next item is a report from the provision of the  
14 delivery of the Legal Services Committee. Mr. Valois.

15 MR. VALOIS: The committee met on yesterday and put  
16 testimony on the only matter appearing before the full committee  
17 at the moment and that is the question of whether or not the  
18 three state support centers -- Mississippi, Louisiana and Texas  
19 -- should be directly funded as per the request of two of them  
20 or should the present funding status be continued.

21 The question, it seems to me, probably needs to be  
22 redefined or at least clarified. I think that the committee got

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1 into areas that are a little bit different from the way the  
2 original charge from the board was made.

3 I would prefer, quite frankly, to try to see a little  
4 further clarification from the board on the direction of this  
5 particular question. For instance, is the committee to engage  
6 in an investigation of the broader question of whether all  
7 state support centers should be funded in a particular manner?

8 Are there particular areas of state support centers  
9 which might be competitively bid and so forth? I do not  
10 particularly want to get into too broad a range of questions  
11 until we have got some clarification.

12 I am not asking for the board to advise at this point.  
13 I am suggesting to you that I am going to take the transcript  
14 and the earlier correspondence and the earlier transcripts which  
15 I have plus the report from Mr. Braugh and others and try to  
16 keep the train on the track.

17 No motions were made and no votes taken.

18 CHAIRMAN DURANT: Thank you, Mr. Valois. Any  
19 questions from any member of the board or comment from any  
20 member of the board?

21 MR. WALLACE: Mr. Valois asked for guidance as a  
22 Mississippian which is one of the indirectly funded states. Let

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1 me just respond as an individual to his request. I am not  
2 looking for an entire reevaluation of how we do the state  
3 support.

4 The board, by a narrow majority, has expressed our  
5 opinion that we ought to stop funding state support centers  
6 altogether. I do not want to get into the business of a  
7 thorough investigation of how we ought to do something we do not  
8 want to do.

9 We are dealing with present reality that there are  
10 state support centers. The only thing I want to know is whether  
11 or not there is any justification for doing 47 support centers  
12 by direct grant and 3 by subgrants.

13 If we are going to have them, why not do them all the  
14 same way? If there a good reason not to do them all the same  
15 way, I will be happy to accept that. My view as a member from  
16 an defected state is that this is a very narrow line of inquiry  
17 for the Provisions Committee.

18 MR. MENDEZ: There are more than just three that are  
19 not direct funded. My own view is that we ought to look  
20 specifically at the two that request to be direct funded. If we  
21 are told that we are not to terminate the funding on the state  
22 support centers, I would think we should go back and examine the

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1 whole issue at a later date. I just think right now limit it to  
2 the two that are. I know that Mississippi was included therein  
3 because of your interest.

4 MR. WALLACE: Mississippi wants to be direct funded.  
5 You would like to make it even more narrow than my question and  
6 look at two --

7 CHAIRMAN DURANT: Was it not Texas and Mississippi  
8 the ones?

9 MR. VALOIS: I believe Martha might want to be heard  
10 on this. She brought us the communication from Lewis Armstrong  
11 yesterday which, I think, is different.

12 MR. WALLACE: She and I traded phone calls earlier in  
13 the week and never caught each other. So, maybe he has changed  
14 his mind from what I understood to be his previous position.

15 MS. BERGMARK: I believe he has written a letter that  
16 you have clarifying the fact that there is not a pending request  
17 on the part of the Mississippi Legal Services Coalition for  
18 Direct Funding.

19 Instead, there is a pending request for information  
20 about what the procedures would be should such a request be  
21 made. He wanted to make sure that you were clear that there is  
22 no -- this is something the folks in Mississippi will have to

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1 consider based on what you say about what procedures would e.

2 I know yesterday there was some discussion about  
3 whether or not there would be presumptive refunding rights and  
4 things like that and whether they would be discontinuity of  
5 service during a transition period.

6 Those are some things I know would be taken into  
7 account.

8 MR. WALLACE: That does clarify what I understood to  
9 be his earlier position. I am sorry I have not seen the letter.  
10 I am sorry he and I missed each other.

11 MR. VALOIS: If you want to curbstone from the  
12 Chairman of the Provisions Committee on the other two specific,  
13 I thought Texas made out a fairly convincing case that they  
14 ought to be separately funded.

15 It seems to me that the Louisiana situation is just an  
16 administrative waste, to be perfectly honest with you, to create  
17 an organization which only has three employees and functions  
18 which are quite limited. That is a Philadelphia curbstone from  
19 the Chairman.

20 MR. WALLACE: In short, Mr. Chairman and Mr. Chairman,  
21 I think we are agreed that this ought to be a narrow focus and  
22 not a broad focus. That may be all the Committee needs to know

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1 right now.

2 MR. MENDEZ: I do not think we need to beat this horse  
3 again. I think we leave it to this committee to tell John what  
4 they want it to do.

5 MR. WALLACE: I think the committee has to report back  
6 to the board.

7 MR. MENDEZ: I do not think that this really needs to  
8 come to the board level.

9 CHAIRMAN DURANT: We will wait until Mr. Valois  
10 reports back to us. Anything else, Mr. Valois? Any other  
11 questions? Ms. Bernstein.

12 MS. BERNSTEIN: Let me just add for Mike's benefit,  
13 since he did mention the voucher question when he was asking to  
14 rearrange the agenda. Let me report that we did talk somewhat  
15 about the timetable that the subcommittee will be under in  
16 studying the question of further funding of the vouchers.

17 We are somewhat at an inability to completely analyze  
18 a final report from the ABA which we do not have. Therefore,  
19 although the committee has planned a meeting in early April to  
20 start the evaluation of some of the pluses and minuses in our  
21 experience with the voucher project --

22 As far as the allocation of the \$300,000 to a further

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1 voucher study, I will say that there is no indication at this  
2 particular time that that funding could even be decided on in  
3 good faith right now because we do not have enough information  
4 about what was done.

5 Now, whatever that means in terms of what the board's  
6 decision about allocating the money that has been set aside for  
7 that this year, I am not going to make any recommendation  
8 because the subcommittee simply does not have enough information  
9 right now.

10 MR. WALLACE: Let me respond to that by saying this.  
11 My present sense is if we have got money in the budget for  
12 vouchers this year and we do not have money in the budget for  
13 timekeeping and functional accounting this year, I would whole  
14 lot rather take the voucher money and put it in the functional  
15 accounting and timekeeping.

16 Maybe if we do not have an either/or choice and maybe  
17 when I hear a report on functional accounting and timekeeping  
18 later today, I will change my mind. If I have got a choice  
19 between getting information we have been asking for for a long  
20 time and entering into joint ventures with the ABA, I know which  
21 way I am going to go.

22 Maybe we do not have to make that decision today, but

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1 I certainly do not want to do anything that is going to  
2 foreclose the possibility of getting the information we have  
3 been asking for for over three years now.

4 CHAIRMAN DURANT: Any other questions for Mr. Valois?

5 (No response.)

6 CHAIRMAN DURANT: The next item on the agenda is the  
7 report by Doug Besharov of the American Enterprise Institute on  
8 "Maximizing Access to Justice." Mr. Besharov is not here, so we  
9 will move on to the next item.

10 I ask you, Mr. Bayly, if you would write Mr. Besharov  
11 a note relative that we would like him to appear at some point.  
12 I realize the logistical problems, but we would like to know  
13 where he is on his conference report.

14 MR. BAYLY: Yes, I will be in touch with Mr. Besharov.

15 CHAIRMAN DURANT: Thank you. No work, no money.

16 The next item on the agenda is the consideration of  
17 the 1989 budget request and President Reagan's proposed 1989  
18 budget.

19 MOTION

20 MR. VALOIS: Mr. Chairman, our colleagues are not on  
21 the line, so the motion will have to be reread to them. I have  
22 it written. I will read it.

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1 I move that the corporation's 1989 budget request be  
2 amended to \$250 million of which \$9 million shall be available  
3 for management and administration; and further, that we  
4 incorporate the other provisions of President Reagan's budget  
5 request for LSC as contained in the budget of the United States  
6 Government for 1989, which is found at pages I-Z51 and I-Z52 in  
7 the appendix and pages 26 and 27 of the board book.

8 CHAIRMAN DURANT: Is there a second?

9 MS. SWAFFORD: I am prepared to second it. You may  
10 want to wait until you get these board members on the line,  
11 though.

12 (Phone rings.)

13 CHAIRMAN DURANT: Let the record reflect that Mr.  
14 Eaglin and Mr. Uddo are participating by telephone, the method  
15 that we are getting very common use of with this board. It is  
16 available for everyone.

17 Mr. Valois just made a motion. Mr. Valois, if you  
18 would repeat your motion, please.

19 MR. VALOIS: I move that the corporation's 1989 budget  
20 request be amended to \$250 million of which \$9 million shall be  
21 available for management and administration; and further, that  
22 we incorporate the other provisions of President Reagan's budget

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1 request for Legal Service Corporation as contained in the budget  
2 of the United States Government for 1989 which is found at pages  
3 I-Z51 and I-Z52 in the appendix and pages 26 and 27 of the board  
4 book.

5 MS. SWAFFORD: I second the motion.

6 CHAIRMAN DURANT: Ms. Swafford has seconded the  
7 motion. Is there any discussion on the board?

8 MR. WALLACE: Mr. Chairman, I said a little earlier  
9 that I was going to support the motion. Let me state briefly my  
10 own reasons for doing so.

11 As an individual, I have long been of the view that  
12 the shape of this program was more important than the number of  
13 dollars being poured into it.

14 Members of the board will recall that last year I  
15 voted for an increased appropriation because on the condition  
16 that the increased appropriation give this corporation more  
17 freedom, more ability to manage, more freedom to introduce the  
18 kind of reforms that we wish to introduce.

19 In that case, I was in a minority of the board. None  
20 of the people who continually urge us to vote for more money  
21 really picked up on that suggestion. Nobody took it to Congress  
22 and said, Why don't you meet the minority of the board halfway.

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1 Congress did not meet us halfway.

2 That particular effort to gain a few allies and a  
3 little flexibility on my part went nowhere. This year, the  
4 President, after seven years of asking that this corporation be  
5 abolished, has not only come halfway toward this board, he had  
6 come, as I understand it, 85 percent of the way towards this  
7 board.

8 I consider that a compromise that I am willing to  
9 reach in order to achieve the purposes that I was trying to  
10 achieve last year when I voted for \$325 million; that is to  
11 increase competition, to increase the authority of the  
12 corporation to exercise its oversight authority and to put into  
13 place the reforms that we need.

14 The President agrees with us that we ought to  
15 terminate the existence of state and national support centers.  
16 We ought to put those monies into direct delivery, to clients in  
17 the field for their individual problems.

18 As I looked at Mr. Mendez' budget this morning, we  
19 have got this year \$282 million going to direct delivery to the  
20 poor. The President's budget proposes \$241 million. The  
21 President, after seven years of opposition, has come 85 percent  
22 of the way to our viewpoint.

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1           Like many members of this board, I settle lawsuits for  
2 a living. When I am asking for something and somebody tells me  
3 no, no, no, no for four years, and then he offers me 85 cents on  
4 the dollar, I consider that a pretty good darn deal. I usually  
5 take it.

6           I intend to take it this time, Mr. Chairman. I think,  
7 as Senator Rudman often reminds us and reminds his committee,  
8 nobody elected us to do anything. We serve -- our authority is  
9 derivative from the President and derivative from the Congress.

10           We have paid attention to Congress. We have  
11 compromised with Congress on the lobbying regulations. I  
12 remember Ms. Bernstein pointing out to me last year, when I  
13 voted for some things then that I did not believe in, that I  
14 was doing it because I thought it was the best deal we could  
15 get.

16           I take Congress' views into account, and I compromise  
17 with Congress. I certainly take President Reagan's views into  
18 account. Anybody that has been elected twice overwhelmingly by  
19 the American people certainly deserves to have his views taken  
20 into account.

21           When the President of the United States tells me,  
22 After all these years, the board is right; you have convinced

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1 me that if these reforms are made, we ought to keep this program  
2 going; I am going to give you 85 percent of the money for  
3 direct delivery you had last year, I say to the President,  
4 Thank you, Mr. President. I can compromise with you. I can  
5 confer to your judgment as the Democratically elected chief  
6 executive.

7 I am going to support that budget because I think  
8 these reforms are important. We do not need to go to Capitol  
9 Hill speaking out of two sides of our mouths. This is not a  
10 case of us not going under the President, it is a case of the  
11 President agreeing with us.

12 Mr. Chairman, I intend to declare victory and pull  
13 out. I am going to vote for the President's budget.

14 CHAIRMAN DURANT: Any other board member? Basile, you  
15 are recognized.

16 MR. UDDO: I am disappointed to hear that Bob made the  
17 motion and that Mike is supporting it because I think it is a  
18 very foolish step for us to take. I think it has totally  
19 compromised our independence.

20 I do not agree with Mike that we are in any way  
21 obligated to (inaudible) the President's determination about  
22 what the budget mark should be. I have no problem with the

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1 reforms and I have no problem with the board endorsing the  
2 reforms suggested by the White House, but to go back and amend  
3 our budget after we have gone through the entire process that we  
4 have gone through suggesting lower figures and higher figures  
5 and (inaudible) comments in dealing with the budget the way it  
6 is supposed to be dealt with.

7 I cannot quite see how we can defend making an  
8 arbitrary decision to reduce the budget mark to a figure that  
9 has been proposed, as Mike said, after seven years deciding on a  
10 figure like that and the board in its independence (inaudible)  
11 into the budget, just does not make any sense to me whatsoever.

12 I would like to hear some other board member's say  
13 something to justify backing that figure because I wasn't  
14 (inaudible) to know what Mike said.

15 CHAIRMAN DURANT: Mr. Smegal.

16 MR. SMEGAL: I would like to amplify on what I  
17 understood Mr. Uddo to say. It is incomprehensible to me to  
18 believe what is going on here today. We spent four years on  
19 this board, and in each instance, the majority of this board has  
20 frozen the funding of the Legal Services Corporation, at least  
21 their recommendation to Congress, of \$3 and \$5 million.

22 The board majority has done that four years in row.

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1 During four years in which the administration has proposed zero  
2 funding. During that same period of time, I would suggest to  
3 you that the thorough budget had not been frozen.

4 It is one thing to be concerned about balancing the  
5 thorough budget on the backs of the court for this program; it  
6 is another thing to realize what is going on in the country.  
7 Everything that the government does, everything that the  
8 government funds is increased in cost over the last seven years  
9 including the delivery of legal services to the poor.

10 So we start off with a basic problem of having had a  
11 frozen budget for four years and with the President for seven  
12 years with recommending zero. If I understood Mr. Valois'  
13 motion, it differs only cosmetically from what this board  
14 majority passed in December in terms of the language.

15 The difference is the number. The number that the  
16 board majority voted for in December was \$305.5 million. They  
17 are now suggesting that \$250 million is the right number. The  
18 reason they are suggesting that is that the administration has  
19 come up from zero to \$250 million. So, they are suggesting that  
20 they should go down by \$55 million.

21 As illogical as that whole process appears to me to  
22 be, it would appear more appropriate, Mr. Wallace, for the board

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1 majority to go up from \$250 million, wouldn't it, from \$305  
2 million to \$555 million.

3 If this poker game that you want to play with the  
4 President involves the reality of a poker game as you suggest,  
5 then it seems to me that your bargaining is now \$250 million  
6 higher.

7 MR. WALLACE: If that is how you settle your lawsuits,  
8 Mr. Smegal, I bet you see a lot of juries.

9 MR. SMEGAL: First off, Mr. Wallace, I suggest to you  
10 that your analogy to a lawsuit is almost as ludicrous as the  
11 whole discussion we are having here today. This is not a  
12 lawsuit. This is funding of a program which is very important  
13 to a lot of people and certainly all the people in this room.

14 For you to suggest that there is some kind of  
15 bartering going on here between the administration and your  
16 simple majority of this board, just defies the realities of  
17 where we are. You do not have the bargaining system.

18 The President has come up \$250 million from zero in a  
19 scenario, in a situation where over seven years even the simple  
20 majority of this board have recognized the need for \$305  
21 million.

22 The fact that the President has now recognized that

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1 the program is worth \$250 million more than is has been for  
2 seven years, certainly is not justification for reducing your  
3 fiscal year '89 budget by \$55 million. The whole thing is an  
4 exercise in absurdity. (Applause)

5 MS. MILLER: I would like to agree with Mr. Smegal on  
6 that.

7 MR. UDDO: I really would like for someone to explain  
8 to me how this is not compromise the independence of the board.

9 CHAIRMAN DURANT: You are going to have to repeat it,  
10 Basile.

11 MR. UDDO: I said, I really would like for someone to  
12 explain to me how this is not going to compromise the  
13 independence of the board. I cannot see how it would be  
14 affected by anyone (inaudible) Congress (inaudible) try to  
15 assert our independence. I would like to know how this is  
16 affecting it if it is not going to be used as a total compromise  
17 of the independence of the board.

18 MR. WALLACE: Basile, this is Mike Wallace again. I  
19 think I heard what you said, but the system is not the best. I  
20 do not consider the independence of this board to be in  
21 absolutely pristine unwillingness to consider the views of  
22 others and to compromise with the views of others.

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1           If each of the 11 members of this board insisted on  
2 our own individual best judgment, we would never have any budget  
3 at all because there are not six members of this board who  
4 believe the same thing on the budget.

5           Everyone of us compromises just to reach a budget  
6 within this board. We could not function if we did not. We  
7 consider the views of Congress. The only criticism I ever get  
8 is for not considering views of Congress enough.

9           We have compromised with members of Congress, with the  
10 Appropriation's Committee. We have done it for four years over  
11 lobbying. I voted for a lot of things that were against my best  
12 judgment because it seemed to me wise in the best interest of  
13 this program to compromise and to move the ball down the road.

14           I think it is a tremendous victory in establishing a  
15 new consensus in favor of the support of legal services to the  
16 poor that the foremost opponent of this corporation over the  
17 last 15 years, the President of the United States is now on  
18 board. I think that is a tremendous victory.

19           If all the President of the United States asks is that  
20 we defer to his judgment in the amount of 15 percent, that is a  
21 compromise that I am willing to make just as I have been willing  
22 to make compromises with members of Congress.

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1 I think that is as independent as we can be and still  
2 run the corporation. I do not feel any hesitation about that at  
3 all.

4 MR. UDDO: Mike, I would have an easier time agreeing  
5 with you if (inaudible) process at an earlier stage than they  
6 would have been considered in the ordinary process of the board  
7 deciding on its budget mark.

8 I think \$305 is (inaudible) compromise. I think it  
9 always has been a compromise. I think (inaudible) it was this  
10 year too. We had higher suggestions, several higher suggestions  
11 and we have had lower suggestions.

12 I do not feel (inaudible) any compromise. The fact  
13 that the White House's figures did not come down soon enough to  
14 get into that process is just unfortunate, but if it had come in  
15 soon enough, I am sure that everyone, myself included, would  
16 have considered it very heavily.

17 To go back after the system is finished, to move on to  
18 a compromised figures down to this figure, I do not think that  
19 is a compromise. I think that is just backtracking and  
20 accepting (inaudible) mandated (inaudible).

21 No one has any more respect for the President than I  
22 do. I think if we sat down and talked with the President, he

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1 would not consider this necessarily an obligation of the board,  
2 under these circumstances, to go back and change our considered  
3 budget marks.

4 (inaudible) that the White House is now (inaudible).  
5 I am not convinced that that means that (inaudible) to the  
6 President and not to go back and undo our system and to change  
7 the budget mark.

8 I think we have got a compromised figure. I do not  
9 think we are obligated to go back and open up the whole budget  
10 process and reduce to the White House figure. I think that  
11 there will be another opportunity in the future for us to wait  
12 out our budget considerations. I think that will be the  
13 appropriate time to do it.

14 I see in the margin that we are going to go back and  
15 make some decisions. So, it does not make any sense to me. I  
16 think that we are going to be subject to tremendous criticism.  
17 They are going to continue to feel the fires that we do not have  
18 the best interest of the corporation at heart which I am not  
19 convinced is the case, but I think decisions like this certainly  
20 feel the fires.

21 I think it has (inaudible). I do not see (inaudible)  
22 or what benefit we have got to deal with for the corporation,

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1 for the purposes of the corporation, for the board (inaudible).  
2 It just seems like an awfully (inaudible) thing for us to be  
3 doing and all negative outcomes.

4 MR. WALLACE: Basile, let me say two things and then I  
5 will shut up and let somebody else talk.

6 I do not think it is a question of loyalty or  
7 disloyalty to the President. I supported President Reagan since  
8 1976. I have disagreed with him on Legal Services ever since  
9 the day I got here.

10 I could vote no on this motion and still be loyal to  
11 Ronald Reagan and not have any problems with that. It is not a  
12 question of loyalty. I think this is an opportunity to achieve  
13 a new consensus for this program, and I do not want to pass it  
14 up.

15 Secondly, I agree with you that the President should  
16 have gotten his numbers up here when we were in the original  
17 process, but my experience in Congress tells me that the White  
18 House moves on its own schedule.

19 Members of Congress well understand that any number of  
20 things have been thoroughly debated, compromised, decisions  
21 reached and all of a sudden the White House turns up and says,  
22 Hey, folks, I have got a new idea. Why don't you consider this?

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1           It is the President; you consider it. You know, he  
2 has his own time table and we have ours. When he turns up,  
3 members of Congress are perfectly used to the idea that you undo  
4 what has been done and deal with the President when he comes.

5           You get angry. You tell him you are angry. You tell  
6 him you want it on time the next time, and the next time, it is  
7 two months late. You do the same thing all over again. That is  
8 just the way the White House runs.

9           I wish they had done it right, but here we are. We  
10 have got to deal with what we have got. I vote yes.

11           MR. UDDO: Let me just say one thing, Mike. I worked  
12 on the new consensus too and I agreed to it. I think the way  
13 to do that is to (inaudible) the President his interest and  
14 concerns, his change of views to endorse his ideas about  
15 (inaudible) of doing things, to give all of our efforts and time  
16 to (inaudible) the President's position in that regard, yet we  
17 have not considered (inaudible).

18           To go back and change the figure, I do not think is  
19 necessary to (inaudible) in the new consensus is that fact that  
20 I think it is a failure of leadership on our part.

21           MS. BERNSTEIN: Clark, I would like to move the  
22 question, but let me just say real briefly that I have been

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1 adamant in supporting the independence of the board.

2 I would agree with Mike Wallace completely that if  
3 this board were not able to continually take into account all of  
4 the factors that go into what, in the long run, we believe is  
5 going to be the best delivery of legal services for poor people,  
6 then we would be advocating our responsibility.

7 Bezel, I know that we have differences of opinion on  
8 various things. I appreciate that. I am glad that you were  
9 welcoming the President's support as I do. I hope that whatever  
10 the vote that is taken today will be taken into view that this  
11 board is however divergent, independent opinions are expressed  
12 on the board.

13 This is our best effort to try to get the important  
14 matters related to the delivery of legal services out and to  
15 forward further improvement in the program.

16 MS. BENAVIDEZ: Mr. Uddo, I just want to make a brief  
17 statement that I believe that if our President realized that  
18 legal services does need money and gave us \$250, I believe we  
19 should be very thankful. Still, that was not enough. We need  
20 some extra money and I am for \$305. Thank you.

21 CHAIRMAN DURANT: Thanks, Hortencia. Mr. Smegal.

22 MR. SMEGAL: Mike talks about new ideas, and the only

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1 thing I heard -- and I will repeat it again -- the new idea that  
2 he suggests here is a reduction of 16 percent in what the  
3 majority of this board voted for in December.

4 That is not a new idea. The new idea that the  
5 President has advanced has been the old idea. That idea was 100  
6 percent reduction in 1981, 1982, 1983, 1984, 1985, 1986 on  
7 through.

8 LeaAnne talks about the best. If I can remind this  
9 board, one of the things that Mr. Wallace and others voted  
10 against was LeaAnne's new idea in December to reduce the budget  
11 of the Legal Services Corporation to, I believe, \$278 million.

12 If it came to a vote -- I am not sure that it even  
13 did. Maybe it died for the lack of a second --

14 MS. BERNSTEIN: I had a second.

15 MS. SWAFFORD: -- that new idea was planted by LeaAnne  
16 in December as it had been planted in several prior board  
17 discussions by LeaAnne in each instance, if she got a second.  
18 The new idea that Mr. Wallace suggests that is now before us,  
19 was even voted against by Mr. Wallace.

20 Now we have a new idea and the only newness is that  
21 the President -- the Administration has proposed that rather than  
22 zero funding, 100 percent reduction, that the funding,

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1 acknowledging the need for a legal services program, that the  
2 funding be 85 percent of what it was in the freeze years that  
3 this board has been here.

4 I fail to understand where that is a new idea. I think  
5 it is LeaAnne's old idea. You turned it down year after year  
6 after year. Because the Administration has now acknowledged the  
7 fact that they cannot eliminate this program, Congress is not  
8 going to let that happen, they have upped the ante by \$250  
9 million.

10 It only justifies in my view the majority of this  
11 board realizing that the ante is higher and that we should be  
12 above \$305.5 million rather than below it. Let's get on with  
13 this meeting. There are no new ideas at this table today. They  
14 are the old ideas that have been around for two terms of the  
15 Reagan Administration.

16 CHAIRMAN DURANT: Any other board member? I have one  
17 just minor comment. I share some of what Mr. Wallace has said,  
18 but I also think that the important question is the structural  
19 reforms.

20 I think that until we get to a situation where there  
21 is competitive bidding, a broader base of service providers that  
22 allows whether they be client's counsels or individual clients,

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1 whether in Columbus, Ohio or in Albuquerque, New Mexico or  
2 wherever, where they can become a part of the direct delivery  
3 system, I think that we are not maximizing the dollars that are  
4 available and that we are not providing and involving a broad  
5 range of people in the delivery of services, not only lawyers  
6 but paralegals and others.

7 Mr. Valois -- Ms. Benavidez, you said you wanted to  
8 vote. Did you call the question?

9 MS. BERNSTEIN: I did.

10 CHAIRMAN DURANT: Ms. Benavidez, what is your vote on  
11 Mr. Valois' motion?

12 MS. BENAVIDEZ: No.

13 CHAIRMAN DURANT: Ms. Bernstein?

14 MS. BERNSTEIN: Yes.

15 CHAIRMAN DURANT: Ms. Swafford?

16 MS. SWAFFORD: Yes.

17 CHAIRMAN DURANT: Mr. Valois?

18 MR. VALOIS: Yes.

19 CHAIRMAN DURANT: Mr. Eaglin?

20 MR. EAGLIN: I do not know.

21 CHAIRMAN DURANT: Mr. Uddo?

22 MR. UDDO: No.

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1 CHAIRMAN DURANT: Mr. Wallace?

2 MR. WALLACE: Aye.

3 CHAIRMAN DURANT: Ms. Miller?

4 MS. MILLER: No.

5 CHAIRMAN DURANT: Mr. Smegal?

6 MR. SMEGAL: No.

7 CHAIRMAN DURANT: Mr. Mendez?

8 MR. MENDEZ: Aye.

9 CHAIRMAN DURANT: The chairman votes Aye. The motion  
10 carries.

11 The next item on the agenda is lunch. Maureen, you  
12 indicated that they are bringing sandwiches for the Executive  
13 Session. Mr. Eaglin and Mr. Uddo, if you would like to stay on  
14 for the Executive Session, we are going to commence that in  
15 about -- As soon as the room is available and the lunch is  
16 brought in, we are going to commence in about ten minutes on  
17 the Executive Session. Do you want to be a part of that?

18 MR. UDDO: No, I am not concerned with (inaudible).

19 CHAIRMAN DURANT: Mr. Eaglin, do you?

20 MR. EAGLIN: Yes.

21 CHAIRMAN DURANT: Why don't you stay on the line then.

22 (A luncheon recess was taken.)

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## AFTERNOON SESSION

1  
2 CHAIRMAN DURANT: The Board of Legal Services  
3 Corporation meeting will continue. We just concluded the  
4 Executive Session reporting on litigation and personnel matters.  
5 I would like to make one motion, if I could, with the indulgence  
6 of the board.

## MOTION

7  
8 Now that we are back in public session, I move that  
9 the board of the Legal Services Corporation extend its deepest  
10 gratitude to Charles Jarvis for his service to the corporation  
11 and the board over these many years; and that the Chairman and  
12 Vice Chairman of the board be designated to compose a complete  
13 resolution to reflect such service and sentiments to be  
14 presented to Mr. Jarvis at the earliest possible time.

15 MR. VALOIS: Second.

16 CHAIRMAN DURANT: Is there any --

17 A PARTICIPANT: Could I just add an amendment to that?  
18 Are you going to spread that the minutes of one of our board  
19 meetings?

20 CHAIRMAN DURANT: Yes, absolutely. We will do it far  
21 and wide. We will drop it from airplanes. Any discussion?

22 (No response.)

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1 CHAIRMAN DURANT: All those in favor of the  
2 resolution signify by saying, Aye.

3 (A chorus of ayes.)

4 CHAIRMAN DURANT: Opposed?

5 (No response.)

6 CHAIRMAN DURANT: Closed. Charlie, it is unanimous.

7 The next item on the agenda is a report on functional  
8 accounting. Charles Moses.

9 STATEMENT OF CHARLES MOSES

10 MR. MOSES: Good afternoon. For the record, my name  
11 is Charles Moses. I am the Associate Director of the Office of  
12 Field Services of the Legal Services Corporation. Basically,  
13 what we would like to do today is to give you a status update  
14 on timekeeping, revised CSR and functional reporting.

15 As you are probably aware, and I will go briefly  
16 through the history -- I am sure you are very aware of it -- for  
17 the members of the public, in the fall of 1985, this board voted  
18 to require a revised case service reporting system as well as a  
19 functional reporting system.

20 After that time, the staff of the corporation was  
21 working through various means to try and implement this revised  
22 CSR system and functional reporting to that end. We had field

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1 input concerning revision on the CSR.

2 A Field Advisory Panel was convened and gave us input  
3 that was put into an automated CSR system. We also had  
4 contracted with a firm, PC Manager, to develop automated  
5 software so that the CSR system, functional accounting system  
6 could be put on a series of computers at the local field program  
7 level.

8 We also worked with our accountants at the time,  
9 Arthur Anderson Company, who helped us in development of a  
10 functional reporting manual. Finally, of course, we also  
11 purchased 260 computers which were put in offices, local field  
12 program offices that did not have IBM compatible computer  
13 capability.

14 After those steps were taken, the staff of the  
15 corporation began to plan for implementation of a series of  
16 trainings so that we could actually begin the revised CSR and  
17 functional accounting system.

18 At that point, in the spring of 1986, there was a  
19 congressional request coming from Senator Rudman and Hollings  
20 that the corporation basically cease development of the  
21 functional reporting system.

22 There was also a request for the General Accounting

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1 Office to examine timekeeping as far as it was a portion of this  
2 functional accounting system. At this point, the General  
3 Accounting Office has completed its review.

4 That review has been made available to Congress.  
5 However, it was just made available, I believe, the second week  
6 of March to Congress. As is normal with General Accounting  
7 Office reports, they will not officially transmit a copy of the  
8 report to us until after 30 days from the date that it was made  
9 available to Congress.

10 So, at this point, the GAO has not officially given us  
11 a copy of its report. However, as this board is well aware, the  
12 board has met with GAO representatives in the past several  
13 months. The staff of the corporation had a meeting with the GAO  
14 on February 8 of this year to go over certain aspects of what  
15 they thought we could do to implement the system.

16 Basically, what the GAO had suggested that we do, they  
17 recommend that we have more thorough documentation to show that  
18 the benefits derived from the system would come from the  
19 ultimate users. This has brought up the question of who is the  
20 ultimate user of such a system.

21 MR. WALLACE: Let me answer that: We are.

22 MR. MOSES: Exactly. This board has been very firm in

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1 saying that the board is the user of the system. At the same  
2 time, there are secondary users. One of the secondary users is,  
3 of course, the corporation staff and as other members of the  
4 board at one time or another have mentioned.

5 The field programs, themselves, are tertiary users of  
6 such a system. What the GAO had recommended is that we look at  
7 the benefits of the revised timekeeping system, the revised CSR  
8 system and functional reporting flowing from the users.

9 At that point, they suggested that we come up with a  
10 better cost analysis, a cost benefit analysis so that according  
11 to the GAO at that point, we could justify whatever action this  
12 board deems to take in the future.

13 Basically, the cost benefit analysis would come after  
14 a series of user studies which the GAO had recommended that we  
15 implement. Of course, as of this point, those studies have not  
16 occurred, and we are still waiting further guidance from this  
17 board as to how far it would like for us to go in implementation  
18 of the system, especially given the congressional interest in  
19 this and given the fact the General Accounting Office report has  
20 not officially been released to the corporation as of this  
21 point.

22 CHAIRMAN DURANT: We at least have to wait for that.

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1 funds available.

2 You all tell us what it is you think needs to be done  
3 to get the information we need and then we vote to do it. I  
4 want you to start getting it done.

5 MR. VALOIS: Is there a second?

6 MS. BERNSTEIN: I will second that. The reason I am  
7 going to second it -- I am chairing the subcommittee on looking  
8 at the vouchers -- the reason I am going to second it is because  
9 of the timing.

10 As we talked yesterday, we are unable to make a  
11 rational evaluation of what we have done on vouchers so far yet  
12 because we do not have the final reports. ABA has not even  
13 given us a final draft of it yet.

14 We are going to proceed -- unless I am told otherwise  
15 by the board, though, I would assume that we would go ahead in  
16 looking at this. Again, because we are half way through our  
17 fiscal year already, it seems not a wise allocation of the  
18 appropriated money for 1988, to hold it in abeyance for  
19 something that is not going to even get the formal approval of  
20 the ABA if we were able to negotiate, and we thought we were  
21 going to go forward, which are all a whole bunch of ifs that we  
22 have not examined yet.

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1           Even if that were true, we would not be able to get  
2 that consummated until August. That leaves only September of  
3 this fiscal year. I think for that reason, Mr. Wallace's motion  
4 makes sense.

5           MR. VALOIS: Is there any further discussion?

6           MR. SMEGAL: I am glad to hear LeaAnne make the  
7 argument because I have been making that for about four years  
8 now. We keep grappling money for things that are not going to  
9 happen in a particular fiscal year. I commend LeaAnne for  
10 becoming aware of that particular situation.

11           However, it seems to me that there are other conduits  
12 to which this funding, these monies could be transmitted. Am I  
13 not correct? Haven't we been told by some oversight committee  
14 that we are not supposed to be spending money on this? Did I  
15 miss something?

16           MR. WALLACE: I do not see anything in any of our  
17 appropriations acts telling us not to spend money on it. We  
18 have waited for a GAO report. We talked to GAO. We have taken  
19 their thoughts into consideration. I think we need now to try  
20 to meet their concerns. We cannot meet their concerns without  
21 spending money to answer questions they have raised.

22           MR. SMEGAL: I do not think that was responsive to the

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1 question I was asking you.

2 MR. WALLACE: I do not care what a committee tells me,  
3 Mr. Smegal, everybody knows that by now.

4 MR. SMEGAL: So, there is an oversight committee that  
5 has told us not to do this.

6 MR. WALLACE: I do not know of any. Does somebody  
7 know of any committee vote that has told us not to do this?

8 CHAIRMAN DURANT: Is there one, Mr. Smegal?

9 MR. SMEGAL: I do not know; I am just trying to  
10 recall. We have had so many instances. Mr. Wallace talked  
11 about compromise this morning. I am having a little trouble  
12 remembering when he last compromised on anything.

13 The point is, if there is something out there, I would  
14 like to be reminded of it. If you are telling me there is not,  
15 then I will be satisfied.

16 MR. MENDEZ: Maybe I can help with a little dialogue.  
17 Mr. Moses, you indicated earlier that in 1986, Senator Rudman  
18 and Senator Hollings sent a letter; is that correct?

19 MR. MOSES: That is correct.

20 MR. MENDEZ: Is it a fair statement that that is the  
21 only communication that this corporation has ever received  
22 concerning this from either the Senate or the House?

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1 MR. MOSES: As far as I know, that is correct. The  
2 only other possibility is that there was some communication, I  
3 believe, in the fall of '86 that allowed us to complete  
4 purchase of the computers and distribution of the 260 computers.

5 That much did occur. I am not sure if that was  
6 through written correspondence or if it was telephonic.

7 MR. MENDEZ: Mr. Bayly, do you have any recollection?

8 MR. BAYLY: I am referring to a paper that refreshes  
9 my recollection. On April 10, 1986 or about, Legal Services  
10 Corporation received a request from the Chairman of the  
11 Appropriation Subcommittee asking that we suspend the  
12 transactions involving purchases of the computers to assist the  
13 programs in complying with the corporation's larger interest in  
14 enforcing or implementing function reporting, timekeeping, and  
15 case service reports, I guess, pending further notice.

16 Subsequently, in an appearance before the Hill, we  
17 indicated through the spokesman -- I cannot remember now if it  
18 was board members, myself, or both -- that we were suspending  
19 our efforts to require our grantees to comply with the previous  
20 decision policy on timekeeping and functional accounting.

21 I think that is essentially where the matter lies. We  
22 were asked to suspend the matter in response to some questions.

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1 We indicated that the matter would be held in suspense pending  
2 further review.

3 Now, what we are awaiting in a sense, I guess, is  
4 GAO's report which I expect Congress will release soon. I  
5 foresee that that report will have some recommendations  
6 concerning the matters of functional reporting, timekeeping and  
7 case service report automation.

8 I think that is it in a nutshell. I may not have the  
9 dates right, but the chronology is right. That is it in a  
10 nutshell. That situation, I guess, go back to the late spring,  
11 early summer of 1986. So it has been over a year.

12 MR. SMEGAL: Is there any indication from GAO when we  
13 will have the report?

14 MR. BAYLY: They have the report in final form. It  
15 has been delivered to the Congress. The five requestors, I  
16 guess, have not indicated that they want it released yet. I  
17 expect, however, or I would like to believe that it will be  
18 available publicly in a few more weeks. That is my expectation.

19 MR. SMEGAL: Mr. Chairman, may I ask that the motion  
20 be divided? As I indicated in my initial remarks, I am in favor  
21 of taking money that is not going to be spent and doing  
22 something worthwhile with it.

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## 1 AMENDED MOTION

2 I would like for the motion to be in two parts: one,  
3 to remove response from the line where it will be utilized for  
4 voucher program or voucher project -- that is one of the votes.  
5 As to what happens to it once you get it out of that particular  
6 department should be the second one.

7 CHAIRMAN DURANT: I was not here when the motion was  
8 made.

9 MR. SMEGAL: The motion is to transfer from voucher to  
10 functional accounting some amount of money which I have not  
11 heard yet.

12 CHAIRMAN DURANT: \$300,000. So you want two. You  
13 want to move it out and then another motion on the --

14 MR. SMEGAL: Yes, I would like to votes on it.

15 MR. WALLACE: I do not have any objection of dividing  
16 the issue. Does anybody else?

17 (No response.)

18 CHAIRMAN DURANT: All those in favor, then, of the  
19 motion to remove the money for the time being from the voucher  
20 project into a suspended category -- is that correct, Mr.  
21 Smegal?

22 MR. SMEGAL: That will be fine.

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1 CHAIRMAN DURANT: -- signify by saying, Aye.

2 (A chorus of ayes.)

3 CHAIRMAN DURANT: Opposed?

4 (No response.)

5 CHAIRMAN DURANT: Did you hear that, Paul?

6 MR. EAGLIN: Yes.

7 CHAIRMAN DURANT: Did you vote?

8 MR. EAGLIN: I heard the vote, Clark. I need a little  
9 bit of explanation as to the wording of the motion itself. I  
10 understand there was a movement of funds to a suspended  
11 category?

12 CHAIRMAN DURANT: Well, Tom asked that instead of  
13 there being a motion to move \$300,000 from the voucher project  
14 to functional accounting, that we divide that motion and first  
15 remove it from the voucher project. That is just what we did.

16 MR. SMEGAL: Maybe the language to be used would be  
17 committed to uncommitted.

18 MR. MENDEZ: Paul, what is going to happen is he wants  
19 it divided. I think what he wants to do is he wants to  
20 substitute or propose another area to put it into, I believe.

21 CHAIRMAN DURANT: The second part now of Mr. Wallace's  
22 motion is to move that \$300,000 into functional accounting; is

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1 that correct, Mr. Wallace?

2 MR. WALLACE: That is correct, Mr. Chairman.

3 CHAIRMAN DURANT: Is there a second to that?

4 MR. WALLACE: That has already been seconded. That is  
5 the motion on the floor. I presume Mr. Smegal was about to  
6 offer an amendment to that or maybe not.

7 CHAIRMAN DURANT: Before we vote on that, Mr. Podgers,  
8 would you like to speak on this?

9 STATEMENT OF JIM PODGERS

10 MR. PODGERS: My name is Jim Podgers. I am Staff  
11 Counsel to the ABA Special Committee on the Delivery of Legal  
12 Services. That committee has been conducting the voucher  
13 project in San Antonio and has also begun consideration and  
14 discussions informally with the Legal Services Corporation on  
15 the possibility of conducting additional studies in that area.

16 I just want to add a point of clarification; that  
17 being that although the report on the San Antonio project has  
18 not been finalized, on the basis of its preliminary review of  
19 early drafts of that report, the Delivery Committee has  
20 indicated that it believes followup study is necessary in that  
21 area and has so indicated in a discussion paper that was  
22 submitted a few days ago to the corporation.

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1           That does not reflect necessarily the review of the  
2 ABA Board of Governors which would have to approve going ahead  
3 eventually. The Delivery Committee has indicated both to the  
4 ABA and to the corporation its feeling that additional studies  
5 are necessary and has proposed, at least, an initial outline for  
6 discussion as to how, at least, portions of the \$300,000 that  
7 have been appropriated would be spent on such studies.

8           MR. WALLACE: Mr. Chairman, I have just got a  
9 question. I have got a letter from somebody named Jack Curtin  
10 (phonetic) who tells me that his committee is the only person  
11 who is authorized to deal on behalf of the ABA with the Legal  
12 Services and that I may not safely rely on anything I hear from  
13 anybody else who appears before me. Do you know if that is true  
14 or false?

15           MR. PODGERS: I have not seen that letter. I have not  
16 had any indications in that direction. Mr. Curtin has attended  
17 meetings at which this work has been discussed. The Delivery  
18 Committee, to my knowledge, has had no indication that that is  
19 his particular position.

20           There may be a question of interpretation as to just  
21 what is meant by legal services and whether voucher studies  
22 would fall specifically into that category. I just do not know.

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1 MR. WALLACE: Let me ask this question. This study is  
2 not worth ten cents much less \$300,000 unless should we have  
3 reach the conclusion that vouchers are a good idea, and the  
4 American Bar Association is willing to go with us to Congress  
5 and say we ought to take money out of staff programs and put it  
6 into vouchers.

7 Do you have any basis for assuring us that if the  
8 study reaches that conclusion, that the ABA will take that  
9 position?

10 MR. PODGERS: I am going to contend that I have no  
11 jurisdiction to give any indication. That is an item that only  
12 ABA officials could give you. It is simply not appropriate for  
13 staff to try to give any indication one way or the other.

14 CHAIRMAN DURANT: It is also, if I might add, if this  
15 money is committed to, at the moment, functional accounting,  
16 pursuant to Mr. Wallace's motion, that does not mean in the end  
17 of all of that that we could just work and the voucher project  
18 and moves forward, it could very easily maybe be decided to use  
19 some of this money that may be committed to functional  
20 accounting to use at the ABA on vouchers.

21 I know that is under review, that report that you sent  
22 in. So, I do not see this as closing the door in any way

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1 because we are all interested in how that study is developing  
2 and where it has to go.

3 MR. PODGERS: Just to add one more piece of  
4 information as to your time frames, the Delivery Committee  
5 expects to consider the second draft of the Consultant's Report  
6 on the San Antonio study when it meets on April 15 and 16 in  
7 Phoenix.

8 So, it will be coming in fairly close to about the  
9 time that you probably will be receiving the GAO report.

10 MR. MENDEZ: I just want to get a couple things clear.  
11 Mr. Wallace, when you asked us to transfer the \$300,000 into  
12 functional accounting, are you asking staff to perform some  
13 study to take into account the comments of GAO?

14 MR. WALLACE: Absolutely. I do not think I have said  
15 anything that is in -- we have all talked with GAO. We had an  
16 Executive Session; we know what they think. I am certainly not  
17 asking the staff to do anything that is inconsistent.

18 I want to meet their concerns the best way we can. I  
19 want to spend as little money as possible meeting those  
20 concerns. I want to get a satisfactory system implemented. I  
21 want to make some funds available to do that; that is all.

22 MR. MENDEZ: I just want to make sure that you and I

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1 were thinking the same thing.

2 CHAIRMAN DURANT: Mr. Wallace, you had a motion on the  
3 floor?

4 MR. PODGERS: Thank you.

5 CHAIRMAN DURANT: Whenever public comment is  
6 requested, we try and provide it.

7 MR. EAGLIN: Clark?

8 CHAIRMAN DURANT: Yes, Mr. Eaglin.

9 MR. EAGLIN: I need to get off of the line. I really  
10 cannot say that I have benefited from the discussions because at  
11 times it has been difficult to hear. Other times I heard  
12 nothing at all. I think the lines are blank at times. So, I do  
13 not think it would be appropriate for me to participate in the  
14 vote; okay?

15 CHAIRMAN DURANT: Okay. Thank you, Mr. Eaglin.

16 MR. EAGLIN: Sorry things did not work out.

17 CHAIRMAN DURANT: Thank you.

18 STATEMENT OF JOE MESAR

19 MR. MESAR: For the record, my name is Joe Mesar. I  
20 am representing the National Organization of Legal Services  
21 Workers which represents approximately half the staff in your  
22 grantee programs around the country.

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1           As you know, we have historically been opposed to  
2 functional accounting from the beginning, and we are opposed to  
3 this motion. I would merely point out the just position of the  
4 consideration of this matter at this time in light of what you  
5 voted to do this morning.

6           It is particularly ironic and unfortunate. This  
7 morning you voted to recommend that the 1989 funding, your  
8 budget mark be reduced from \$305.5 to \$250 million. As a  
9 practical matter, that is going to mean layoffs in programs.

10           As a practical matter, that is going to mean slots  
11 that will go unfilled. That is going to mean office closings.  
12 That is going to mean a greater sense of -- that is going to be  
13 cutting back on priorities.

14           It is going to mean dealing with only the absolute  
15 emergency type of cases that come in. The staff are going to  
16 have -- if your mark were to prevail -- which, of course, we  
17 hope it will not and we trust that it will not -- to impose  
18 simultaneous with that a functional accounting system, even  
19 appropriate money to move toward a functional accounting system,  
20 seems to me ludicrous.

21           I would remind the Chairman that shortly after the  
22 board was confirmed back in 1985 in some of his first public

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1 remarks, he indicated the time when he was praising the  
2 President's courageous effort to defund legal services  
3 altogether.

4 I suppose now we would have to condemn the President  
5 for his timidity at going up to \$240 million.

6 CHAIRMAN DURANT: Joe, as usual in this debate, you  
7 are inaccurately characterizing his remarks and mine. At any  
8 rate, go ahead.

9 MR. MESAR: Well, I do recall that you said that that  
10 was a courageous thing to do, to stimulate the debate on the  
11 subject. I think that accurately --

12 CHAIRMAN DURANT: That is correct, but that is fairly  
13 different from what you said.

14 MR. MESAR: I think that his position has changed  
15 somewhat. I think that we need to --

16 CHAIRMAN DURANT: He has been persuaded by the debate.

17 MR. MESAR: I also think that in that discussion, you  
18 indicated on the record that as part of reducing the federal  
19 commitment to legal services, it would be appropriate to free up  
20 the staff and the programs around the country from burdensome  
21 regulatory and reporting requirements.

22 It seems to me that now what you want is the worst of

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1 both worlds: little funding and massive reporting. We are  
2 opposed to that, and we urge that this be defeated.

3 MS. BERNSTEIN: Could we vote because we have got to  
4 get moving along?

5 CHAIRMAN DURANT: Mr. Wallace, would you restate your  
6 motion, please?

7 MOTION

8 MR. WALLACE: The motion is to remove the \$300,000  
9 from the uncommitted category that we just put it into and to  
10 authorize the staff to use it to move down the road on  
11 functional accounting consistent with the discussions we have  
12 had here today and in our previous Executive Session with GAO.

13 MS. BERNSTEIN: I second it.

14 CHAIRMAN DURANT: That was seconded.

15 MR. SMEGAL: I think it is appropriate as you pointed  
16 out earlier, Mr. Durant, to have an amendment and I have one.

17 AMENDED MOTION

18 I propose that we amend this motion to direct the  
19 \$300,000 to the National Client's Council.

20 MS. BENAVIDEZ: I second the motion.

21 MS. MILLER: I second it.

22 MR. SMEGAL: If I may remind you, just recently this

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1 morning, we had the opportunity to hear from a member of the  
2 Albuquerque National Client's Council who gave us a very  
3 feverent plea for the fact she could not get \$2,000 to carry out  
4 the duties and responsibilities of her activity in Albuquerque.

5 It seems to me that at this point we were so  
6 compassionate to her and concerned with what she had to say and  
7 tell us. I think it might be appropriate at this time that we  
8 use it to refund the National Client's Council.

9 CHAIRMAN DURANT: Let me ask a question for  
10 clarification, Mr. Smegal. Is that the same National Client's  
11 Council that we just defunded?

12 MR. SMEGAL: That is the one.

13 CHAIRMAN DURANT: Defunded for reasons, as I recall,  
14 their inability to properly account for money we had given them.  
15 Is that your recollection?

16 MR. SMEGAL: That is the one. It is the same kind of  
17 circumstance we had earlier in the day, Mr. Valois.

18 MR. VALOIS: This morning we defunded 16 percent. We  
19 voted to defund 16 percent of our programs by reducing the  
20 funding of \$305 million to \$250 million. That is a defunding of  
21 16 percent of the bill.

22 CHAIRMAN DURANT: As I recall, Ms. Jones from

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1 Albuquerque actually is not representing the National Client's  
2 Council but came here representing the Albuquerque organization.

3 MR. SMEGAL: So far you are right on.

4 CHAIRMAN DURANT: Can we have an amendment to an  
5 amendment?

6 A PARTICIPANT: I think we have to defeat this one  
7 first, Clark, and then you can do any amendment you like. You  
8 cannot amend an amendment under Sturgess or Roberts. If this is  
9 Durant, maybe you can.

10 A PARTICIPANT: In the House of Representatives, you  
11 can amend an amendment. What Robert says, I do not know.

12 MR. MENDEZ: Mr. Shea, what is the rule?

13 MR. SHEA: I will have to ask you to restate the  
14 question.

15 MR. WALLACE: Under Robert's rules, is an amendment  
16 to an amendment in order?

17 MR. MENDEZ: Are we bound by Robert's rules?

18 MR. SHEA: I think an amendment to an amendment is in  
19 order.

20 CHAIRMAN DURANT: So you are saying I can amend his?

21 SUBSTITUTE AMENDMENT

22 MR. MENDEZ: Mr. Chairman, I offer a substitute

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1 amendment to Mr. Smegal's amendment. I move that we send the  
2 \$300,000 to the local programs for the client education.

3 MR. WALLACE: Nothing has been seconded yet.

4 MS. MILLER: I will second that.

5 MR. WALLACE: Mr. Smegal is withdrawing his amendment.  
6 That is the new amendment that has been seconded.

7 MR. SMEGAL: No, I do not think so. It is an offer.  
8 My view of Roberts is that in order for your motion to get  
9 (inaudible), Pepe, I would have to withdraw mine and I have.  
10 So, your motion is --

11 MR. MENDEZ: Then I will withdraw mine.

12 MR. SMEGAL: Pardon me?

13 MR. MENDEZ: I withdrew mine.

14 MR. SMEGAL: Make mine interesting, Pepe.

15 MR. MENDEZ: Call Mr. Wallace's question.

16 CHAIRMAN DURANT: Are you withdrawing yours?

17 MR. SMEGAL: No, only if there is an amendment to it.

18 CHAIRMAN DURANT: Yours is on the table. The  
19 amendment to it has been withdrawn.

20 MR. SMEGAL: You cannot withdraw it; I seconded it.  
21 You cannot withdraw an amendment that has been seconded. You  
22 cannot do that.

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1 CHAIRMAN DURANT: Is that correct, Mr. Shea?

2 MR. SHEA: That is correct. Mr. Chairman, the problem  
3 is that Mr. Smegal's amendment was never seconded.

4 MS. BENAVIDEZ: I seconded it.

5 MR. SHEA: I never heard that; I apologize.

6 MR. WALLACE: Mr. Smegal's amendment is --

7 MS. MILLER: I seconded Mr. Mendez'.

8 CHAIRMAN DURANT: Let's take a vote. We are voting on  
9 Mr. Mendez --

10 MS. BERNSTEIN: Can I speak to this amendment.  
11 Listen, I am very sympathetic with what Ms. Jones brought  
12 forward this morning. I think it is reprehensible that our  
13 programs are not listening to our clients. I have said that  
14 from the beginning.

15 I do not think that an off-the-cuff allocation of  
16 money which, in a situation where we have not had any sort of  
17 formal proposal or any sort of reasonable assurance, that the  
18 local programs will, in fact, utilize this money, because we do  
19 not have the functional accounting.

20 We do not have the timekeeping. We do not have  
21 anything to prove what they are going to spend the money on.  
22 Therefore, I think it is ill thought out and I think that we

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1 need to be supportive of clients.

2 I think this board can be better supportive if they do  
3 it rationally and in an organized fashion. I am committed to  
4 doing that.

5 MOTION

6 MR. MENDEZ: I am persuaded by LeaAnne's arguments. I  
7 move to table.

8 MS. SWAFFORD: I second your table.

9 A PARTICIPANT: Let me just explain if I can. When  
10 you table, I think you would table everything before us, leave  
11 the \$300,000 up in the air until the next time we meet and vote  
12 on it. If that is your intent, you may make that motion.

13 MR. MENDEZ: Sure. I am just moving to table mine.

14 CHAIRMAN DURANT: I do not think you can.

15 MS. BERNSTEIN: You cannot.

16 MS. BENAVIDEZ: Before we vote, can we take some  
17 comments from the public?

18 CHAIRMAN DURANT: Sure. We always do. I have not  
19 noticed any.

20 STATEMENT OF RANDY CHAPMAN

21 MR. CHAPMAN: May I just make a comment? I am Randy  
22 Chapman from Texas Legal Services. The board in 1983 did, in

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1 fact, set aside a separate lump sum for local client board  
2 training.

3 Programs were required to account separately for those  
4 funds without going to functional accounting or anything like  
5 that. Separate receipts were required and so forth. So, there  
6 is some precedent for this type of motion.

7 STATEMENT OF REGINA ROGOFF

8 MS. ROGOFF: I am Regina Rogoff, Director of Legal Aid  
9 Society of Central Texas. Speaking on behalf of the Project  
10 Advisory Group, I would like to make two points.

11 One is that the Project Advisory Group is on record as  
12 opposing functional accounting and would object and discourage  
13 this board from putting more funds into an area that is going to  
14 produce no additional information of value to the board and is  
15 going to be a tremendous expense to the field.

16 I think that is well documented. Particularly, as was  
17 pointed out, since you have now set a lower budget mark, this is  
18 essentially taking away additional funds from the field.

19 CHAIRMAN DURANT: We are really voting on this first  
20 amendment first.

21 MS. ROGOFF: The second point I intended to make was  
22 that we also support services to clients. Contrary to Ms.

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1 Bernstein's position, field programs are very sensitive to the  
2 needs of clients and to the input of clients.

3 We would think it would be an appropriate use of funds  
4 to provide additional client services, be that in the form of  
5 training or in the form of direct delivery.

6 CHAIRMAN DURANT: Ms. Benavidez, on Mr. Mendez'  
7 motion, are you for or against?

8 MS. BENAVIDEZ: I had something else to say. I was  
9 thinking that if we could send that money to the National  
10 Client's Council --

11 CHAIRMAN DURANT: That is the second part. We do Mr.  
12 Mendez first, then Mr. Smegal, then Mr. Wallace. Mr. Mendez'  
13 motion is to have \$300,000 -- correct me if I am wrong on this--  
14 - set aside for client activities and training. Is that  
15 correct?

16 MR. MENDEZ: At the local level.

17 CHAIRMAN DURANT: Yes, at the local level. You said  
18 at the local level, what do you mean by that?

19 MR. MENDEZ: We send it out to the local programs.

20 CHAIRMAN DURANT: That I am going to vote against. I  
21 am going to make it so that the clients have control over it and  
22 not the programs.

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1 MS. BENAVIDEZ: Thank you.

2 CHAIRMAN DURANT: I am going to vote against yours if  
3 that is what you said. This is going to be money controlled by  
4 clients as far as I am concerned.

5 MR. MENDEZ: Mr. Chairman, these are all --

6 CHAIRMAN DURANT: Is yours to set aside to have this  
7 as a category, Mr. Mendez, in our budget in order to take  
8 proposals and whatever from clients for this?

9 MR. MENDEZ: I will tell you. I am categorically  
10 opposed to the National Client's Council --

11 CHAIRMAN DURANT: I understand, but that is not what  
12 your motion is.

13 MR. MENDEZ: I offered to give it directly to the  
14 local programs.

15 CHAIRMAN DURANT: All right.

16 MS. SWAFFORD: Obviously, we have not given any  
17 thought to this. Let's not spend the money right now.

18 MR. VALOIS: Are we going to start monitoring the  
19 Albuquerque Client's Council too? Are we just going to make a  
20 grant?

21 MR. MENDEZ: I am not making it to the local programs.  
22 I am making it to the Albuquerque Legal Aid Society or whatever

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1 their appropriate title is. Our basic field grantees are the  
2 ones who would get the funds under my proposal.

3 CHAIRMAN DURANT: Ms. Benavidez, how do you vote?

4 MS. BENAVIDEZ: I am trying to --

5 CHAIRMAN DURANT: Do you want to pass for the moment?  
6 Ms. Bernstein?

7 MS. BERNSTEIN: No.

8 CHAIRMAN DURANT: Ms. Swafford?

9 MS. SWAFFORD: No.

10 CHAIRMAN DURANT: Mr. Valois?

11 MR. VALOIS: No.

12 CHAIRMAN DURANT: Mr. Mendez?

13 MR. MENDEZ: Aye.

14 CHAIRMAN DURANT: Mr. Wallace?

15 MR. WALLACE: No.

16 CHAIRMAN DURANT: Ms. Miller?

17 MS. MILLER: Yes.

18 CHAIRMAN DURANT: Mr. Smegal?

19 MR. SMEGAL: Yes.

20 MS. BENAVIDEZ: Benavidez, yes.

21 CHAIRMAN DURANT: That is a four-four tie. I am going  
22 to vote no, but I am going to offer another amendment that makes

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1 it directly controlled by clients because I do not think that is  
2 the way yours if offered.

3 The next amendment up is Mr. Smegal's. Mr. Smegal's  
4 was a direct grant of \$300,000 to the Client's Council. Ms.  
5 Benavidez, how do you vote on that?

6 MS. BENAVIDEZ: Yes.

7 CHAIRMAN DURANT: Ms. Bernstein?

8 MS. BERNSTEIN: No.

9 CHAIRMAN DURANT: Ms. Swafford?

10 MS. SWAFFORD: No.

11 CHAIRMAN DURANT: Mr. Valois?

12 MR. VALOIS: No.

13 CHAIRMAN DURANT: The chairman votes not. Mr. Mendez?

14 MR. MENDEZ: No.

15 CHAIRMAN DURANT: Mr. Wallace?

16 MR. WALLACE: No.

17 CHAIRMAN DURANT: Ms. Miller?

18 MS. MILLER: Yes.

19 CHAIRMAN DURANT: Mr. Smegal?

20 MR. SMEGAL: Yes.

21 CHAIRMAN DURANT: That motion fails. Now we are at  
22 Mr. Wallace's amendment that sends the \$300,000 to functional

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WASHINGTON, D.C. 20005

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1 accounting. This is the main motion. Ms. Benavidez, how do you  
2 vote?

3 MS. BENAVIDEZ: No.

4 CHAIRMAN DURANT: Ms. Bernstein?

5 MS. BERNSTEIN: Yes.

6 CHAIRMAN DURANT: Ms. Swafford?

7 MS. SWAFFORD: Yes.

8 CHAIRMAN DURANT: Mr. Valois?

9 MR. VALOIS: Yes.

10 CHAIRMAN DURANT: The chairman votes not. Mr. Mendez?

11 MR. MENDEZ: (No response.)

12 CHAIRMAN DURANT: I will pass you if you like. Mr.  
13 Wallace?

14 MR. WALLACE: Yes.

15 CHAIRMAN DURANT: Ms. Miller?

16 MS. MILLER: No.

17 CHAIRMAN DURANT: Mr. Smegal?

18 MR. SMEGAL: No.

19 CHAIRMAN DURANT: Ha, ha, it is your turn. (Laughter)

20 MS. BERNSTEIN: Could I remind the chairman that this  
21 is his committee that thought up functional accounting and that  
22 advocated so vociferously for it?

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1 MR. MENDEZ: Let me tell you. I really do advocate  
2 it. I do have some difficulty. Here is what I will do. I will  
3 vote for it, but I want them to come back in. I want you to  
4 come and tell us how much you need in terms of that.

5 I want you people to come back and tell me how much we  
6 can -- this is to David -- come in and tell me how much we can  
7 do in terms of the local client's council, because I am  
8 persuaded that I have enough votes to get this passed if I get  
9 the rest of my board.

10 CHAIRMAN DURANT: I would like to make a motion.

11 MR. WALLACE: Announce the vote.

12 CHAIRMAN DURANT: The vote is in favor of your motion,  
13 Mr. Wallace, on a vote of five to four. I would like to make a  
14 motion at this point, if I would be permitted to, and that is  
15 that out of the -- that we commit \$300,000 to be set aside in  
16 the management administration.

17 How much money do we have in program development?

18 MR. RICHARDSON: At the present time?

19 CHAIRMAN DURANT: Yes.

20 MR. RICHARDSON: I would have to look.

21 MR. MENDEZ: We just moved all of this out of program  
22 development.

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1 CHAIRMAN DURANT: I understand that. I want to know  
2 what is left.

3 MR. MENDEZ: David, how much do we have left?

4 MR. RICHARDSON: 805,000. If you move 300,000 out, it  
5 leaves 505,000.

6 CHAIRMAN DURANT: That is in program development?

7 MR. RICHARDSON: That is correct. There is a number  
8 that are already committed to different projects. As a matter  
9 of fact, all of it is.

10 CHAIRMAN DURANT: What is it committed to?

11 MR. MOSES: If I could make a clarification. All of  
12 the remaining money in program development is committed  
13 carryover that this board has always dealt with. Program  
14 development received no funding this year from Congress, so  
15 there was no money put in by Congress for program development  
16 this year.

17 The only amount in the program development budget was  
18 the committed carryover plus the \$300,000 that this board last  
19 March, I believe, in North Carolina transferred into program  
20 development.

21 CHAIRMAN DURANT: When you say it is committed, what  
22 is it committed to?

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1 MR. ANDERSON: I have a breakdown in front of me. The  
2 private law firm contracts, there is of the \$805,000, \$316,511.

3 CHAIRMAN DURANT: Have contracts been let for that  
4 amount?

5 MR. ANDERSON: Yes, they have.

6 CHAIRMAN DURANT: I am asking Mr. Anderson. What is  
7 the next one?

8 MR. ANDERSON: The next category is the American  
9 Enterprise Institute. There is \$28,260 set aside for the  
10 remaining portion of their contract.

11 CHAIRMAN DURANT: What is the next portion?

12 MR. ANDERSON: The next was, of course, is the voucher  
13 project, the \$300,000 there which you have just voted to set  
14 aside for timekeeping. The remaining funds were the law school  
15 grants, \$77,000, and the unsolicited grant proposals of \$83,000.  
16 That money is -- contracts have already been signed and the  
17 money has already been let for that.

18 MOTION

19 CHAIRMAN DURANT: Here is the motion I would like to  
20 make. I would like to make a motion that the President of the  
21 corporation be directed to find and report -- if you want to  
22 vote against it, you can vote against it.

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1           That the President of the Corporation be directed to  
2 report back to the board as to where and how it could find in  
3 our current budget \$300,000 that could be designated to be let  
4 to client efforts and activities to solve the individual  
5 problems of individual poor people in the resolution of their  
6 disputes.

7           Is there a second to that motion?

8           MR. MENDEZ: I have to have clarification before I  
9 would second it.

10          CHAIRMAN DURANT: That is fine.

11          MR. MENDEZ: Would this go through our basic field  
12 programs or would it go to --

13          CHAIRMAN DURANT: It would be controlled by the  
14 national corporation and the activities of the different client  
15 groups would be evaluated pursuant to proposals made to the  
16 national corporation.

17          MR. MENDEZ: Would the funds go to basic field  
18 programs and channel to those groups?

19          CHAIRMAN DURANT: To the extent permitted by law, they  
20 would go directly to the client groups.

21          MR. VALOIS: My dear colleagues, I think you have just  
22 described something called the Legal Services Corporation Act.

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1 I thought that was what we were about.

2 CHAIRMAN DURANT: I understand that. I am just saying  
3 to the extent that it is permitted by law, that they would be  
4 direct grants to individual clients or client groups. You can  
5 vote against it if you want. I am making the motion. It is  
6 direct client control over that money.

7 MS. MILLER: I second.

8 MS. BERNSTEIN: I am going to vote against it because  
9 I think this whole thing has been kind of cavalierly presented.  
10 I take very seriously the concerns you have, Clark.

11 I think the way to handle this is to ask the staff  
12 simply to formulate what kinds of input that we can have, how we  
13 could possibly effectuate some of your concerns, some of the  
14 concerns we heard this morning from Ms. Jones and not constrict  
15 in a predetermined way what they are going to find.

16 MR. WALLACE: Maybe there was more detail in the  
17 Chairman's motion than I took there to be. I understood that  
18 the Chairman asked that we direct the President to come back and  
19 report to us on useful ideas and ways to find the money to carry  
20 out the useful ideas.

21 CHAIRMAN DURANT: I am not interested in the  
22 President's useful ideas. I want to hear from the clients

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1 regarding their ideas and how that money is going to be spent.  
2 Then, the President is to see where within our budget we can  
3 find that money.

4 MR. WALLACE: I take it you are asking the President  
5 to compile those useful ideas from the clients and report them  
6 to us with his recommendations; is that correct?

7 CHAIRMAN DURANT: That is correct.

8 MR. WALLACE: I can live with that. I do not know  
9 what the useful ideas are going to be, but I am always willing to  
10 hear as long as we are understanding that those commitments are  
11 being made, until the board gets the President's report and  
12 sees whether or not we think those ideas are useful ideas.

13 MS. MILLER: I would like to say something to that.  
14 We were promised by this board for clients to get money, to ask  
15 Mr. Bayly to find money for us. This seems to me it would  
16 coincide with what we have been promised over the years anyway..

17 CHAIRMAN DURANT: That is right.

18 MS. MILLER: I do not have any problem with the way it  
19 was presented by Mr. Durant. This would seem fairly easy for  
20 him to -- there is some money there now when before we did not  
21 see a dollar.

22 MS. SWAFFORD: You know, let me speak to this motion.

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1 I am going to speak against your motion, Mr. Durant. The reason  
2 for my speaking against it is it seems to me we have been very  
3 hasty in our deliberation here.

4 We have talked for months about the voucher program  
5 for which I generally supported. Now, I have been convinced  
6 today that we have not given enough thought to it and did not  
7 have sufficient information.

8 I wanted to hold the \$300,000 until we could make a  
9 decision on that support. It seems to me like we have injected  
10 a fairly novel idea without any data. We are about to vote on  
11 something that takes this \$300,000 that we have spent weeks and  
12 months and nearly years trying to determine.

13 We have said we do not have sufficient information.  
14 Here we are about to jump up and spend \$300,000 on something  
15 that we, I mean, have not even thought about.

16 CHAIRMAN DURANT: Ms. Swafford, if I might say, I have  
17 spent the last three plus years as a member of this board. I  
18 have said from the very beginning in my remarks that the  
19 business of this corporation is to be in the business for  
20 individual clients.

21 I applauded in a variety of my speeches whether they  
22 were in Charlotte, North Carolina, whether they were in the

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1 often misquoted speech in New Orleans, the work of staff lawyers  
2 and the Yeoman service that so many lawyers and paralegals in  
3 these programs perform.

4 I have also consistently believed that ultimately in  
5 our ultimate accountability and our ultimate responsibility is  
6 to the individual people whose needs are being served. While I  
7 have been frustrated and impatient at the desire of so many to  
8 maintain status quo -- because clearly the status quo is not  
9 working by everybody's admission -- that it is important.

10 The reason I was supportive of the President's  
11 initiative is because I do think it is a unique opportunity to  
12 open up the whole process to allow more people to participate,  
13 to allow more people to be involved in delivering the services.

14 As Mr. Wallace says, I am willing to make a variety of  
15 compromises in order to move the ball forward. Some people may  
16 say that they are illegitimate compromises. My main goal for  
17 three years has been to try in a variety of ways, in my own  
18 individual speaking and in the numerous visits that I have made  
19 with clients in all parts of this country, to try and make that  
20 message ring true.

21 That is why I am making this motion. I think Ms.  
22 Miller is quite correct. We made a commitment to try and do

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1 something like that. I think now is the time in which we have  
2 to do that.

3 MR. WALLACE: Mr. Chairman, let me just explain where  
4 I think we are. We voted to take \$300,000 away from vouchers.  
5 We have done that. We have voted to give up to \$300,000 to  
6 functional accounting. We have already done that.

7 The Chairman's motion does not vote to give any money  
8 now to client representation ideas. What the Chairman has done  
9 is to tell the President get those ideas, find where we can get  
10 \$300,000 because we have not got it now, and come back to us and  
11 tell us what we ought to do and how we ought to pay for it.  
12 That is what the motion says as I understand it.

13 CHAIRMAN DURANT: That is correct.

14 MR. WALLACE: I certainly commend the Chairman for his  
15 interest in client involvement, often expressed. I have always  
16 said if I get a good idea and I like it, I would be willing to  
17 see if we can fund it.

18 I have not got a good idea yet, but that is what this  
19 motion is about. I am willing to give it a chance to roll. It  
20 is not costing us money at this point.

21 CHAIRMAN DURANT: Any other board comment? We are  
22 running late for some planes.

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1 MS. BENAVIDEZ: If we have already spent so much money  
2 for voucher program --

3 CHAIRMAN DURANT: We have not spent any on of this  
4 \$300,000.

5 MS. BENAVIDEZ: So far, Mr. Cox has been paid for  
6 something. He has not done this work for nothing. If we have  
7 spent that much money already and he has not given us a report  
8 as yet, why can't we spend some of this money in the client's  
9 council?

10 MS. BERNSTEIN: It was voted down. That is why.

11 CHAIRMAN DURANT: I will answer why I did not vote for  
12 it to go to the client's council, the National Client's Council.  
13 It is because after extensive hearings and testimony and long  
14 court hearings and whatever that began before our board was  
15 involved, there was a determination that a substantial amount of  
16 the money that was given to the National Client's Council was  
17 misspent, misused.

18 It was used for personal things rather than for the  
19 individual clients in the field in order to resolve individual  
20 problems in a variety of different ways. There was an extensive  
21 report to that effect. That is why I would not support the  
22 money going to the National Client's Council because it is

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1 already demonstrated, from the report, that the money was  
2 improperly spent.

3 MS. BENAVIDEZ: Yes, but that money was not  
4 misproperly spent by the clients. It was by the head people.  
5 It never got down to where it was supposed to get.

6 CHAIRMAN DURANT: I understand that. This way my hope  
7 is that the clients, not head people, clients are going to  
8 provide Mr. Bayly, provide you, provide me, provide every member  
9 of this board with different ideas on how best to carry on  
10 individual work to help in a number of ways that Ms. Jones  
11 talked about and other clients have talked about over the course  
12 of three years.

13 MS. BENAVIDEZ: Do you think this information will be  
14 given to us soon or do we have to wait another year?

15 CHAIRMAN DURANT: I would recommend that you contact  
16 the clients that you have worked with, that Ms. Miller has  
17 worked with. I intend to do the same. This is a public  
18 hearing. Hopefully, there will be other ways of getting that  
19 message out.

20 We need to vote or we are going to miss some planes.  
21 Ms. Benavidez?

22 MS. BENAVIDEZ: Repeat the motion.

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1 CHAIRMAN DURANT: The motion is to ask Mr. Bayly to  
2 find within our current budget where \$300,000 can be derived  
3 from so that it would be available to fund good ideas submitted  
4 by clients for clients on effective representation, training or  
5 whatever the ideas are submitted by clients. He is to report  
6 back to the board both with the ideas and where the  
7 possibilities are for finding that money.

8 MS. BENAVIDEZ: I will vote for it.

9 CHAIRMAN DURANT: Ms. Benavidez votes yes. Ms.  
10 Bernstein?

11 MS. BERNSTEIN: Not because I do not agree with your  
12 rhetoric, Clark, but because I do not think this is either well  
13 timed, well thought out or because considering budget  
14 constraints and what we intend to do this year anyway in terms  
15 of cutting back, I do not think it is appropriate the way it was  
16 phrased. I am going to vote no.

17 MS. SWAFFORD: No.

18 MR. VALOIS: No.

19 CHAIRMAN DURANT: The chairman votes yes. Mr. Mendez?

20 MR. MENDEZ: Yes.

21 CHAIRMAN DURANT: Mr. Wallace?

22 MR. WALLACE: Aye.

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1 CHAIRMAN DURANT: Ms. Miller?

2 MS. MILLER: Yes.

3 CHAIRMAN DURANT: Mr. Smegal?

4 MR. SMEGAL: You did not give me a chance to speak  
5 during that course of the discussion. I just want to make one  
6 comment that I would like to point out to Ms. Swafford. In the  
7 past, we have never been prohibited in our votes by having the  
8 votes. I do not see why this should be any different. I vote  
9 for it also.

10 MS. SWAFFORD: I think that is an excellent  
11 observation, Mr. Smegal.

12 CHAIRMAN DURANT: The motion carries. I appreciate  
13 the discussion from all of the board members. Mr. Bayly, would  
14 you begin work on that immediately, if you would.

15 MS. MILLER: I would just like to thank you for this,  
16 Mr. Durant.

17 CHAIRMAN DURANT: I am glad to do it.

18 MS. MILLER: It has been a long time coming.

19 CHAIRMAN DURANT: I know how you meant it. The next  
20 item on the agenda is the report from the Audit and  
21 Appropriations Committee.

22 MR. MENDEZ: The Audit and Appropriations Committee

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1 approved the audit of -- previously, we do not believe that we  
2 did not bring it to board level. With regard to the -- there  
3 are two portions to the Audit Appropriations Committee.

4 Evidently, the last board meeting when we had  
5 discussions of the '88 budget mark, it did not get on the record  
6 formally. It was evidently my error. I thought we had  
7 formally adopted the '88 consolidated budget, so I have a motion  
8 to make to clarify the record.

9

## MOTION

10 I move that we formally adopt, on the record, the FY  
11 '88 consolidated operating budget as previously discussed at the  
12 January 29, 1988 board meeting as it appears on pages 19 and 20  
13 of the Audit and Appropriations book of this month with some  
14 clarification of that.

15 The consolidated operating budget was represented in  
16 columns 1, 2, and 3 on those pages. I have requested that.

17 CHAIRMAN DURANT: Any discussion on Mr. Mendez'  
18 motion?

19 MR. MENDEZ: Again, it was a technical mistake that we  
20 did not get it done.

21 CHAIRMAN DURANT: Any comments or questions?

22 (No response.)

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1 CHAIRMAN DURANT: All those in favor of Mr. Mendez'  
2 motion signify by saying, Aye.

3 (A chorus of ayes.)

4 CHAIRMAN DURANT: Opposed?

5 MS. BENAVIDEZ: Aye, I mean no.

6 CHAIRMAN DURANT: I hate to do this on a simple formal  
7 motion, but Ms. Benavidez, on Mr. Mendez' motion to -- what are  
8 you doing?

9 MR. MENDEZ: Formally adopt the 1980 consolidated  
10 budget.

11 CHAIRMAN DURANT: We had previously discussed it at  
12 the February 29 board meeting. Ms. Benavidez?

13 MS. BENAVIDEZ: No.

14 CHAIRMAN DURANT: Ms. Bernstein?

15 MS. BERNSTEIN: Yes.

16 CHAIRMAN DURANT: Ms. Swafford?

17 MS. SWAFFORD: Yes.

18 CHAIRMAN DURANT: Mr. Valois?

19 MR. VALOIS: Yes.

20 CHAIRMAN DURANT: The chairman votes yes. Mr. Mendez?

21 MR. MENDEZ: Yes.

22 CHAIRMAN DURANT: Mr. Wallace?

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1 MR. WALLACE: It is a technical --

2 CHAIRMAN DURANT: Ms. Miller?

3 MS. MILLER: Yes.

4 CHAIRMAN DURANT: Mr. Smegal?

5 MR. SMEGAL: I vote with Mr. Wallace.

6 CHAIRMAN DURANT: You mean you are abstaining?

7 MR. SMEGAL: I guess that is what that means.

8 CHAIRMAN DURANT: Motion carries six to one with two  
9 abstentions, two non-votes. Mr. Mendez, anything else out of  
10 your committee?

11 MR. MENDEZ: Nothing else.

12 CHAIRMAN DURANT: The next item on the agenda is the  
13 consideration of CFR Part 1611, poverty income guidelines. Who  
14 is presenting that?

15 STATEMENT OF TIMOTHY SHEA

16 MR. SHEA: Thank you. As noted in your board book, we  
17 have a proposed revision to the appendix to 45 CFR 1611 dealing  
18 with the income levels for individual recipients. The amendment  
19 is based on the revised data that was published on February 12,  
20 1988 by the Department of Health and Human Services.

21 I might add that historically this adjustment has been  
22 done as an essentially ministerial matter and on occasion

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1 without even necessarily an affirmative board vote. The data  
2 and the adjustments that we have here are a simple arithmetic  
3 adjustment from the data that was published by HHS.

4 MR. VALOIS: Is there any discussion, Mr. Smegal?

5 MR. SMEGAL: Yes. Mr. Shea, are these numbers higher  
6 or lower than what they were?

7 MR. SHEA: I do not know, generally. I think they are  
8 higher.

9 MR. BAYLY: They are higher.

10 MS. BERNSTEIN: Yes, they are.

11 MR. VALOIS: Is there any further discussion?

12 (No response.)

13 MR. VALOIS: Mr. General Counsel, you say this does  
14 not require a board vote?

15 MR. SHEA: The board may vote, but I believe last year  
16 this was published without an affirmative board vote. This is  
17 essentially ministerial in my view.

18 MR. VALOIS: The President inquires whether we should  
19 have a vote to publish the amended numbers.

20 MR. BAYLY: It is in Appendix A.

21 MR. SMEGAL: Isn't it set up for publication?

22 MR. SHEA: Yes, it is.

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## MOTION

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MR. SMEGAL: I move it be published.

MS. MILLER: Second.

MR. SMEGAL: I call the question.

MR. VALOIS: All those in favor of publication?

(A chorus of ayes.)

MR. VALOIS: Opposed?

(No response.)

MR. VALOIS: The motion carries. Anything further,  
Mr. Shea?

MR. SHEA: Not on that item, sir.

MR. VALOIS: What is next?

MR. SHEA: I want to brief a report with respect to 45  
CFR Part 1607.6. I believe that is the last item on your  
agenda.

MR. SMEGAL: Excuse me, Mr. Shea. The agenda  
indicates page 39, and I do not have a page 39.

MR. SHEA: To be perfectly honest, I noticed that too.  
I think you should have a page 39.

MR. VALOIS: If there is no page 39, I recommend we  
defer this to the next meeting. I am not going to vote on  
something I have not seen.

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1 MR. SHEA: I want to inform the board -- I do not  
2 know that it necessarily calls for a vote -- at this time, if I  
3 may.

4 MR. VALOIS: You want to tell us about it without a  
5 vote?

6 MR. SHEA: Sure. In early February -- as you know,  
7 first of all, the board passed amendments to 45 CFR Part 1607.6  
8 which deals with the compensation issue with respect to members  
9 of recipient boards.

10 Fundamentally, the change that we have characterized  
11 as an AV issue, that is the heretofore existing regulation,  
12 suggested there was a prohibition with respect to compensation  
13 paid to members who were members of the board on which a staff  
14 member was involved.

15 The regulation -- the board adopted revisions to that  
16 regulation which expanded the definition so that it read "any  
17 recipient." That was consistent with the view that that change  
18 would make the regulation more compatible with the terms of our  
19 statute in that regard.

20 In early February of 1987, the corporation duly  
21 provided reprogramming notice to the appropriate House and  
22 Senate Committees. On February 25, 1988, the Senate Committee

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1 on Commerce, Justice, State, Judiciary and related agencies  
2 forwarded the letter to the corporation denying approval of the  
3 proposed change under the committee's reprogramming guidelines.

4 Fundamentally, the letter indicated that the committee  
5 disagreed with the statutory analysis and that in as much as the  
6 prior version of 1607.6 had been in effect for 12 years and of  
7 some subsequent legislative history that was consistent with  
8 that interpretation, they felt that the change was  
9 inappropriate.

10 I would like to report that my office -- first of all,  
11 that that occurred; secondly, that my office has the matter  
12 under advisement. I propose to make a recommendation to the  
13 Chairman and to the Chair of the committee on operations and  
14 regulations as to how to proceed with respect to that.

15 It also may be an issue next week in terms of our  
16 testimony before the Appropriation Committees. That is all I  
17 have at this point. I am not urging that the board take a vote.  
18 I do not know that a board vote is necessary, frankly, with  
19 respect to that.

20 MR. VALOIS: I do not think that there is anything to  
21 vote on until we have heard from you and your recommendation or  
22 opinion or whatever to the Chairman of the Ops and Regs

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1 Committee.

2 MR. WALLACE: I do not think there is anything to vote  
3 on. I appreciate the General Counsel reporting to the board on  
4 the correspondence we receive from Senators or anyone in  
5 Congress. I do not know that any action is necessary or  
6 advisable at this time.

7 MR. SMEGAL: Was there reference made to this February  
8 25 letter by Mr. Shea?

9 MR. SHEA: Yes.

10 MR. VALOIS: Is there anything further?

11 MR. SHEA: I have nothing further unless you have any  
12 further questions.

13 MR. VALOIS: That completes the board's agenda, I  
14 believe. We have a request to speak from Laura Watchempino.

15 STATEMENT OF LAURA WATCHEMPINO

16 MS. WATCHEMPINO: Board members, I am a managing  
17 attorney at Indian Pueblo Legal Services. Our office operates  
18 out of Laguna Pueblo. I am not really speaking to any  
19 particular item on your agenda today except this gives me the  
20 opportunity to tell you a little something about our field  
21 offices and how we are serving clients directly.

22 Since a lot of the discussion centered on direct

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1 delivery of services to clients, I wanted you to be aware that a  
2 lot of our clients do not have the ability to come forward and  
3 tell you their concerns without help from the field offices.

4 Without local field office assistance, you are  
5 probably not going to hear from any of our clients. A lot of  
6 them in the Indian communities -- English is their second  
7 language. They do need assistance not just in their individual  
8 cases but even in being able to tell you what kinds of services  
9 that they need.

10 You know that we are all overworked and underpaid. I  
11 also wanted to let you know another one of our concerns is that  
12 we need the national and state support centers because of the  
13 fact that we just do not have the resources and the ability to  
14 reach out and conduct a lot of this research on our own.

15 We just serve too many people. For example, Indian  
16 Pueblo Legal Services has priority guidelines because we cannot  
17 help every client that walks into our doors. So even with the  
18 limited number of cases that we see and individual clients that  
19 we see, we still need the help of the support centers.

20 I just wanted you to know I am not sure whether I am  
21 advocating independent funding or through the state, all I know  
22 is that we need them. They need even more funding than they

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1 have now.

2 We use them not to lobby, but we use them to provide  
3 direct services to our clients. I might call the National  
4 Housing Law Center whenever I am faced with a client that has  
5 been evicted from their home.

6 I might call the National Senior Citizens Law Center  
7 when I am helping individuals on social security or supplemental  
8 social security or supplemental social security cases. So we  
9 use the support centers to help clients directly.

10 We would just waste an enormous amount of time if we  
11 had to duplicate all the resources that are available to us  
12 through the support centers. They are invaluable to us in our  
13 work.

14 I guess in closing, I would like to thank this  
15 opportunity to let you know how we are operating in the field  
16 and to tell you that a lot of -- like I mentioned earlier, we do  
17 not have client groups representing some of our clients.

18 They are going to need the assistance of the field  
19 offices. I do think that it is a shame that money is being  
20 taken away from local programs in order to directly serve  
21 clients because if the clients did not need us -- if they could  
22 represent themselves, they would not need legal services.

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1 Thank you.

2 MR. VALOIS: Thank you very much. Is there any other  
3 members of the public that wish to speak?

4 (No response.)

5 MR. VALOIS: Hearing none, do we have a motion to  
6 adjourn?

7 MOTION

8 MR. WALLACE: So moved, Mr. Chairman.

9 MR. VALOIS: Second. All in favor of adjournment?

10 (A chorus of ayes.)

11 MR. VALOIS: Motion carries. Adjourned.

12 (Whereupon, the board of directors meeting of the  
13 Legal Services Corporation was adjourned at 2:50 p.m.)

14 \*\*\*\*\*

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