

ORIGINAL

# TRANSCRIPT OF PROCEEDINGS

LEGAL SERVICES CORPORATION

BOARD OF DIRECTORS MEETING: OPEN SESSION

Pages: 21 through 171

Washington, D.C.

March 8, 1985

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LEGAL SERVICES CORPORATION

In the Matter of: )  
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BOARD OF DIRECTORS MEETING: )  
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OPEN SESSION )  
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Friday,  
March 8, 1985

Eighth Floor Conference Rm.  
733 Fifteenth Street, N.W.  
Legal Services Headquarters  
Washington, D.C.

The above-entitled matter came on for meeting,  
pursuant to notice, at 9:31 a.m.

BEFORE: W. CLARK DURANT III  
Chairman

APPEARANCES:

- DENNIS DAUGHERTY ✓
- ROBERT A. VALOIS
- LORAIN MILLER
- BASILE J. UDDO
- PEPE J. MENDEZ
- THOMAS F. SMEGAL
- PAUL EAGLIN
- CLAUDE G. SWAFFORD
- HORTENCIA BENVIDEZ
- MICHAEL R. WALLACE
- LEANNE BERNSTEIN

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I N D E X

PRESENTATION BY:

PAGE:

WILBUR COLOM, FOUNDER OF JUDICARE OF MISSISSIPPI, INC., ONE OF THE DEMONSTRATION PROJECTS FUNDED IN THE DELIVERY SYSTEMS STUDY THAT HAS SUBSEQUENTLY BEEN AWARDED ANNUALIZED FUNDING ---COLUMBUS, MISSISSIPPI

26

JOHN MONROE, PARTNER IN WASHINGTON, MONROE, DAVIS AND BUGGS, A FIRM PARTICIPATING IN THE LSC PRIVATE LAW FIRM PROJECT ---JACKSONVILLE, FLA.

40

HAROLD VAN VOORHIS, SOLO PRACTITIONER IN THE LSC PRIVATE LAW FIRM PROJECT. CONTRACTED TO HANDLE 500 DIVORCES --- DES MOINES, IOWA

59

DR. JANE HAMILTON-MERRITT, SPECIAL ADVISOR ON HIGHLAND LAO REFUGEE AFFAIRS TO AMBASSADOR H. EUGENE DOUGLAS

(This portion of the transcript was submitted separately on an expedited basis)

P R O C E E D I N G S

1  
2 CHAIRMAN DURANT: I would like to reconvene  
3 our March 7th meeting of the Legal Services Board, today  
4 being March 8th.

5 Can everybody hear in the back of the room?  
6 Mary, can you hear back there?

7 (Affirmative response)

8 Dick, can you hear us back there?

9 (Affirmative response)

10 The first item on our agenda is a report from  
11 our interim Corporation president, Tom Opsut.

12 MR. OPSUT: Thank you, Mr. Chairman,

13 Since the annual meeting on January 25, the  
14 Corporation has issued the annual grants for 1985.  
15 Additionally, the Corporation has issued a grant to the  
16 IOLTA Clearing House in the amount of \$80,000.

17 Concerning the closed session of the Board,  
18 the Chairman reported on the first part of the closed  
19 section of the Board where the presidential search committee  
20 was formed and the membership announced at the public  
21 session.

22 In the late evening session of the executive  
23 session, the Corporation named me as interim president  
24 of the Corporation. That was the action taken.

25 (Applause)

1           Since that time, the major--there have been two  
2 major personnel happenings at the Corporation. One is  
3 that in early February I accepted the resignation of  
4 Gene Potack as Director of Field Services.

5           I have since on an acting basis named Peter  
6 Broccoletti as acting director of the Office of Field  
7 Services. This week we had a death at the Corporation and  
8 I don't know whether there are any Corporation employees  
9 here or people who knew Chuck Cordle.

10           Chuck was the inventory controller for the  
11 Corporation. Chuck died on Wednesday morning. For any  
12 of those Corporation employees or other people who knew  
13 Chuck, there is a memorial service today at 4:00 at  
14 St. Mary's Episcopal Church.

15           A final personal note, since this is the first  
16 time that we have had a Board meeting, I would like to  
17 thank all of the members of the Board for selecting me as  
18 interim president.

19           It is a great honor and in whatever period of time  
20 I have to serve the Corporation and this Board, I will do  
21 it with great care and with all the responsibility that  
22 this office deserves.

23           And now I would like to yield some of my time.  
24 We have a presentation by a panel on private attorney  
25 representation of indigents. That panel includes

1 Wilbur Colom from Mississippi, John Monroe from Florida,  
2 and Hal Van Voorhis from Iowa.

3 I have asked those panel members to come  
4 forward.

5 MR. WALLACE: Mr. Chairman, may I interrupt for  
6 a second?

7 CHAIRMAN DURANT: Please.

8 MR. WALLACE: As a Mississippian, I would like  
9 to usurp the privilege of the Chair and introduce to the  
10 Committee and to our guests here this morning Wilbur Colom  
11 from Columbus, Mississippi who has had long experience  
12 in Legal Services.

13 He is a good lawyer and a good friend and I am  
14 glad to have him up here from Mississippi to speak to us  
15 today.

16 CHAIRMAN DURANT: Thank you, Mr. Wallace. We  
17 are glad to have you here.

18 Are you all alone?

19 MR. COLOM: I think I have two others.

20 (Laughter)

21 John, where are you from?

22 MR. MONROE: I am from Jacksonville, Florida.

23 CHAIRMAN DURANT: Okay. And Hal?

24 MR. VAN VOORHIS: Des Moines.

25 CHAIRMAN DURANT: Des Moines.

1 Who would like to go first? Mr. Colom?

2 PRESENTATION BY WILBUR COLOM, FOUNDER OF  
3 JUDICARE OF MISSISSIPPI, INC., COLUMBUS,  
4 MISSISSIPPI:

5 MR. COLOM: Thank you very much, Mr. Chairman.

6 I want to be sure to speak to you about the  
7 things you are interested in so feel free to interrupt me  
8 and ask questions.

9 I understand the topic to be a discussion of  
10 how private attorneys can be better involved and their  
11 services leveraged in the delivery of legal services to  
12 indigents.

13 Can I give you just briefly a background of my  
14 involvement? I was the founder and first director of  
15 a Judicare Program with a staff/attorney component in  
16 Mississippi.

17 I believe it was the first such Judicare Program  
18 in the southeast. We are in one of the most rural areas  
19 in the United States. And it is also one of the poorer  
20 areas.

21 This is part of the now famous delivery system  
22 study that we were a demonstration project. And we were  
23 one of the few to survive that study because we demonstrated  
24 that we could be cost effective.

25 The main criticisms or the main doubts at the

1 time that the study began regarding non-staff attorney  
2 programs were that they would be one, too costly; two,  
3 that you would not have quality control; and three, that  
4 they could not deliver what the Legal Services Corporation  
5 called at that time impact litigation.

6 They couldn't do, in support in litigation,  
7 simply routine work.

8 CHAIRMAN DURANT: What was your first one? You  
9 said too costly, the impact, and what was the other one?

10 MR. COLOM: Quality control. Well, I think that  
11 Judicare voucher system, private contracts with private  
12 firms and staff attorney programs working together can  
13 deliver the services to the poor people--to poor people.

14 And that each of those components, used properly,  
15 can be cost-effective, have sufficient quality control  
16 and do the types of litigation that is necessary. Our  
17 program encountered those problems.

18 I was fresh out of law school when I started  
19 this program and I entered a town where there were no  
20 other black attorneys and had the awesome task of going  
21 in these rural counties soliciting support of the bar to  
22 participate on the panel.

23 After one year, there was only one law firm in  
24 my county that did not participate. And we had attorneys  
25 working with us in every county. It can be done. It is

1 difficult.

2           It is arduous, but it can be done. We indeed  
3 did have cost control problems but what we simply did  
4 was leverage the attorneys work. You know, lawyers are  
5 people.

6           You send them a case and you give them \$150  
7 and it turns out to be \$600 worth of work, they go ahead  
8 and do it. We started off our program by allowing the  
9 attorney to set his fee.

10           He would look at the case; examine the amount  
11 of work necessary. And then tell us what the fee would  
12 be and we would charge him--we would pay him \$30 an hour,  
13 half the going rate.

14           Well, in order to leverage our money, what we  
15 simply did after we had everyone involved is that we  
16 would set the fee before it went to the attorney. We  
17 would knowingly set it at probably 25 per cent of what  
18 we thought he deserved and he would do it anyway.

19           We would have him enter a little section of  
20 his time report indicating that that was pro bono. So  
21 we in effect leveraged the dollars we paid them and they  
22 felt that they were getting compensation.

23           Because they would say to us when we had meetings,  
24 "At least I felt that my basic costs were covered. At  
25 least I did not lose money by doing it. I just lost my

1 time."

2 Quality control. That is very difficult in a  
3 Judicare Program. We have attorneys spread out reporting  
4 to a director. The first thing we did when we got some  
5 money from Legal Services was to establish a computerized  
6 system so we knew who the lawyers were that were sitting on  
7 that case.

8 And we established a system that when a case was  
9 closed, the lawyer had to turn in the files. I submit  
10 that we had a very good quality control system in that  
11 every file was reviewed by the director at the time the case  
12 was closed.

13 Of course we had systems for the clients to file  
14 complaints. I believe our quality control would meet the  
15 standards expected of any staff attorney program. Let me  
16 tell you what I believe is the greatest quality control  
17 in a Judicare system.

18 I am an attorney in private practice now and  
19 I know about the leanings toward specialties. I don't  
20 do real estate work. In fact , I don't do domestic  
21 work anymore.

22 I don't go into bankruptcy court. I can tell  
23 you any number of things I do not do. The great thing  
24 about the Judicare or private attorney program is that  
25 you have the greatest quality control because the director

1 can pool up on the talents of the entire bar.

2 When you have a staff attorney program, you  
3 are limited to the talents of those lawyers employed.  
4 When I would have a real estate problem for an indigent  
5 person in Columbus, Mississippi, the best real estate  
6 lawyer in town was on my panel.

7 And he is now a judge. So a poor person from  
8 the poorest area in Columbus could get the best known  
9 lawyer in Columbus, Mississippi in real estate. He  
10 couldn't get that in a staff attorney program.

11 The same would be true in bankruptcy matters  
12 and in domestic relation matters. So you have that ability  
13 to pool up on the talents of the entire bar. And the  
14 second means of quality control is cost control.

15 When you get a lawyer who is a specialist, his  
16 productivity goes up. You get a staff attorney who is  
17 required to enter into a new area of law requires enormous--  
18 spends many hours learning the law, when you can turn it  
19 over to a person who already knows it.

20 In our program, we would classify lawyers.  
21 We would not just an open rotation, which is what some  
22 Judicare programs do. I think that is really an unhealthy  
23 approach.

24 CHAIRMAN DURANT: What is the open rotation?

25 MR. COLOM: Well, you just put every lawyer in

1 line and as a case comes in you send it to the next  
2 lawyer, one right after the other. We would not do that.  
3 We would not do rotation.

4 We would rotate among people who specialized.  
5 So if we had a real estate problem, there would be only  
6 two or three lawyers we would call upon. If we had a  
7 bankruptcy problem, there would be only two or three  
8 lawyers we would consider.

9 We would not send a bankruptcy problem to some  
10 young attorney simply because he needed some work.

11 MR. EAGLIN: Did you run into any problems  
12 with perhaps a feeling among people that you might have  
13 been favoring some lawyers or did they understand that  
14 process that you were utilizing?

15 MR. COLOM: We never had a single complaint about  
16 that. We did have a complaint and we did put some lawyers  
17 off our panel. The only complaints we ever had were  
18 when we simply eliminated lawyers from the panel altogether.

19 MR. EAGLIN: What was the basis of putting them  
20 off the panel?

21 MR. COLOM: Dilatory. Poor quality of work.  
22 Excessive complaints from clients. When we removed them  
23 from the panel, we offered them a hearing.

24 CHAIRMAN DURANT: How long did that hearing  
25 take?

1           And there is no substitute for hard work but  
2 we became a cohesive group understanding that we had to  
3 provide those services and could. And it became remarkably--  
4 I believe remarkably successful.

5           I would make many decisions. I will give you an  
6 example. If I would have a consumer problem, I wouldn't  
7 hire the young , radical lawyer down the street. I would  
8 not assign that to him.

9           I would assign it to the law firm that had the  
10 president of the Chamber of Commerce there so that merchant  
11 had to look into the eye of someone he respected and  
12 face up to selling shoddy merchandise or slick deals.

13           Usually a phone call solved it. I would call up  
14 some lawyer and say this merchant is really ripping these  
15 people off. And he would get on the phone and embarrass  
16 the guy.

17           (Laughter)

18           And again it was trying to be productive. You  
19 always had to ask yourself can I afford to litigate this.  
20 And those are the kinds of decisions that people make  
21 in real life.

22           When a client walks in my door, his question  
23 is solve this problem for me with the least cost to me.  
24 Right? And that is the decision you make in the Judicare  
25 Program.

1           You don't decide oh, I got a potential Fifth  
2 Circuit case here. You say how can I solve this problem  
3 with the least cost to the program and the least delay  
4 to this client.

5           And those kinds of economic decisions should be  
6 made. I guess that is my basic presentation and if you  
7 have any questions, I would be happy to answer them.

8           CHAIRMAN DURANT: Mr. Uddo?

9           MR. UDDO: I have a question, Mr. Colom. You  
10 talked about cost control. Would you tell us a little bit  
11 more about how--did you have a formalized process for  
12 reviewing costs and keeping costs within certain parameters?

13           How did you control your costs?

14           MR. COLOM: The way that we handled it was that  
15 we would do every intake. That case would come up for  
16 review and it would be accepted or rejected. If it was  
17 accepted, I would set the fee at that point.

18           And in the letter of assignment to the attorney,  
19 he would have his fee established already by the program.  
20 He could either reject that fee or accept it, or he could  
21 make a counter proposal.

22           I bet you not one in a hundred made a counter-  
23 proposal.

24           MR. UDDO: How did you set the fee?

25           MR. COLOM: Based on my experience in private

1 would you do for setting a fee for litigation?

2 MR. COLOM: I would estimate the time. And  
3 what we would do is when that time was used up, he again  
4 had to come back and ask for permission for additional  
5 time.

6 In other words, we would constantly put the  
7 requirement on them to come back and ask us for it. We  
8 had to do it that way because we had to keep on the  
9 computer our contingent liability.

10 So you just can't have lawyers out there working  
11 and not knowing what you owe them. If you do, you end up  
12 in trouble with the budget.

13 MR. UDDO: Have you ever done a cost comparison  
14 between your approach and say a staff attorney model  
15 approach and the regular client that goes to a lawyer  
16 without Legal Services being involved?

17 MR. COLOM: There was a very careful study  
18 done in DSS--the Delivery Systems Study of our program with  
19 staff attorneys.

20 MR. UDDO: Your program was used in DSS?

21 MR. COLOM: Yes. Yes. We came out very  
22 favorably in that study. In fact, I think we were one  
23 of the few Judicare Programs that was continued.

24 CHAIRMAN DURANT: What distinguished your program  
25 from some of the others?

1 CHAIRMAN DURANT: Did you get much after your  
2 sometimes draconian tactics, did you get much repeat  
3 business from the same lawyers?

4 MR. COLOM: We never had a lawyer drop out of  
5 our program. We have thrown some out but we haven't had  
6 one drop out.

7 MR. UDDO: How many lawyers are in it?

8 MR. COLOM: About 36. And you got to realize  
9 we are talking about a rural area. One of our accounts  
10 only has four lawyers.

11 MR. UDDO: Do you think that model would work in  
12 an urban area where the kind of informal network, you  
13 know, the head of the Chamber of Commerce is not really  
14 known by everyone and not everyone really cares what he  
15 thinks?

16 MR. COLOM: Nothing works everywhere. That is  
17 one thing that I really believe. All the models we  
18 study--and I went through the DSS study for two years. It  
19 was an exhausting study.

20 I had a chance to look at voucher programs and  
21 Judicare and staff attorneys. They made us do so many  
22 reports, go to so many meetings that one of the reasons I  
23 probably haven't been to the Legal Services meeting in a  
24 couple of years is that after doing about 20 in one year,  
25 you get exhausted.

1           And I think all of them can work. I really  
2 believe that voucher programs can work. I really believe  
3 that contracts with private bar programs can work.  
4 They have to be combined and everyone has to yield a  
5 little bit in their turf.

6           And you have to look at performance and  
7 productivity and not at ideology of the program. Staff  
8 attorney programs do not work very well in the area in  
9 which I am in.

10           It is too rural. It is too costly. And the  
11 needs of poor people are just as broad in Mississippi  
12 as they are in New York City. And in New York City you  
13 can put together 30 attorneys but how can you put 30  
14 attorneys in Macon, Mississippi who will know all the  
15 various areas from civil rights litigation to landlord  
16 tennant.

17           So what you have to do is you have to design  
18 the model for the area.

19           CHAIRMAN DURANT: Any other questions?

20           (No response)

21           Mr. Colom, thank you. Why don't you stick around  
22 in case there are some other questions.

23           Ms. Bernstein?

24           MS. BERNSTEIN: I just wanted to get what was  
25 the last year's funding of your program? Do you know?

1 criminal work. And what I did, I experimented with trying  
2 to deliver services at a rate that was below what attorneys  
3 normally charge.

4 And I did that--I felt I could do it by  
5 controlling my own overhead, my own staff. And I have  
6 been fairly successful in doing that so that although I  
7 don't undercharge, I don't overcharge.

8 If another attorney's rate is \$60-\$75-\$100 an  
9 hour for a particular matter, I feel because of where I  
10 am and what I am doing and understanding who my clientele  
11 is, I can probably charge at a rate of maybe \$40  
12 sometimes or \$45.

13 I don't always do that but I set my fee based  
14 on the clients that come in and I think it is flexible  
15 and it is fair to all of my clients. But getting to  
16 what the Board is concerned about, I am involved with  
17 the LSC contract project, the delivery of services  
18 through private law firms.

19 I contracted with the corporation to deliver--  
20 to handle 550 divorces. I really haven't had an  
21 opportunity to give a great deal of thought right now to  
22 just where or just how well the contract is doing  
23 overall.

24 I will give you some--

25 CHAIRMAN DURANT: When was it awarded?

1 MR. MONROE: It was awarded around June--the  
2 25th of last year, 1984. It is due to terminate sometime  
3 around the 30th of June this year. And at this point--  
4 well, first of all, the relationship between my firm and  
5 the local Legal Services program has been good.

6 I must say that the work has flown very smoothly  
7 from the local program. We haven't had very many rough  
8 spots in terms of what their responsibility was under  
9 the contract and that was to screen the applicants and to  
10 make the referrals based on the guidelines that were  
11 set forth in the contract.

12 And so far as I can determine, that has been done  
13 with a minimum of difficulty. The only thing at this  
14 point that appears to be a little bit of a problem and  
15 hopefully it may ameliorate itself, and that is that the  
16 numbers are not really coming in .

17 Because obviously the bid was made and the  
18 amount was set based on what we perceived to be the  
19 numbers you would be getting and we structured our ---  
20 we structured what we felt was an appropriate price based  
21 on the number of cases.

22 It is lagging a bit behind.

23 CHAIRMAN DURANT: What kind? What disparity?

24 MR. MONROE: We felt that we needed to get--

25 (Pause)

1           --it was at least 30 to 35 cases each month.  
2 That was on the average.

3           CHAIRMAN DURANT: And what are you getting right  
4 now?

5           MR. MONROE: Right now we are probably running  
6 about 75 cases behind and we are six months into the  
7 program. So that could pose a problem. I say it "could".  
8 You can't make people get divorces, you know.

9           They come in and we provide the service.

10          (Laughter)

11          MR. EAGLIN: Excuse me. Was the '550 figure  
12 arrived at by Legal Services? It wasn't you, was it?

13          MR. MONROE: Yes.

14          MR. EAGLIN: They expected that you would need  
15 to do 550 to serve--

16          MR. MONROE: No. I think the overall indication  
17 was from the local program was that based on prior  
18 records, prior case loads, they felt that about 750  
19 to 800 cases could be referred in the course of a 12-month  
20 period.

21                 This is divorces alone. That was what apparently  
22 was reported to the corporation as being a reasonable  
23 figure to depend on.

24          MR. EAGLIN: That is how many they would  
25 encounter and of that number they would want you to do

1 we anticipated what we would need to do.

2 And obviously, as attorneys, we handle the  
3 case. We handle it, whatever it takes to do it. We  
4 consider whatever time we put in it beyond what the  
5 contract would call for as really pro bono.

6 I mean that is essentially what it is. And as  
7 long as it is really more or less an investment in time,  
8 we have the staff to do that.

9 CHAIRMAN DURANT: You seem to be an example of  
10 what Mr. Colom says works.

11 MR. MONROE: Well, once we go through it we  
12 would have to think it through again because we had--  
13 our practice was geared to moderate and low income  
14 individuals. We pretty much understood what we would  
15 have to do to fulfill our responsibility under the  
16 contract.

17 But we were looking for client contact because  
18 our firm does other things also, other work other than  
19 handling--

20 CHAIRMAN DURANT: So I get a perspective on  
21 this and I hate to keep jumping in but I am sort of  
22 following Mr. Colom's invitation that if we've got  
23 questions, to ask them: in terms of your client base for  
24 your firm, can you give a rough idea as to how many of  
25 those clients would be technically poor or would fall

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where most of the social service work is done for the city.

CHAIRMAN DURANT: Do you deal in your client base with problems associated with food stamps or delivery of welfare benefits and that sort of thing?

MR. MONROE: Not ordinarily. We probably deal more in--we deal in some social security work. We do a lot of child support work; an awful lot of child support.

Bankruptcies, we do. And some other areas. But normally these people qualify very easily for local legal services so that is really where they refer them to in order to at least get some initial advice and consultation.

Although we are in that area, a lot of our work is done in the area of personal injury and wrongful death. For some reason or another, many poor people end up being hurt or killed or wrongfully for whatever reason and we do a lot of work in that area.

CHAIRMAN DURANT: Pepe?

MR. MENDEZ: When you originally took this on, were you anticipating in increasing your practice and being able to kick off? I would like to know just the economics of it.

Apart from this practice, you were interested

1 in creating your practice in the future, too, I assume?  
2 Is that right?

3 MR. MONROE: Well, that certainly was a  
4 consideration.

5 MR. MENDEZ: The people that you have served,  
6 have they referred other individuals to you?

7 MR. MONROE: Some have. Some have. But I  
8 looked upon it really as a long-term--not short-term  
9 relationship. There is really no distinction between  
10 the clients that we serve in this project and any other  
11 clients that we have.

12 We handle--everything is done. The only thing  
13 that is different is that we keep the separate records  
14 because of what our responsibility is under the  
15 contract.

16 Other than that, you wouldn't be able to tell  
17 the difference in terms of when you come in the office,  
18 everybody is--

19 MR. MENDEZ: Would you do this again next year?

20 MR. MONROE: I really haven't given it that kind  
21 of thought because I would like to be a few months  
22 further along and sit down with the other attorneys in  
23 the office who are involved with this and evaluate it.

24 We have not had an opportunity to evaluate  
25 what--just how we have fared in this and just how much we

1 have had to expend in time beyond what the contract  
2 called for, because there is--there has been an  
3 expenditure of attorney time and staff time which  
4 really, you know, cannot be recouped under this  
5 contract.

6 We understand and recognize that but we want  
7 to see certainly how we can best provide a service because  
8 where we are located--and this is an important thing. At  
9 least where my firm is concerned, where we we are located it  
10 is very compatible with this kind of project.

11 We can deliver services under this kind of  
12 program and still be able to conduct a practice that we  
13 have been conducting all along. They are not incompatible  
14 with each other.

15 I think that they work very well together  
16 primarily because of where we are located and the kind of  
17 work that we actually do. Our client contact is primarily  
18 with people who are--who would be eligible for legal  
19 services under the local guidelines or who probably would  
20 not be eligible but who are just so close to the line until  
21 if there was some drop in income to a family member not  
22 being able to contribute, that they would probably fall  
23 right back into the eligibility for services by the Legal  
24 Aid.

25 So certainly client contact was a factor. But I

1 MR. MENDEZ: Do you get people coming to you  
2 directly rather than going to Legal Aid and do you send  
3 them back to Legal Aid to do the initial intake?

4 MR. MONROE: Well, what I thought was really  
5 humorous at first, but when we started a program that was  
6 advertised--well, there was some immediate coverage of  
7 the Legal Services contract.

8 And I had several people call me-- my practice  
9 is located in a shopping center--they said are you that  
10 lawyer in the shopping center that gives free divorces.  
11 I said not quite; that is not quite accurate.

12 We heard that you were giving free divorces  
13 out there in that shopping center and we wanted to know  
14 just what we needed to do to get that.

15 CHAIRMAN DURANT: First you had to get married.

16 MR. MONROE: Right. But we don't get many who  
17 inquire directly to us other than those calls I have  
18 indicated to you. Most people know about Legal Services  
19 in the Jacksonville Legal Aid area.

20 And if they know, it is usually because someone  
21 has directed them to the program. And that is primarily  
22 how they contact our offices is through the Legal Aid  
23 Association.

24 MR. MENDEZ: My recollection is that there is  
25 a fairly large Spanish-speaking community down there, is

1 that correct?

2 MR. MONROE: Not in Jacksonville. There isn't  
3 a very large Spanish-speaking community in Jacksonville.  
4 Further down, further south it is different in Orlando  
5 or Daytona or places further south.

6 CHAIRMAN DURANT: Mr. Colom?

7 MR. COLOM: I wanted to ask you a question.  
8 Has it adversely affected your private practice in the  
9 sense that once you start working for Legal Services  
10 people start thinking of you as the free lawyer and  
11 don't want to bring serious cases to your firm?

12 You know, I got a PI case or something that is  
13 a fee-generating case and they pick someone else because  
14 you are supposed to be the free lawyer.

15 MR. MONROE: Well, I am going to be very candid  
16 with you. I dispel that. That is the first notion that  
17 I dispel when they come in my office.

18 (Laughter)

19 That I am not part of Jacksonville Legal Aid.  
20 Not that I am not proud of the work they are doing  
21 but I want you to understand that I have a special  
22 relationship with Legal Aid Association here and I am  
23 a private attorney and I do work for fees.

24 Although you aren't paying me anything , nothing  
25 is free. Someone has to pay the bill and they understand

1 completely; that is, eligibility. They must make  
2 eligibility.

3 MR. EAGLIN: You mean eligibility for statutory  
4 requirements for divorce as well?

5 MR. MONROE: Oh no. Simply the eligibility  
6 for the legal services; in other words, for legal  
7 assistance.

8 MR. EAGLIN: And then after determining that  
9 they are eligible because the person says they are  
10 interested in divorce, then it goes to you. Then you  
11 have got to determine whether they meet the--

12 MR. MONROE: Right. That is my determination  
13 at that point. They don't really do any of the legal  
14 groundwork.

15 MR. EAGLIN: There may be some who after  
16 being referred to you because they are financiall  
17 eligible you may have to turn away because they do not  
18 meet the statutory requirements for a divorce?

19 MR. MONROE: Well, Florida is no-fault so  
20 anybody--Florida is a no-fault state so there really  
21 aren't any grounds .

22 MS. BERNSTEIN: Do you represent both--do you  
23 refer cases so that both parties in a divorce can get  
24 representation if they both were eligible?

25 Is there enough of--I know that most Judicare

1 programs are set up so that they can because they refer  
2 them to different independent attorneys.

3 MR. MONROE: What happens if both husband  
4 and wife qualify for the program and it becomes adversarial  
5 and there are going to be some issues that need to be  
6 resolved, one of them is referred--if they are qualified  
7 and are eligible for the LSC contract also--one of them  
8 is referred to my office and the other --the Legal Services  
9 association there will find another lawyer to represent  
10 the other party.

11 MS. BERNSTEIN: How about you, Wilbur?

12 MR. COLOM: We would just send it to two  
13 different attorneys in two different firms.

14 MR. MONROE: A staff attorney obviously could  
15 not--a Legal Services staff attorney obviously could not  
16 handle the other party so they would have to be referred  
17 out to someone in the private bar.

18 MR. VAN VOORHIS: Ms. Bernstein, my contract  
19 is entirely for uncontested divorces. Yours is not  
20 limited to uncontested? So we theoretically do not fall  
21 in that particular area where one is being referred somewhere  
22 else.

23 MR. MONROE: Well, that is supposed to have  
24 been the way that my contract was supposed to work,  
25 also.

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an AV rated lawyer in Des Moines.

I decided that I wanted to take a substantial turn at some time and I felt that I personally needed contact with people. Now I understand that too much contact with people is not the best thing in the whole world either but I wanted to have some more people contact.

We started doing some advertising in the field of bankruptcies, dissolutions and such and such. I became connected with out Legal Aid contracts prior to the dissolution contract.

I have exactly the same kind of contract that Mr. Monroe has for my area. The--it seems to work out very well and I am pleased to be doing it. I would say that maybe 20 per cent of my business is within the guidelines of Legal Services.

I own my own building downtown in Des Moines in a prime location. We of course in Des Moines do not have a substantial ghetto. We--while the whole town is not well-to-do, it is a very medium-type town.

The extremes in income are not as extraordinary as they are in other urban areas. There are in fact no law offices located in what might be called the ghetto. So we are entirely different from Mr. Breeding, the Atlanta lawyer, who spoke in terms of actual location within the

1 MR. VAN VOORHIS: To some extent, particularly  
2 based on the advertising that we started to do about two  
3 years ago.

4 CHAIRMAN DURANT: When you said "we", how many  
5 is that?

6 MR. VAN VOORHIS: When I say "we", I mean me.

7 CHAIRMAN DURANT: Okay. It is the royal "we".

8 MR. VAN VOORHIS: The royal "we", right. I  
9 have five staff people working with me so I think of us as  
10 "we" but I am the only lawyer in the office.

11 CHAIRMAN DURANT: All right.

12 MR. VAN VOORHIS: The advertising is in the  
13 Des Moines Register and Tribune which is--I am sure there  
14 has been some publicity about the Gannett Publications  
15 just purchasing it recently as their--hopefully their leading  
16 thing.

17 It is a statewide publication. So much of my  
18 business through the advertising comes in through statewide  
19 situations. Sometimes it is middle class or even more  
20 than middle class people who want to take advantage of  
21 a very inexpensive divorce.

22 In our situation, they can file in Polk County  
23 based on a waiver of venue if they both come in.

24 CHAIRMAN DURANT: What about the other way? That  
25 was my question. In other words, how many of your client

1                   One other firm was contracted to handle  
2 500 divorces. A firm was contracted to do 250 bankruptcies  
3 and something like 100 wills or something like that.

4                   MS. SWAFFORD: Well, I do have one more question.

5                   MR. VAN VOORHIS: Yes, Ma'am?

6                   MS. SWAFFORD: Not really of you, I guess, but  
7 of Mr. Broccoletti. Is there any size of the community  
8 in which this type of contract work--do you want a larger  
9 community, Mr. Broccoletti, or do you this in rural  
10 areas?

11                   MR. BROCCOLETTI: We have done this in five  
12 cities. We are advertising in about three more right  
13 now. It is a mixture. They range in size from as large  
14 as Orange County, California, which is over a million  
15 people.

16                   And the Jacksonville area, which I think is  
17 over 500,000 people down to as small a place as Belton,  
18 Texas which is only about 50,000. There is a large military  
19 base there.

20                   We are doing a project there for divorces  
21 involving military families. But we are planning in  
22 these mixture of cities to go from a medium size to  
23 rather large cities and not to real tiny hamlets.

24                   MS. SWAFFORD: Then you do have some reason to  
25 believe that in really small areas that it would not be as

1 that you might want to pick--you know, 200, 250, whatever.  
2 And allow negotiations with the local bar that if that  
3 were allowed and contracts for negotiations were allowed  
4 between local Legal Aid services in Polk County, negotiations  
5 would go along with the Polk County bar association to  
6 establish some type of sliding fees within that--the  
7 difference between 125 per cent up to the 200 per cent.

8 That that would substantially involve the local  
9 bar much more than just about anything else that the  
10 Legal Services Corporation could do. It would also be  
11 helpful if--I think that this also speaks to some extent  
12 to what Mr. Monroe was speaking about; that it would  
13 be very helpful if within that area if negotiations could  
14 also be made with the local bar not to just use simply  
15 the bar panel because I believe that Mr. Colom and  
16 Mr. Monroe were speaking about the fact that the people--  
17 first of all, we should have some experts within a panel.

18 Second of all, people are going to do much  
19 more pro bono work if they realize that there is a  
20 substantial volumn of cases that are coming through there.  
21 They are much less likely to do pro bono work on an  
22 individual case if they know that they are going to get  
23 one case a year.

24 It seems to me that the panel that Legal Aid  
25 and Legal Services are dealing with should, through

1 negotiations with the local bar, be completely focused  
2 down to a panel of maybe ten, 15, 20 people; whatever  
3 you can negotiate out with the local bar.

4 And talk in terms of--and this may be impossible,  
5 you know. We all know that lawyers are litigious and  
6 we are not going to--and whether we can negotiate  
7 this out is problematical.

8 But it seems to me that this is an area  
9 that you could do without a statutory change. And there  
10 is quite an area between the 125 per cent up to the 200  
11 or even 500 per cent on a sliding scale basis. This is  
12 just an idea.

13 CHAIRMAN DURANT: Mr. Voorhis, I don't want to  
14 cut you off. Could you work with Mr. Broccoletti and  
15 talk about that in terms of some of the particular kinds--  
16 of things because I just got a note that in terms of our  
17 time frame--but I am interested in what you are talking  
18 about.

19 If you will talk with Mr. Broccolettia and Pete  
20 will work with you to see what the possibilities are.

21 MR. VAN VOORHIS: I will do that. Thank you,  
22 Mr. Durant.

23 CHAIRMAN DURANT: Thank you.

24 MR. COLOM: Could you give me five seconds?

25 CHAIRMAN DURANT: I will give you ten seconds. Go

1 ahead.

2 MR. COLOM: I would like to see something done  
3 by the Corporation that no one I think has done yet.  
4 There needs to be a program somewhere--an experiment--  
5 where you integrate all the forms of delivery in one place,  
6 where you have vouchered, Judicare and staff all at  
7 one time.

8 Because I honestly believe that that will show  
9 a great cost effective way of delivering legal services.  
10 If you are sitting in a hub's community, you can do a  
11 lot of local work with the staff.

12 If you have someone come in from a remote area,  
13 you give them a voucher and send them back to get that  
14 little divorce. And you pay that attorney where the  
15 program has the discretion to decide on productivity,  
16 quality and cost on a case. That is what attorneys do in  
17 private practice and I think that is what Legal Services  
18 should do .

19 CHAIRMAN DURANT: Okay. Pete, would you work  
20 with him?

21 MR. BROCCOLETTI: Yes, Sir.

22 CHAIRMAN DURANT: Because I would like to see.  
23 Maybe that is something that we haven't thought about.

24 Ms. Bernstein?

25 MS. BERNSTEIN: I just wanted to follow up.

1 CHAIRMAN DURANT: Mr. O'Steen and Dr. Cox,  
2 what I would like is--we had chatted about you are going  
3 going to give us additional brief thoughts, compensated  
4 models--some thoughts that you had.

5 MS. BERNSTEIN: We talked briefly yesterday.  
6 You were talking about the workshop and I just thought since  
7 you were here that you might just want to give us a  
8 very brief overview of your workshop on compensated models  
9 which I understood had some input from the programs.

10 And also, just to give us an idea of what  
11 kinds of things you have seen from that. And I understand  
12 you have got a paper that is being finished on that so  
13 this won't be the last we consult with you on it.

14 But I just thought since you were here you  
15 would want to comment.

16 CHAIRMAN DURANT: And brevity is not only the  
17 soul of wit; it will be the essence of this presentation.

18 MR. O'STEEN: I'm glad you feel as I do about  
19 that.

20 (Laughter)

21 I don't have my notes with me but I will speak  
22 very briefly about it. Several months ago the ABA held  
23 a very small workshop devoted to compensated models. The  
24 attendees were Legal Services field people preselected--  
25 from a relatively small group--preselected for their

1 experience and length of experience with compensated  
2 model delivery systems.

3 From my experience, the workshop really was  
4 a great success and the few observations that I can make  
5 about it are as follows. No. 1, there seemed to be a  
6 relatively high level of satisfaction with the compensated  
7 systems that were being operated by --again admittedly--  
8 relatively small group of attendees.

9 In fact, several of us were frankly surprised  
10 by the apparent feelings of satisfaction with those  
11 programs. There were, however, a couple of things that  
12 came out of the meeting that were significant.

13 We will be happy to provide you with this  
14 summary document that is hopefully in the final stages  
15 of preparation now. No. 1, there was a sense on the  
16 part of all of the attendees that they needed additional  
17 technical assistance in the area of compensated models.

18 They simply didn't know enough about cost and  
19 quality controls and really the design aspects of any  
20 of these models. The other--what was the other?

21 (Pause)

22 Again, I apologize for not having my notes with  
23 me.

24 MS. BERNSTEIN: You mentioned to me yesterday  
25 something about the pro bono, that the facts were not all

1 in but they were mixed.

2 MR. O'STEEN: Yes. There was some feeling  
3 that some determination needed to be made about the effects  
4 of compensated models on pro bono and that the answer  
5 to that question is still unknown.

6 Some of the attendees believed that at least  
7 in certain areas the introduction of a compensated  
8 system would have an adverse effect on pro bono service  
9 for the reason that some lawyers are not going to be willing  
10 to give away service when they knew that their colleagues  
11 were being paid for delivering the same service.

12 Other members of the group seemed to suggest  
13 that in their experience that didn't appear to be a  
14 problem. Particularly I think it was indicated that in  
15 larger urban areas communication among members of the bar  
16 was not sufficiently strong that pro bono lawyers  
17 were even likely to know that some of their colleagues  
18 were being paid for doing that work.

19 And of course all along staff lawyers were being  
20 paid to do it and that didn't seem to discourage pro  
21 bono. But in any event, there was a concern expressed  
22 about that.

23 We believe it is a legitimate concern and  
24 that one of the things that should be done by someone--and  
25 I believe the appropriate responsibility for that rests

1 here--and that is to determine the effect of the introduction  
2 of a compensated delivery system on pro bono.

3 CHAIRMAN DURANT: Any questions from the Board?

4 (No response)

5 Ms. Bernstein?

6 MS. BERNSTEIN: No.

7 MR. SMEGAL: Of either of them?

8 CHAIRMAN DURANT: Of either.

9 MR. SMEGAL: Oh. Professor Cox, when you  
10 appeared before the Committee yesterday you were asked  
11 a question regarding market concept of the support centers.  
12 You made a response which I can't quote but I am sure  
13 you remember what you said.

14 Did you understand at that time that the national  
15 support centers each provided a different kind of  
16 functional support? That they are not competing with each  
17 other and therefore the market concept may not apply to  
18 that kind of circumstance?

19 DR. COX: No. As I indicated with my original--  
20 with the first answer I gave to the first question that  
21 was directed at me, I really didn't know exactly what  
22 the support centers--national or state--did.

23 Then many questions followed from that about  
24 basically the category of how do you learn what consumer  
25 preferences are all about when you don't have a direct

1 payment being made by the consumer.

2 In any case, subsequent to our presentation  
3 yesterday, I was motivated to inquire what the national  
4 support centers give and do and what their relationship  
5 is to the local program and so on.

6 So I am a little better informed today than  
7 I was yesterday.

8 MR. SMEGAL: So how would you answer that  
9 question today then?

10 DR. COX: The honest and direct answer is that  
11 I would really want to think about it and I will tell you  
12 why. I am really serious about this. That off the top  
13 of my head it seems to me that these national and state  
14 support centers have a bit of what economists call a  
15 private good nature and a public good nature to them.

16 What the private good is is a good whereby  
17 all the benefits accrue to the consumer and the consumer  
18 and the consumer can exclude anybody else. Therefore, the  
19 consumer is always willing to state a value or a price  
20 that he's going to pay for whatever the value is of the  
21 good or the service being consumed.

22 The public good, the extreme of a public good  
23 is national defense, something that we each get benefit  
24 from but that we also see that it is in our own best  
25 interest to say well, let the other guy pay because

1 however much national defense we get as a result of his pay-  
2 ing, we will also get benefit.

3 Now I will draw the analogy directly. My  
4 understanding of what the national and state support  
5 centers do: each of the local programs within the  
6 jurisdiction get certain benefits by simply the existence  
7 of those support centers.

8 In other words, it is a source to which one can  
9 turn at time of need or emergency or whatever--lack of  
10 expertise with respect to a case that arises. But it is  
11 also in the interest of each local program to sort of  
12 say well, let the other local program pay for its  
13 existence.

14 MR. WALLACE: If I may ask, it would seem to me,  
15 Professor, that one of the things from an economic point  
16 of view that ought to be done is trying to isolate those  
17 functions of the support center which are private goods  
18 from those functions which are public goods.

19 You would want to subsidize the public goods  
20 centrally and let the private goods be bid for privately  
21 to the extent you can make that feasible.

22 DR. COX: Said just like an economist would  
23 say it.

24 (Laughter)

25 MR. WALLACE: Oh my goodness.

1 CHAIRMAN DURANT: Well, I guess the debate is  
2 raging, what is public and what is private.

3 DR. COX: That's right. It has just gone to  
4 another sphere, right?

5 (Laughter)

6 CHAIRMAN DURANT: I don't know why Alan Housman  
7 is smiling.

8 MR. HOUSMAN: Apparently we need another study.

9 (Laughter)

10 CHAIRMAN DURANT: I have the sense we have a  
11 couple of willing recipients.

12 Any other questions because we have to move on?

13 (No response)

14 Thank you both very much.

15 MS. BERNSTEIN: Thanks.

16 CHAIRMAN DURANT: The next item on our agenda  
17 is going to be the report from our Appropriations and  
18 Audit Committee which I am sure will take--

19 MR. MENDEZ: Three minutes.

20 CHAIRMAN DURANT: You are out of order. I am  
21 only giving you two-and-a-half minutes.

22 Go ahead.

23 MR. MENDEZ: Mr. Chairman, the Budget and Audit  
24 Committee has revisited the FY 86 budget mark and the  
25 Committee recommends a revised FY 86 budget mark as

1 provided in the draft that was tendered to the Committee  
2 and virtually every one of the Board was present yesterday  
3 st the Committee meeting.

4 Mr. Chairman, let me just ask you a couple of  
5 things. Do you want me to go through it line by line  
6 or just separate?

7 CHAIRMAN DURANT: No. No. Since we all were  
8 there for most or all of it, what I would prefer, if I can  
9 without objection from the Board, just simply ask you  
10 to report to the Committee .

11 MR. MENDEZ: Mr. Chairman, the Committee  
12 determined that the overall mark of 305 was appropriate;  
13 that the revised budget mark as provided on line 5--or  
14 column 5, I shouldn't say "line"--was the most appropriate  
15 sense of the Committee.

16 And I move the acceptance of a revised budget  
17 mark as proposed.

18 CHAIRMAN DURANT: Do you mean budget mark or  
19 allocation?

20 MR. MENDEZ: Excuse me. Budget mark and alloca-  
21 tion.

22 CHAIRMAN DURANT: Well, is the budget mark  
23 revised?

24 MR. MENDEZ: No, it is not. But there was some  
25 discussion about it yesterday, of the revised line items as

1 determined by the Committee yesterday.

2 CHAIRMAN DURANT: Mr. Eaglin, since it was your  
3 motion yesterday regarding the question as to whether or  
4 not we should--

5 MR. MENDEZ: Mr. Chairman, I haven't heard a  
6 second to my motion?

7 MS. SWAFFORD: I second it.

8 MR. MENDEZ: Thank you.

9 CHAIRMAN DURANT: Thank you, Mr. Mendez. I  
10 apologize.

11 Mr. Eaglin, since it was your motion yesterday  
12 that raised the question of whether or not there should  
13 be any--let me save that question for later. I apologize.

14 Any discussion on Mr. Mendez's motion?

15 MR. VALOIS: I would like to, yes.

16 CHAIRMAN DURANT: Mr. Valois?

17 MR. VALOIS: I am in general agreement with  
18 the Committee's recommended budget allocation but I would  
19 like to propose a couple of technical adjustments. I will  
20 do that in form of a motion but let me first explain it.

21 CHAIRMAN DURANT: As an amendment to his motion?

22 MR. VALOIS: No. I will do it in the form of a  
23 separate motion. The basic field program figure is  
24 currently \$258,387--excuse me--\$258,387,129.

25 I would propose that that be decreased by a little

1 Why don't we treat it as a motion to amend his numbers?

2 MR. VALOIS: Well, in all due respect to the  
3 Chair, I would propose that to be described as the Mendez  
4 budget as amended. I accept the rest of the numbers on  
5 the Mendez budget, but I prefer to do it in the form of  
6 an independent motion.

7 MR. MENDEZ: Mr. Chair, there is a motion on  
8 the floor that cannot be considered as long as the motion  
9 is on the floor. I will accept the motion for purposes  
10 of discussion as an amendment--for purposes of discussion.

11 CHAIRMAN DURANT: And I second the motion for  
12 purposes of discussion.

13 Is there any discussion?

14 MR. SMEGAL: We are going to discuss now and  
15 have a vote of his motion only--on his amendment only  
16 now?

17 CHAIRMAN DURANT: Right. His amendment.

18 MR. SMEGAL: Mr. Mendez does not accept it as  
19 a friendly amendment?

20 CHAIRMAN DURANT: You won't accept that as a  
21 friendly amendment?

22 MR. VALOIS: Would you like to accept that as a  
23 friendly amendment, Pepe?

24 MR. MENDEZ: I will accept it as a friendly  
25 amendment.

1 all demonstrated our common goal of delivering legal  
2 services to indigents through this program.

3 At our Committee meeting yesterday, many of  
4 us expressed a desire that the field programs received  
5 more money in which to deliver this concept of legal  
6 services.

7 What Mr. Mendez's budget as it is presently  
8 structured--frozen at \$305 million, last year's budget  
9 mark--does in reality is not to increase the field programs,  
10 even the cost of living increase of 4.6 per cent.

11 Because as the friendly amendment has pointed  
12 out, they have actually lost what I calculate to be  
13 \$3.5 million from our zeroing out the Reggie program.  
14 The result is they aren't getting a 4.6 per cent  
15 increase.

16 They are getting a 4.6 per cent increase minus  
17 roughly \$3.5 million. My proposal would be that we  
18 increase the overall budget as I say by a modest \$6 million.  
19 As I mentioned yesterday, when we discussed another  
20 number, last year's recessed Board--and I might say a  
21 Board who was alleged to be host to this program--went to  
22 Congress and asked for a 17 per cent increase between  
23 fiscal year 1984 and the budget was \$278 million, and  
24 fiscal year 1985 when they asked for \$325 million.

25 They asked for \$47 million more as a recessed

1 They are both doing the job. I would suggest that we  
2 leave them where they were at the fiscal year 85 budget  
3 which would involve \$741,000.

4 And I heard a very significant plea by  
5 Ms. Bernstein yesterday that corporate administration  
6 needs more money. And I would propose that they be  
7 frozen at fiscal year 85.

8 The total of those five line item changes  
9 keeping the national support where they were last year--  
10 I'm sorry, in fiscal year 85--keeping the corporate  
11 administration where it was in fiscal year 85, reducing  
12 migrants by only ten per cent, adding to the native American--  
13 Mr. Mendez's budget proposal--the \$125,000 that Mr. Valois  
14 has suggested, adding back into the basic field programs  
15 what I estimate to be approximately \$3.5 million that  
16 they would be losing by doing away with the Reggie program.

17 Those numbers total \$6 million. I would  
18 propose we modify our benchmark, our budget mark, and  
19 request of Congress \$311 million.

20 CHAIRMAN DURANT: Any other discussion?

21 Mr. Mendez?

22 MR. MENDEZ: I am not sure I follow your  
23 numbers. You have \$3.5 million in basic field programs.  
24 What do you do with native American?

25 MR. SMEGAL: \$125,000. We give them back their

1 Reggies.

2 MR. MENDEZ: Migrants you increase to a negative  
3 10 per cent?

4 MR. SMEGAL: A negative 10 per cent. In other  
5 words, rather than reducing them by \$2,093,000, I would  
6 reduce them by \$969,841.70.

7 MR. MENDEZ: And what else do you do?

8 MR. SMEGAL: I would leave national support where  
9 it was in fiscal year 85 and I would leave corporate  
10 management where it was in fiscal year 1985.

11 Here are the numbers.

12 (Mr. Mendez hands paper to Mr. Smegal  
13 containing the aforementioned numbers)

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17 (Continued on next page)

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1 MR. MENDEZ: Mr. Chairman, I would like to  
2 speak against the motion.

3 CHAIRMAN DURANT: All right.

4 MR. MENDEZ: Mr. Smegal originally started off  
5 his debate at \$372 million. The last time we revisited  
6 \$319 million and today we are visiting \$311 million.  
7 Each one of these is-- philosophically is not giving  
8 either the feel of Congress, a statement about what this  
9 Chairman of the Appropriations and Audit wants to give  
10 them.

11 This Chairman wants to say to the field, to  
12 the corporation, to the various grantees that we have  
13 got to produce more effectively, more efficiently Legal  
14 Services programs.

15 This Chairman believes that the allocation  
16 that is provided in the revised '86 mark, which was  
17 tendered as modified by Mr. Valois' motion, is appropriate,  
18 provides for all of the necessary items and specifically  
19 tells the field, tells the national support centers,  
20 tells the migrant groups, tells the native Americans  
21 what we desire.

22 And we have visited this on several occasions,  
23 taken numerous hours of testimony, numerous comments.  
24 The proposal as made does not--does not--alter my  
25 position one bit.

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I would speak against it and would ask the Board of Directors to vote against this proposal.

MS. BERNSTEIN: I would like to call the question.

CHAIRMAN DURANT: Before we--I would like to take a couple of--

MS. BERNSTEIN: I think we have really been over this and over it and over it. And literally everyone was here yesterday. And unless there is a Board member who was not present at the time we were discussing it, I would be glad to listen to Board members.

MR. SMEGAL: I wasn't present for the whole meeting.

CHAIRMAN DURANT: And I would also like to take-- if the Board has no objection--I would like to take a comment from Mr. Nagler .

MR. WALLACE: Excuse me. I was going to ask one question just as a question and then I will defer to Professor Uddo.

CHAIRMAN DURANT: Mr. Wallace?

MR. WALLACE: In line with the question that I asked Professor Cox awhile ago, does anyone know-- and I should ask myself since I am Regulations Chairman-- but does anyone know if there is anything in our regulations that would prevent support centers from billing the

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field for some of the private goods they provide?  
Cocounsel services, the kind of targeted services that  
are not public goods. No free rider problem. Get a  
lawyer for a case and get some compensation from the  
local projects.

Is that legal or illegal? I am not talking  
about whether it is a good or bad idea. I just want to  
know the facts.

CHAIRMAN DURANT: It is my understanding--two  
things. I don't think we have a specific regulation  
on it. It has been raised in a couple of conversations  
and I think Mr. Fretz raised the question in some material  
that I think he has submitted to the Board regarding  
the possible tax questions that might arise on that.

I don't know.

MR. WALLACE: I think that was selling it to the  
general public. I remember the letter but I think selling  
your services to the general public would cause a  
problem.

CHAIRMAN DURANT: I would also think that we  
talked in a number of different ways that if a program  
wanted to engage or subscribe or in some way or other  
become supportive of a national or state support center,  
I think what I would ask you as Chairman of Ops and Regs  
to either, in terms of developing a specific regulation that

1 would make that a fairly easy process and to look at  
2 anything that we presently have that would deal with  
3 it.

4 MR. WALLACE: I don't see the general counsel here  
5 right now but I will ask the president and the secretary  
6 to make a note of that and see if the general counsel  
7 can get me a report as to what our regulations would be  
8 right now.

9 MS. BERNSTEIN: If I could just--

10 CHAIRMAN DURANT: This started out as a question  
11 and I want to get back to it.

12 MS. BERNSTEIN: Well, since we started on this  
13 question of whether or not it is legal, I would say that  
14 our Act does specifically prohibit the expenditure in  
15 excess of 10 per cent of the grant funds of our  
16 appropriations for support services.

17 So to the extent that the contracts from any  
18 individual grantee would exceed 10 per cent of their  
19 grant, I would think that that would through that grantee's  
20 contract into--although that is not a clear question  
21 because it says of "our appropriations".

22 So if one grantee were to expend 50 per cent of  
23 their funds not on direct delivery but on buying support,  
24 then although that would certainly not seem to be the  
25 intent of our giving them a grant for direct delivery,

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we would have to look at whether or not it would be somehow permissible under the Act.

CHAIRMAN DURANT: We will have to visit that question.

Mr. Uddo?

MR. UDDO: I find myself in an awkward position because I agree with portions of both of the budgets that have been discussed. I would support Mr. Smegal's motion in part.

I think that the increase in basic field programs is important particularly in light of Mr. Valois' observations that the suspension of the Reggie program in effect means less dollars for the field program.

So I think it is important that we take that into consideration and that the basic field programs be protected against that reduction. The increase in the native American program on that same basis, I would agree with, which was Mr. Valois' motion.

On the migrant program, I would support Mr. Smegal's motion because I think there is still too much confusion about what the appropriate numbers are, how much of that can be done in the ordinary field programs.

And I think that it is the sort of problem that we ought to move more carefully on and look at more

1 carefully before we adopt the 21 per cent reduction  
2 that was proposed in the Committee budget.

3 However, I don't support Mr. Smegal's motion  
4 on national support centers and I don't support his  
5 motion on reducing the corporate budget. I think  
6 that the corporate budget is important if we are going  
7 to--

8 MR. SMEGAL: Increasing the corporate budget.

9 MR. UDDO: I'm sorry, increasing the corporate  
10 budget. I think the increase in the corporate budget is  
11 important.

12 (Pause)

13 You are increasing. I'm sorry. I misunderstood  
14 your motion. Okay.

15 MR. SMEGAL: I would bring it back to fiscal  
16 year 85.

17 MR. UDDO: Okay.

18 MR. SMEGAL: To increase it from Mr. Mendez's  
19 proposed budget by \$583,000.

20 MR. UDDO: All right. I understand. I'm sorry.  
21 I misunderstood that portion of your motion. Then I  
22 would support that part of your motion.

23 The national support centers for a variety of  
24 reasons that were discussed at various committee meetings  
25 since this Board has taken authority of the corporation, I

1 would support the 10 per cent reduction.

2 Now that is how I feel about the specific  
3 numbers. In terms of philosophy, I think that we would  
4 make a mistake to in effect allow a reduction in basic  
5 field programs even if it is only because of the indirect  
6 effect of the suspension of the Reggie program, because  
7 as I understand the philosophy of this Board --and it is  
8 a philosophy that I strongly support--is that the basic  
9 field programs is what we support the most.

10 And, where we would like to see most legal  
11 service money; and, the vehicle through which legal  
12 services should be delivered. I haven't heard anything  
13 to suggest otherwise.

14 And I think that if we allowed indirect  
15 reduction of the budget through suspension of the Reggie  
16 program, I think that we are sending mixed signals.  
17 I would probably favor an even larger increase in the  
18 basic field programs at this point.

19 And I think that you can say the same thing  
20 about the native American program because to the extent  
21 that we are convinced that there is a good deal of  
22 direct delivery going on in the native American program,  
23 I think we've got to continue to send that message.

24 I think the message is pretty clear in the  
25 balance of the budget where there are significant

1 to \$5,232,000 and they get an \$11 million increase.

2 MR. SMEGAL: They had the \$11 million increase  
3 in column 2 back on December 20. Column 2 is where we  
4 were.

5 MR. VALOIS: I understand your argument. I am  
6 simply observing that that particular budget is not on  
7 the table at the moment.

8 MR. SMEGAL: Yes it is. It is right here on the  
9 sheet. It is column 2.

10 MR. VALOIS: No, Sir. That was one that was  
11 set on December 20.

12 MR. SMEGAL: Mr. Mendez has proposed we change  
13 from column 2 to column 4, and that is what we are voting  
14 on: the change from column 2 to column 4. That is what  
15 is before us.

16 I have amended that. Now that is before us.  
17 Our alternatives are to stay where we were on December 20,  
18 go to where Mr. Mendez proposes we go as of yesterday--  
19 which is column 4--or further modify it as I have suggested  
20 by increasing it by \$6 million to give the field programs  
21 \$15 million.

22 That is what I propose.

23 MS. BERNSTEIN: I would like to speak against  
24 Mr. Smegal's motion and I guess this is really inline  
25 more--I supported more strongly in theory, although I

1 voted against the budget because I thought the bottom line  
2 was too high, but I supported Mr. Mendez's approach in  
3 Decmèber and the budget that was adopted by the Board  
4 in theory because it cut national and state support and  
5 gave the priority to the field programs.

6 I still support that and what Mr. Smegal is  
7 asking us to do is without any facts that are before us  
8 on the efficacy of what the field programs are doing case  
9 by case--and I doubt that you have seen a print-out on it  
10 because I haven't seen a print-out on it--as to exactly  
11 what the productivity of various programs are in the  
12 field.

13 We have never seen a combination of the per  
14 capita funding for state support when it is rounded into  
15 the geographical areas for the individual programs. We  
16 don't know what the funding level is for California.

17 San Francisco is still very highly funded and  
18 yet their state support funding is twice--twice--what  
19 their per capita funding would be if we were to  
20 equalize it.

21 Some states don't have any state support funding.  
22 We have never seen that rounded into per capita. Therefore,  
23 I am a little reticent to start increasing state support  
24 funding and continue the increase in national support  
25 funding when the fact of the matter is that you are dealing

1 I think that the reorganization that has been  
2 proposed in the current Mendez proposal is a much clearer  
3 exposition of that philosophy.

4 And I think it is something that we should  
5 attempt to--as the individuals that were here this  
6 morning--we should attempt to get some new approaches,  
7 some new direction to the delivery of legal services;  
8 see if we cannot lever money out of the private sector.

9 MR. VALOIS: Mr. Chairman, we have debated  
10 all of these philosophies and we have discussed them in  
11 virtually every respect we can. I would urge you to call  
12 the question.

13 CHAIRMAN DURANT: May I just do two things?  
14 I promised Mr. Nagler because he wasn't here and I would  
15 like him to have an opportunity to address us. I am not  
16 going to take any other public--

17 MR. BRANDE: Mr. Durant, how about questions  
18 of clarification of what you are voting on?

19 CHAIRMAN DURANT: All right. Can we hear from  
20 Mr. Nagler?

21 MR. NAGLER: Thank you, Mr. Nagler. I was  
22 not here yesterday because we were engaged in the national  
23 migrant training program to which I would like to invite  
24 you to the closing meeting on Sunday if you are interested  
25 in really finding out what migrant programs and migrant

1 services are about.

2 I would like to point out at the outset that  
3 when you talk about 21.6 per cent funding cuts for  
4 programs you are not talking about my program.

5 I am a director of a national support center. We are  
6 in a different category.

7 You are talking about the programs that we  
8 serve and our relationship, as I told you in the past,  
9 is typical of that with field programs in terms of the  
10 relationship with national support.

11 Second, I would like to offer for the record  
12 a copy of a series of documents submitted to every  
13 member of this Board approximately a week ago, which I  
14 hope that you have all had the opportunity to read.

15 CHAIRMAN DURANT: We referred to them yesterday,  
16 in fact, during the course of the meeting.

17 MR. NAGLER: I thank you.

18 MR. EAGLIN: Excuse me. Have we received this  
19 yet?

20 MR. NAGLER: Excuse me. It was mailed. I  
21 assume it was received.

22 Read it is one thing; I am not sure you heard  
23 it or listened to it or understood it, with all due  
24 respect. It is entirely appropriate, Mr. Chairman,  
25 that migrants--in this context that migrants are referred

1 count, an honest independent count of migrant legal  
2 services and then make a decision.

3 Don't shoot first and then ask questions later.  
4 I am here for your questions. I appreciate the opportunity  
5 to be heard.

6 CHAIRMAN DURANT: Steve, in terms of my own  
7 particular judgement and as I pointed out to the gentleman  
8 who was with native American and also in response to  
9 Mr. Mola--in response to a question raised by Mr. Mola  
10 yesterday, in terms of my own particular judgement at  
11 that point, the gentleman who relayed information about  
12 phone calls that he had made to the Census Department or  
13 whatever was a small factor, if any, in terms of my  
14 own judgement because I made it known both to the Board  
15 and to Mr. Mola and to the other gentleman that you and  
16 Steve Gershon had been frankly very, very attentive  
17 to questions that I had raised.

18 That we had had particularly with Steve more  
19 than one meeting and you and I have talked obviously  
20 on more than one occasion sitting down at length talking  
21 and trying to go through some of these things.

22 So in terms of my own judgement, I want you  
23 to know and I think I speak for the Board that your  
24 material that you provided, No. 1, was circulated  
25 so that you know that there wasn't any--I mean that was

1 the sense of Mr. Mola's question that somehow or  
2 other--and let us be blunt--that somehow or other that  
3 you were being sandbagged by having somebody maybe  
4 come in and give some numbers that you weren't either  
5 here to rebut or whatever.

6 And I don't think that is the case at all, as  
7 I say.

8 MR. NAGLER: Mr. Chairman, with all due  
9 respect, you have me at a loss. We indeed have talked.  
10 I indeed have endeavored in these papers to direct our  
11 attention to the questions you have raised and I believe  
12 I have.

13 The only piece of evidence that I didn't know  
14 about that was before the Committee yesterday was the  
15 presentation in the morning and now you say it was not.  
16 With all due respect--

17 CHAIRMAN DURANT: Well, I said it was a factor.  
18 The numbers--the range of numbers, and the ranges  
19 reached anywhere--which is information prior to yesterday--  
20 was 115,000 migrants up to the 900,000-plus figure,  
21 I think 1.2 million that you had given us when we  
22 talked or at your hearings two or three weeks ago,  
23 whatever.

24 So we have been talking about a wide range.  
25 And if somebody will correct me if I am wrong, I think

1 the number that we talked about yesterday I think fell  
2 somewhere in-between that on the low side. But it was  
3 in that range nonetheless.

4 So I mean we were already discussing. And in  
5 fact one of the numbers that was reported regarding  
6 the Agriculture, you through your diligence had already  
7 included in your material.

8 MR. NAGLER: I got them from Don Bogard,  
9 frankly.

10 CHAIRMAN DURANT: All right .

11 MR. NAGLER: They haven't been released yet.  
12 And I suggest to you, Mr. Chairman, that I am reminded  
13 in the situation of a quote which simply summarizes:  
14 "And the world still revolves about the sun".

15 You can pick out whatever numbers you like from  
16 whatever source--Department of Agriculture, Department of  
17 Labor, Bureau of the Census--and I will tell you  
18 authoritatively and have other people who are demographers  
19 tell you that those numbers are no good for the purpose  
20 of counting eligible clients.

21 People don't count dependents. The census  
22 in other areas counts dependents. But Ag doesn't count  
23 dependents. We are supposed to service dependents.  
24 Now if what you heard yesterday is a small part, the  
25 other numbers--if there is something wrong with the other

1 numbers, don't you have a duty to act responsibly and  
2 disgard them and look for what the real numbers are  
3 and use your own numbers until you have better numbers?

4 You can't say 115,000 is low and 996,000 is  
5 high. 115,000 is not good. 226,000 is not good. It  
6 doesn't count dependents; it doesn't use a system that  
7 has anything to do with the provision of legal services.

8 And worst of all, it denies the existence of  
9 people who are poor--the poorest of the poor who are  
10 out there and who need services.

11 MS. BERNSTEIN: Clark, I would like to call the  
12 question, please.

13 MR. SMEGAL: I have some questions of Mr. Nagler.

14 CHAIRMAN DURANT: Mr. Smegal?

15 MR. SMEGAL: You indicated that with a 21.6  
16 per cent cut, 20 of your programs would have to be  
17 eliminated. Out of how many?

18 MR. NAGLER: There are 34 standing--they are  
19 not independent from the parent program--but there are  
20 34 migrant programs in existence. The remainder are  
21 sharing pool funds in order to hire a migrant attorney.

22 We would lose 20 programs. They would lose  
23 the only attorney they had probably or a paralegal.  
24 Maybe 14 or 15 would be lost completely. The others  
25 would lose their ability to do outreach and therefore

1 would be unable to service the rural client population  
2 that they are supposed to serve.

3 MR. SMEGAL: Of those 34 programs, do any  
4 of them have Reggie?

5 MR.NAGLER: About 10 Reggies, I think, in  
6 those programs. Maybe a few more. There have been a  
7 lot of Reggies assigned to migrant programs because of  
8 the unique nature of the programs.

9 I suggest to you further, Mr. Smegal, that a  
10 10 per cent cut is hardly better. It will kill off about  
11 10 programs instead of 20.

12 MR. SMEGAL: I would like to follow up on  
13 that--on Mr. Valois' point though--that in our fiscal year  
14 86 budget mark on December 20 your line was minus 21.6  
15 per cent.

16 Your line is still 21.6 per cent--line 1(a)(3)  
17 in the Mendez draft--but isn't it the same situation that  
18 Mr. Valois has proposed or suggested for the native  
19 Americans, that you are in fact losing the equivalent  
20 of the money for ten Reggies?

21 MR. NAGLER: Sure.

22 MR. SMEGAL: So you are cutting--so in this  
23 budget you are being cut more than 21.6 per cent?

24 MR. NAGLER: Indeed. Yes.

25 CHAIRMAN DURANT: I am going to call the question.

1 I want to do this by roll call.

2 MR. BRANDE: Mr. Durant, if I may, last night  
3 when we sat at the Committee it was clear on a number of  
4 issues that were part of Mr. Mendez's motion. There  
5 was at least some lack of clarify between Board members--  
6 absolutely lack of clarity among the public as to what  
7 was being voted upon.

8 I don't see why another five minutes to answer  
9 questions

10 MR. MENDEZ: If you want us to clarify what  
11 we are voting on.

12 MR. BRANDE: That is all I am suggesting.

13 MS. BERNSTEIN: Why don't we just ask each  
14 Board member if we don't understand it, and let us say  
15 so.

16 MR. BRANDE: This is the Smegal motion?

17 CHAIRMAN DURANT: This is Mr. Smegal's motion  
18 that has been seconded with the adjustments that Tom  
19 had talked about.

20 Mr. Eaglin?

21 MR. BRANDE: Mr. Durant, is there any problem  
22 with spending two minutes answering three questions?  
23 Mr. Durant, in total candor, just to say one example:  
24 the regional office question came up Decmeber 20  
25 and came up last night. Half of the Board didn't know if

1 they were voting to close or not.

2 (Simultaneous conversation)

3 MR. BRANDE: Is the funding formula before the  
4 Board?

5 CHAIRMAN DURANT: It is not before the  
6 Board.

7 MR. BRANDE: Is the funding formula before the  
8 Board as a part of the motion?

9 CHAIRMAN DURANT: The motion has been stated  
10 as Mr. Smegal's motion regarding an adjustment on the  
11 budget. That is what we are going to vote on. When we  
12 get into the other matter, you may ask questions.

13 MR. BRANDE: Fine.

14 CHAIRMAN DURANT: Mr. Eaglin?

15 (Whereupon, a vote was taken at this time)

16 (Eight nays and two ayes were recorded)

17 The motion fails. We are now with the--

18 The issue hasn't changed. We are still voting  
19 on the issue of regional centers, the issue of--

20 MR. BRANDE: I don't think frankly, Mr. Durant,  
21 that will all due respect that every Board member  
22 understands what is part of the motion.

23 CHAIRMAN DURANT: I think the easy way of asking  
24 that is just asking the Board if in fact they understand  
25 that what we are voting on is Mr. Mendez's motion to

1 approve the--rather than me state it, Mr. Mendez, state  
2 your motion.

3 MR. MENDEZ: My motion is to approve the  
4 revised FY86 mark with the amendment of Mr. Valois  
5 increasing the native American funding from the \$6,897,000  
6 to \$7,022,148 and to subtracting the \$125,000 from the  
7 \$258 million.

8 CHAIRMAN DURANT: And that has nothing whatsoever  
9 to do in terms of regional centers or--

10 MR. BRANDE: How about this thing? How about  
11 Mr. Mendez's handout yesterday? It is a distribution of  
12 funding --

13 CHAIRMAN DURANT: Jim, that is coming up later  
14 and we are going to--

15 MR. BRANDE: Is that not part of this motion?  
16 Is that correct?

17 CHAIRMAN DURANT: It is not part of the motion.  
18 Mr. Eaglin?

19 MR. MOLA: Mr. Chairman, one other issue is  
20 Mr. Mendez reported yesterday in the budget presentation  
21 that the 2(b)(6) was a reduction in funding. As you  
22 will recall, the special elderly project was a specifically  
23 earmarked allocation by Congress in the 1985 appropriation.

24 CHAIRMAN DURANT: John, I understand.  
25 Mr. Eaglin?

1 MR. SMEGAL: Wait. I've got a question.

2 CHAIRMAN DURANT: Okay.

3 MR. SMEGAL: I would like to know where those  
4 three support centers that were created last September  
5 are on this budget?

6 MR. WALLACE: I will tell you what I said  
7 yesterday with regard to the Indians is that --well,  
8 maybe I don't know the answer to the question. Are they in  
9 the line item for national support or aren't they?

10 Or are they under some other line item?

11 MR. MENDEZ: They are not in the line item  
12 under national support. They are not.

13 MR. WALLACE: They are not annualized.

14 MR. SMEGAL: So they are not here?

15 MR. MENDEZ: That's correct. They are not  
16 annualized. They are not in the line-up.

17 CHAIRMAN DURANT: Do you abstain, Mr. Haglin?

18 (No response)

19 Mr. Smegal?

20 (Whereupon, a vote was taken at this time )

21 (Seven yays and three nays were recorded)

22 MR. MENDEZ: Mr. Chairman, I have a motion.

23 I move that we accept the distribution of funding as  
24 proposed and approved by the Audit and Appropriations  
25 Committee wherein we fill up the cup from the bottom up and

1 put the, in essence, the floor at \$8.42 for the increased  
2 funding.

3 VOICE: I second the motion.

4 CHAIRMAN DURANT: Any discussion?

5 MR. EAGLIN: Yes, Mr. Chairman.

6 CHAIRMAN DURANT: Mr. Eaglin?

7 MR. EAGLIN: I think since we are dealing with  
8 a proposal that we are going to put to Congress, I  
9 think that we can deal with that later on after Congress  
10 has acted.

11 That is the way I feel. I don't think we need  
12 to deal with that now.

13 MS. BERNSTEIN: I disagree because I think that  
14 it would be useful for us to again give Congress an  
15 understanding that we feel that this program for too  
16 long has played favorites and that the lower funded  
17 programs deserve out immediate attention.

18 We have programs that are in emergency situations  
19 that are turning away clients that are in emergency,  
20 dire situations while other programs may not have to make  
21 that hard of a decision.

22 Therefore, I think it is imperative for  
23 this Board to make a statement to Congress that we  
24 understand budget constraints but we also want to help  
25 those persons who are the most needy of the legal

1 and I would like to wait until after that to deal  
2 with this kind of question.

3 MR. MENDEZ: Well, that doesn't deal with  
4 the motions.

5 MR. EAGLIN: I think it does.

6 (Continued on next page)

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(Continued on next page)

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1 CHAIRMAN DURANT: Wasn't Mr. Roache's question--  
2 it had to do with the regional office, not with this  
3 Committee.

4 MR. EAGLIN: He did, but he was referring to  
5 something apparently that was in writing that we submitted  
6 to Congress, is that correct?

7 CHAIRMAN DURANT: He was, yes, that's correct.  
8 So we go back to the original discussion. Is Mr. Nagler  
9 here?

10 MR. NAGLER: Yes I am.

11 CHAIRMAN DURANT: In terms of the migrant  
12 programs, do you have any numbers to which of your 40--  
13 is it 43 that were co--

14 MR. NAGLER: No. There were 34 migrant programs.

15 CHAIRMAN DURANT: I had the numbers reversed.  
16 Do you know of those 34 which are on the high or the low  
17 levels of per capita funding?

18 MR. NAGLER: That all is presented as part of  
19 the package, Mr. Chairman. In terms of the per capita  
20 funding, I suggest to you that with the 1986 budget cut  
21 as--

22 CHAIRMAN DURANT: No, no. I am talking about  
23 in the funding formula thing that was distributed. I  
24 don't know if you saw it.

25 MR. NAGLER: No, I have not.

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MR. SMEGAL: Mr. Chairman, 286 is the bottom line there and he just explained to you that he has 43 programs.

VOICE: 34 programs.

MR. SMEGAL: 34. All right.

CHAIRMAN DURANT: Thank you. Any other discussion on the funding formula allocation before I take any public comment?

MS. BERNSTEIN: Could I just clarify something because those field programs, there may be programs that are serving migrant in the fill-up-the-cup formula that Mr. Mendez has suggested.

Because, if they are one of the lower funded programs, they will get most of the increase under our proposal and therefore they would have that money available to do work for migrant programs.

MR. MENDEZ: But migrant programs specifically are not--

MS. BERNSTEIN: I understand what you are saying. I simply wanted to clarify that they may be in that.

CHAIRMAN DURANT: Mr. Mola?

MR. MOLA: Mr. Chairman, I believe Mr. Mendez's funding allocations as to basic field programs will only assist a portion of the basic field programs, the current grantees.

1 He proposes to fill up the cup. My understanding is  
2 that under his formula, all programs would be brought up to  
3 a new floor of \$8.42.

4 I strongly disagree with Ms. Bernstein and  
5 others that may feel that there are programs in luxurious  
6 financial condition around the country.

7 MS. BERNSTEIN: I didn't say that.

8 MR. MOLA: I think that all field programs are  
9 facing the kind of triage decisions that I attempted to  
10 describe to the Board yesterday regardless of their  
11 relative place on per poor person funding levels.

12 I would suggest that there needs to be more study  
13 about the particular effects of Mr. Mendez's proposal.  
14 For example, I think with putting all of the money simply  
15 in raising the floor that in some parts of the country and  
16 some grantees you are going to see an excessive increase  
17 in funding in '85 over '86.

18 There has been some experience with dramatic  
19 increases over a short period of time of funding to  
20 particular grantees and the very serious administrative  
21 and management problems that that creates.

22 CHAIRMAN DURANT: Can I ask why in your  
23 judgement that that kind of study would determine the  
24 individual particularities is important to do?

25 MR. MOLA: I think it is important to be able

1 to gauge whether or not there is going to be an influx  
2 of new money that is going to be very difficult to manage  
3 over a one-year period.

4 CHAIRMAN DURANT: I agree with you and let me  
5 ask you: would you support then in Congress that that  
6 proposition then apply all across the board in terms of  
7 allocating to every program?

8 MR. MOLA: No, Sir. I believe that there has  
9 been two years of experience with the funding formula  
10 that has reached a lot of the--or addressed a lot of the  
11 objectives that I think many people on this Board hold.

12 One if to try to give increases where they are  
13 needed across all of the components of the delivery  
14 system; and secondly, addresses four of the lowest--  
15 addresses increasing four of the lowest funded programs  
16 without depriving other programs with some smaller  
17 increases.

18 CHAIRMAN DURANT: Doesn't locking in funding  
19 formulas in fact undermine the very principle you are  
20 talking about?

21 MR. MOLA: I don't believe so, Sir. I think  
22 there have been some dramatic improvements, for example,  
23 over the last two years in the increase in the base floor  
24 for the lowest funded programs.

25 You have a lot of analysis and a lot of material

1 on the 50 per cent improvement on that material alone.  
2 What I suggest to you is that in light of your cuts of  
3 the Reggie Program, those fellows currently are distributed  
4 across the country to many programs.

5 Next year they could have distributed across  
6 the program to many programs regardless of funding  
7 level. Those cuts coupled with the cuts in the migrant  
8 programs are going to make it even more difficult for  
9 programs to absorb those added requests for services that  
10 may have been handled elsewhere

11 For example, with migrant programs closed, it is  
12 going to be very difficult for a program to absorb the  
13 services required--very difficult for programs to pick  
14 up that loss in resources to service the migrant community.

15 What I would suggest--and that doesn't even  
16 include the ravages of inflation that all programs face--  
17 what I would suggest is that Mr. Mendez's funding  
18 distribution formula be rejected and in place; that  
19 there be a funding formula that brings one-third of any  
20 new money to raise the floor of all basic field problems;  
21 a second third that would fill up the cup--that is, a  
22 percentage increase to help close the gap between those  
23 programs' current funding level and 1357, which is the  
24 minimum access goal.

25 And a last third of any new money be given to

1 haven't really heard this Board address yet is there  
2 has been a lot of talk about the 4.6 or if we reduce  
3 it to real terms based on Mr. Smegai's analysis, which with  
4 I agree.

5 That by cutting the Reggie program, you really  
6 are not getting 4.6 of the field. I have spoken to you  
7 before about the fact that a large number of people who  
8 work in the Legal Services program who have given their  
9 lives to this have not seen salary increases in years--in  
10 years.

11 There have been frozen salaries for lawyers,  
12 paralegals and secretaries who have decided to give their  
13 lives to this. Under Mr. Mendez's formula, you are  
14 guaranteeing one of the following two results at 101  
15 field programs.

16 You are either guaranteeing that there will be  
17 a pay freeze for another year for all the workers in  
18 101 places or you are guaranteeing that if the Director  
19 in consultation hopefully with his staff decides to give  
20 increases, that that program will shrink in size.

21 So at minimum, 101 programs--at minimum--will at  
22 best have a wage freeze for their employees and at worst  
23 will see a diminution in services. I think that is  
24 something that people should think about because the  
25 people who work in these programs are really the heart of

1 it.

2 It is my fault. I apologize. It did not get  
3 to you. It is the budget submission to Congress that was  
4 based on the budget that was approved by the Board in  
5 its December 20th meeting.

6 MR. EAGLIN: Mr. Chairman?

7 CHAIRMAN DURANT: Mr. Eaglin?

8 MR. EAGLIN: I would like to express publicly  
9 what I said to Mr. Opsut, that in saying what I did just  
10 now I was not in any way trying to cast any reflection  
11 on him or be accusatory at all.

12 I was at a loss. And of course you know how I  
13 feel about not trying to put anybody on the spot. I was at  
14 a loss and I needed to be informed as obviously everybody  
15 else needed to because we are just seeing this for the  
16 first time today.

17 CHAIRMAN DURANT: Thank you, Mr. Eaglin.

18 Let's take a short recess for about five minutes  
19 at this time.

20 (Whereupon, a brief recess was taken at  
21 this time)

22 CHAIRMAN DURANT: Mr. Uddo?

23 MR. UDDO: Mr. Chairman, I have a substitute  
24 motion for the motion that came from the Appropriations and  
25 Budget Committee with respect to the funding formula for

1       fiscal year 1986.

2               The motion is rather lengthy but let me try to  
3       articulate it. The motion is that one-third of such  
4       funds that represent an increase over fiscal year 1985  
5       shall be allocated to grantees to increase the minimum  
6       per capita funding level from its current level of \$7.80  
7       per poor person to the minimum per capita funding level  
8       that this first third of remaining funds would commit  
9       so that no program will be funded at a per capita level  
10       of less than this new minimum funding level.

11              The second part of the motion is that one-third of  
12       such funds shall be allocated so that each grantee funded  
13       in fiscal year 1985 pursuant to the number of poor people  
14       within its geographical area shall be increased by an  
15       equal percentage of the amount by which the grantees'  
16       funding, including the increase mentioned above, falls  
17       below \$13.57 per poor person within its geographical  
18       area.

19              And the third part of the motion is that after  
20       the above two increases, one-third of such funds shall  
21       be allocated to provide an increase of equal percentage  
22       to each grantee now funded under \$13.50 per poor person  
23       in its geographical area.

24              That is my motion.

25              CHAIRMAN DURANT: Mr. Eaglin?

1 MR. EAGLIN: Nothing.

2 CHAIRMAN DURANT: Any discussion?

3 MS. BERNSTEIN: Yes. I would like to ask Mr. Uddo:  
4 as I understand it, the floor is \$7.80. I am sorry--that  
5 the average--I'm sorry. That the floor is \$7.80 and  
6 that the average for the program is \$8.29.

7 And so really we are not bringing up these  
8 programs beyond the average, is that correct?

9 MR. UDDO: I am not sure exactly what the average  
10 is going to be but it is going to be an increase and  
11 the point of the motion is to give as big an increase  
12 as we can to the slower programs with the recognition that  
13 the other programs below \$13.57 are entitled to at  
14 least some cost of living adjustment so that there would  
15 not be many programs that had to function with no  
16 increase.

17 MS. BERNSTEIN : But you are devoting--are you  
18 devoting only a third to the programs that are below  
19 average?

20 MR. UDDO: No.

21 MS. BERNSTEIN: Allright. Would you restate  
22 the motion? I'm sorry. But since this is the--

23 MR. MENDEZ: May I make an attempt? Let me see  
24 if I can state it in other words.

25 CHAIRMAN DURANT: Pepe, because Claude just

1 came in, could we simply get Basile to read the motion  
2 again because we just started. If you start, she is  
3 going to be that much further behind.

4 MR. UDDO: All right. The motion is that one-third  
5 of such funds that represent an increase over fiscal year  
6 1985 shall be allocated to grantees to increase the  
7 minimum per capita funding level from the current level  
8 of \$7.80 per poor person to the minimum per capita funding  
9 level this first third of remaining funds will permit.

10 So that no program will be funded at a per  
11 capita level less than this new minimum funding level.  
12 Second, one-third of such funds shall be allocated so  
13 that each grantee funded in fiscal year 1985 pursuant  
14 to the number of poor people within its geographic area  
15 shall be increased by an equal percentage of the amount  
16 by which the grantee's funding, including the above-mentioned  
17 increase, falls below \$13.57 per poor person within its  
18 geographic area.

19 And the third part of the motion says that  
20 after the above increases, one-third of such funds  
21 shall be allocated to provide an increase of equal  
22 percentage to each grantee now funded under \$13.57  
23 per poor person in the geographic area.

24 MR. WALLACE: Can I ask a question? How does  
25 that differ from the PAG proposal other than the top seven

1 programs that are over \$13.57 that are more or less frozen  
2 where they are?

3 MR. MOLA: That's it.

4 MR. WALLACE: That is "the" difference.

5 MR. MENDEZ: That's the major difference.

6 MR. MOLA: There is one other small difference.  
7 The fill-up-the-cup figure will be different because we  
8 didn't adjust that for inflation.

9 MR. WALLACE: That's right. It stays at \$13.57  
10 instead of \$14.06 .

11 MS. BERNSTEIN: Okay. The per capita funding  
12 per geographical area would include then the pro rata  
13 funding from the state support centers in the area,  
14 the way I heard the motion read.

15 MR. WALLACE: That's my understanding of it.

16 MR. MOLA: This is only basic field census-based  
17 programs.

18 MS. BERNSTEIN: But the practical matter is that  
19 we are providing extra funding in geographical areas  
20 to state support who do direct delivery and therefore  
21 that should be rolled in if we are going to take this  
22 approach.

23 MR. VALOIS: I mean if I understand the present  
24 query, is this restricted to basic field programs or is  
25 it beyond?

1 MS. BERNSTEIN: No, no. I am not changing the  
2 question of who we are giving the money to. I am--

3 MR. UDDO: The question is in certain regions  
4 the state support funds go to some grantees and some  
5 regions are better funded than others, right?

6 MS. BERNSTEIN: Right.

7 MR. UDDO: And that that is not being taken into  
8 consideration because this is a per capita approach,  
9 right?

10 MS. BERNSTEIN: Right. And as far as if it is  
11 per capita, then we have to look at all the funding  
12 available for those individual clients in the area.

13 MR. UDDO: The point of my motion or the sense of  
14 my motion admits that that is the case and I am not opposed  
15 to it.

16 MS. BERNSTEIN: If that is the sense of your  
17 motion, then I would support it.

18 MR. UDDO: What did you say there?  
19 What I said was that the motion presupposes that there are  
20 differences based upon regional allocations from state  
21 support centers and that I am not considering that or  
22 addressing that in this.

23 As far as I am concerned, this motion deals with  
24 a per capital allocation approach irrespective of what  
25 state support funding is.

1 MS. BERNSTEIN: I would have to see the motion  
2 in front of me but as you read it, we would have to  
3 consider all of the state support funding in it. I am  
4 just positive.

5 MR. VALOIS: I don't know why.

6 MR. UDDO: I don't believe that is the case.  
7 There has always been census-based allocations which  
8 include basic field programs and those grantees that  
9 receive money not based on census--the noncensus-based  
10 programs.

11 This allocation formula only goes to the  
12 former--basic field programs based on census.

13 MS. BERNSTEIN: Then I would move to table  
14 until we can get the data and have a computer print-out  
15 to show us exactly what this is going to do and how  
16 the differences in geographical delivery areas would be  
17 impacted by this proposal.

18 Because it is just not fair to ask any of us  
19 to vote on it.

20 CHAIRMAN DURANT: Is there a second to the  
21 table?

22 MS. SWAFFORD: I second it.

23 CHAIRMAN DURANT: A second to the table. Let's  
24 vote on whether to table it.

25 (Whereupon, a vote was taken)

1 (A chorus of nays and one aye)

2 All right. The motion to table fails. Let's  
3 continue the discussion.

4 MR. VALOIS: May I suggest--and I am not  
5 entirely clear on exactly what the debate is between  
6 Leanne and Basile.

7 If you all are in agreement as to what it does  
8 and does not cover, can we simply amend the motion by  
9 exclusion to say "and under this formula the following  
10 groups or descriptions of groups or categories are not  
11 covered."

12 If that's--

13 MS. BERNSTEIN: That is what his motion said.

14 MR. VALOIS: Then I simply don't understand it  
15 yet so please continue.

16 MS. BERNSTEIN: That is why I wanted to table  
17 it until another meeting.

18 MR. VALOIS: Well, I think maybe I am capable  
19 of understanding it if somebody would explain it two or  
20 three more times.

21 (Laughter)

22 CHAIRMAN DURANT: Mr. Mendez?

23 MR. MENDEZ: As I understand this motion, one-  
24 third of it--

25 MR. VALOIS: I understand the numbers. I

1 understand the arithmetic. What I don't understand  
2 is who is rewarded by this particular formula and who  
3 is not?

4 MR. MENDEZ: Everyone under \$13.57.

5 MR. VALOIS: Every basic field program?

6 MR. MENDEZ: Every basic field program.

7 MR. VALOIS: But not state support centers, is that  
8 what you are saying?

9 MR. MENDEZ: Every basic field program is  
10 rewarded under this plan, under \$13.57. One-third are  
11 rewarded to a certain extent.

12 CHAIRMAN DURANT: Elaborate on that.

13 MR. MENDEZ: All right. Under this program,  
14 one-third of the programs will instead of being--instead  
15 of this having a floor of \$7.80, which is what it is  
16 today, with the first third it will increase that to  
17 about an \$8.00 floor, with the first third.

18 That is with the first third. The last third  
19 of this program--I am going to take these in reverse  
20 order because--

21 MR. VALOIS: Applies it equally.

22 MR. MENDEZ: Divides it equally among all  
23 programs under \$13.57. So that each program under \$13.57  
24 has an increase.

25 The middle third gets an increase in relationship

1 into consideration nor did the first motion.

2 CHAIRMAN DURANT: Mr. Wallace?

3 MR. WALLACE: I now understand what the dispute  
4 is about or the colloquy is about. I wonder, (a) how  
5 difficult it would be for our personnel to take state  
6 support into account and second, how--what practical  
7 problems would result if we did.

8 Ms. Bernstein's argument makes sense to me  
9 that people with good state support are better off than  
10 people with less state support and if we can equalize  
11 that in a practical way, I am happy to do it.

12 I just don't know the technical answers to  
13 what the results would be.

14 MR. MENDEZ: Can I ask a couple of questions?  
15 Do you want that to apply to the bottom third as well?  
16 For instance, in my original motion I did not anticipate  
17 that and I was just filling up the field programs.

18 MS. BERNSTEIN: I am not asking you to fill up  
19 state support. You are misunderstanding me.

20 MR. MENDEZ: No, I understand exactly. Let me  
21 just ask: I really agree with you with regard to the  
22 middle third. I really agree with the middle third. I  
23 don't really agree with the bottom third where we are  
24 just filling up the poor's programs.

25 But the middle third, I think that we ought to

1 consider what we are doing with the state support--

2 MS. BERNSTEIN: We look at some people for  
3 per capita. and we don't look at other people per capita?

4 MR. MENDEZ: Well, with regard to the middle  
5 third of his motion, that would be what I would--

6 MS. BERNSTEIN: This is the reason I made the  
7 motion to table. I would like to see a table--and I  
8 think it is only reasonable for the Board to see a  
9 table of what it would mean for each individual program  
10 to keep the motion as Basile made it, to use it with  
11 the middle third as Mr. Mendez made it, and actually  
12 fill up the cup from the bottom per capita even according  
13 to your third-third-third formula, as I would.

14 (Laughter)

15 And that is what I would like to see. And I  
16 think that as the original motion was to table this to  
17 another day, and I thought we should discuss this because  
18 if we didn't discuss it, we don't get it out on the floor  
19 to be able to examine it, which is why I voted against  
20 the tabling.

21 MR. VALOIS: I am happy to get it out and discuss  
22 it but it seems to me we do have some resources available  
23 who can perhaps hazard a guess as to the different  
24 approaches.

25 I would like to hear Terry's comment and then

1 if there is somebody on the staff who fot As in arithmetic--  
2 (Laughter)  
3 --who wants to volunteer to have an estimation of the  
4 effect, I would like to--  
5 CHAIRMAN DURANT: I do, too, but first let me  
6 get Pepe's thing.  
7 MR. MENDEZ: I think that we ought to give  
8 the office a variety of alternatives--  
9 MS. BERNSTEIN: And come back at another time.  
10 MR. MENDEZ: --and come back at another time  
11 with the different numbers.  
12 CHAIRMAN DURANT: Mr. Roache, I got a little  
13 lost in some of this stuff. You are the one that lost  
14 me.  
15 (Laughter)  
16 I don't think that the state support funding  
17 is so disparate state-to-state except in a couple places  
18 where there are, quote "no state" support programs but  
19 there are , quote "statewide" programs.  
20 By throwing that money into the whole calculation,  
21 you are going to change anything terribly relatively.  
22 And consequently, I would assume that what you need to  
23 do--and I understand is the basis for all of this  
24 discussion--is go to the Hill next week and tell them  
25 what you plan to do with the money.

1           That the net ultimate effect is not going to be  
2 a great deal different once you get all the data in  
3 that you want. Moreover, I am not sure what kind of  
4 1011 problem you run into if you starting trying to reduce  
5 the funds of one state support program when you are  
6 increasing the funds of another state support program .

7           Well, if you start throwing that into the per  
8 capita formula--

9           CHAIRMAN DURANT: Terry, as I understand it, what  
10 is happening by the motion is not to do anything with  
11 state support but was in fact--

12           MR. ROACHE: I guess that I really did get  
13 lost.

14           CHAIRMAN DURANT: It was in fact only to take  
15 into account state-support funding when measuring field  
16 program adjustment. In other words, hypothetically, if  
17 Michigan had a tremendously well-funded state support  
18 program and Tennessee did not, then you would have  
19 a situation where you would give Tennessee more than a nod  
20 in the allocation than you would Michigan.

21           MR. WALLACE: Tennessee field program.

22           CHAIRMAN DURANT: Tennessee field program.  
23 Tennessee field program. In other words, you would not be  
24 touching state support at all.

25           MR. ROACHE: Yeah, and I have to try to think

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1 about this stuff from memory and again I think I am  
2 right in remembering that you are not going to get all  
3 that great a difference.

4 But let me go on to one think which I think is  
5 unclear and it seems to be compelling this idea. That  
6 is that the floor programs right now--the 780 programs--  
7 do not just simply benefit from the first third of  
8 this formula; they benefit from the whole formula.

9 What you are talking about is instead of  
10 185 programs getting roughly \$0.62 from the bottom  
11 increase, now you are talking about something in the  
12 range of \$0.45 to \$0.50.

13 CHAIRMAN DURANT: Terry, quite frankly, you  
14 may be confused but you have persuaded me that I do  
15 think that we need--

16 MR. MENDEZ: I would like to have some alterna-  
17 tives.

18 CHAIRMAN DURANT: I want to see some of these  
19 numbers broken up.

20 MR. MENDEZ: I would like to table it at this  
21 time.

22 VOICE: I don't think that they can reinstitute  
23 their motion, but I can.

24 (Laughter)

25 CHAIRMAN DURANT: All right. Paul?

1 (Whereupon, a vote was taken at  
2 this time)

3 (A chorus of ayes)

4 (No nays)

5 CHAIRMAN DURANT: I can't believe it?

6 (Laughter)

7 The project advisory group has brought us  
8 together.

9 MR. ROACHE: And just when I thought we were  
10 going to win one.

11 (Laughter)

12 CHAIRMAN DURANT: Yes?

13 MR. MENDEZ: Just for the record, Mr. Chairman,  
14 that is with regard to both my motion--my original  
15 motion?

16 CHAIRMAN DURANT: That's correct. We are  
17 tabling both.

18 MR. MENDEZ: We are tabling both the allocations.

19 MR. BRANDE: If the staff in fact is going to  
20 be doing additional work, I just would also ask that  
21 they consider the fact that under the proposal on the  
22 table--it is called the PAG proposal, which I believe  
23 is the fairest by far, and apparently this is what we  
24 are looking for.

25 There still are seven programs which while

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comparatively higher funded, will see a zero increase, like San Francisco Legal Assistance, Virgin Islands and others.

And while I would absolutely say that comparatively speaking they are richer--they are not rich. They exist at those current funding levels and while I think it is absolutely fair that they not participate in the first two pieces of the PAG formula--I agree with you completely--I think it is not fair that those programs, despite their comparatively higher funding, go without anything in '86.

I would ask, when you send it back to the staff, that they also try to factor that in so that when you come back you can consider that.

CHAIRMAN DURANT: At least in terms of when you say factoring in, at least to identify those programs.

MR. BRANDE: And what it would mean should they get the third pice of the three, what kind of consequence that would have on the rest of the allocations.

CHAIRMAN DURANT: Mr. Valois?

MR. VALOIS: No, I just--

CHAIRMAN DURANT: Are you just waving?

MR. VALOIS: At least my feeling is--and I haven't heard anybody express anything to the contrary,

1 Jim, that there is any particular sympathy for that  
2 notion.

3 MR. MENDEZ: That's my sense. I don't think  
4 anything over \$13.57 deserves any increase at all  
5 because all that does is promote disparity.

6 MR. UDDO: The reason that I put it in the  
7 motion is because I think until we close the gap, we  
8 shouldn't be contributing additional funds to those  
9 programs.

10 I mean it isn't any fundamental objection  
11 to well-funded programs eventually getting increases but  
12 until the gap is closed I don't think that we should  
13 do that.

14 MR. WALLACE: Mr. Chairman?

15 CHAIRMAN DURANT: Mr. Wallace?

16 MR. WALLACE: I want to--if this suits Chairman  
17 Mendez, I want to make a procedural motion. We are going  
18 to get a lot more information and I think it might be  
19 most orderly to have this matter considered by Mr. Mendez's  
20 committee before he brings it back to the Board.

21 I think the proper procedural motion would be  
22 for me to move to take the funding allocation off the  
23 table and recommit to the Audit and Appropriations Committee.

24 CHAIRMAN DURANT: Mr. Wallace, I continue to  
25 appreciate your precision and help during all of these

1 kinds of things and I, if I can , will second your  
2 motion.

3 (Laughter)

4 MS. BERNSTEIN: I will second it.

5 CHAIRMAN DURANT: All right.

6 MR. MENDEZ: Mr. Chairman, when we do these sorts  
7 of things, we revisit them twice.

8 MR. WALLACE: I said I would defer to the Chairman.  
9 If the Chairman of the Audit Committee doesn't want it  
10 back--

11 (Laughter)

12 MR. MENDEZ: I will ask the staff to prepare  
13 various alternatives and mail them to the entire Board.

14 CHAIRMAN DURANT: Do we have any other discussion  
15 on the motion?

16 MR. MENDEZ: Well, just one brief thing. Is  
17 it the sense of the Board that anything over \$13.57 really  
18 does not have--has no real good chance of succeeding?

19 CHAIRMAN DURANT: Without knowing if this is  
20 necessarily the sense of the Board, I would appreciate it  
21 if you would at least take that into account and look at  
22 it and make a report.

23 MR. WALLACE: Let them run the numbers and see  
24 how it comes out.

25 CHAIRMAN DURANT: Thank you, Mr. Mendez.

A F T E R N O O N   S E S S I O N

4:05 p.m.

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3           CHAIRMAN DURANT: We left off and we finished  
4 up our report on appropriations. At this point, we  
5 are asking Mr. Wallace for action recommendations on you  
6 on operations and regs and if you would give us an idea  
7 of what you have been doing other than running a  
8 railroad.

9           (Laughter)

10           MR. WALLACE: If I have been running a railroad,  
11 Mr. Chairman, it has been slower than most.

12           CHAIRMAN DURANT: Is that a reference to  
13 something?

14           MR. WALLACE: I think we have gotten to where  
15 we wanted to go, at least on part 1601 and part 1622.  
16 I know that we got members of this Board that are leaving  
17 in half an hour.

18           Rather than ask general counsel to go over  
19 these, I will go over them. Any questions that members  
20 have may be directed toward me, to the general counsel or  
21 to anyone else.

22           But these provisions were passed by my  
23 Committee sometime ago. I think everybody has had them  
24 before them for some time and I am going to make separate  
25 motions on each part and we will ask the Board to accept

1 circumstances and that they should be available for  
2 all meetings, not just special meetings.

3 That is why we moved them out of part 16,  
4 which is special meetings, and up into 15, which is  
5 all meetings. We will permit participation by long  
6 distance conference telephone if and only if a quorum  
7 of the Directors are physically present.

8 As it reads now, it certainly does not specify  
9 that a quorum has to be present. Under 15(c), if we've  
10 got six people here and that is a quorum based on the  
11 number of members of the Board we have, but if we've  
12 got a quorum here, the ones that cannot be here for  
13 whatever reason will be able to participate if they so  
14 desire by conference call.

15 We've got to have a physical meeting going on  
16 with a quorum present. Then you can get your conference  
17 call in. That applies to regular meetings. That applies  
18 to special meetings.

19 That applies to any meetings. Down in 16, as  
20 I say, we deleted the first sentence which had to do  
21 with telephone conferences; changed it and moved it up  
22 into 15(c).

23 Now--well, I take it back. There is a couple  
24 of other minor changes. If you will look for instance  
25 at 19(c) about Federal Register notice, there had been

1 some dispute about whether the notice ought to go to  
2 the governing board of a recipient or to the program  
3 director.

4 We resolved that by sending it to both the  
5 governing board and the program director so everybody  
6 is going to know about our meetings. In 22, we made  
7 what is I think a technical change to how we vote to  
8 go into executive session.

9 We do what we--what we will have to do is list  
10 each of the grounds--the statutory grounds for going  
11 into executive session under the Sunshine Act. We do  
12 not have to take a separate vote on each of those grounds  
13 unless a member of the Board requests it.

14 Now that is the interpretation, I think, but  
15 I will defer to my general counsel. This is technical.

16 MR. DUGA: What you are listing separately  
17 are matters, not grounds, and grounds are what you are  
18 justifying your matters. You are basically listing  
19 agenda items, voting to close them and justifying the  
20 grounds.

21 If anyone dissents, then you do a separate vote.

22 CHAIRMAN DURANT: What were we doing before?

23 MR. DUGA: You were basically listing the  
24 statutory grounds without listing the agenda items.

25 CHAIRMAN DURANT: Okay.

1 MR. WALLACE: 23 is public participation.  
2 The main thing we have done there is make it clear, if  
3 it hasn't been clear over the last four months, that a  
4 written request is not the only way you can speak to  
5 the Board.

6 We solicit written requests. But anybody who  
7 has not made a written request in advance may do so  
8 upon invitation of the Chairman. We are putting  
9 discretion in that matter in the hands of Chairman Durant  
10 or of any Committee Chairman.

11 CHAIRMAN DURANT: Such risk.

12 MR. WALLACE: And we have added the sentence  
13 saying that we welcome written and other communications  
14 from members of the public. I hope that is apparent  
15 by now.

16 The other matter under these regs, and I would  
17 say that this is not only the last major matter but the  
18 last matter--well, except for one other--the last major  
19 matter here has to do with emergency meetings.

20 This has caused a certain amount of contention.  
21 We have adopted a compromise position that permits  
22 the Chairman and the directors to, upon a majority vote,  
23 a recorded vote of a majority of the number of Directors  
24 present, the Chairman shall have the authority to have  
25 members of the public who are disrupting the meeting removed

1 from the meeting.

2 Now perhaps I should not try to paraphrase  
3 that language because we worked on it fairly hard.

4 So let me read it. We are not going to shut down the  
5 meeting and move it some place else, which is one of  
6 the options we had under the existing by-laws.

7 What we are going to do is simply to give  
8 the Chairman the authority to remove persons who are  
9 causing a disruption if it can be done. I will read  
10 the language:

11 "If in the opinion of the Chairman the Directors  
12 are rendered incapable of conducting a meeting by the  
13 acts or conduct of any members of the public present  
14 at the meeting, the Directors may thereupon determine  
15 by a recorded vote of the majority of the number of  
16 Directors present at the meeting that the Chairman or  
17 presiding officer of the Board shall have the authority  
18 to have such members of the public who are responsible  
19 for such acts or conduct removed from the meeting."

20 Now we were concerned about what might happen  
21 under the circumstances that you couldn't remove people  
22 that were causing the disruption; too many of them and  
23 not enough of us.

24 Under the Sunshine Act, as I understand it, what  
25 we can do is simply recess the meeting. When we can get

1 away and decide what we are going to do next, we can  
2 come back, we can post the notice on the door and  
3 say we will meet in such and such a place at such and  
4 such a time.

5 And by that time, one hopes that we would be  
6 able to get some help in restoring order. In other  
7 words, we would not have to go home and fly back six  
8 weeks later and forget about our meeting.

9 We could adjourn and reconvene under more  
10 specific circumstances if that unlikely event happened  
11 to take place. We are not completely without power to  
12 do the things that we wanted to do in the old by-laws.

13 It can be done. It is a little more complicated.  
14 But adjourning a meeting ought to be complicated. So  
15 that is the way we resolve this issue.

16 The final matter in here is what I would refer  
17 to as a restatement of the supremacy clause in 1601.38  
18 and there is a similar provision somewhere earlier in  
19 these by-laws.

20 It is about the President's compensation and  
21 the Board's compensation so that we can determine the  
22 rates except as provided by Public Law 98-166, et cetera,  
23 and subsequent legislation.

24 If all it says is if Congress tells us what  
25 we can't do, we can't do it. And I think that is a fairly

1 clear statement of the law. Now let me do this, let  
2 me--on behalf of my Committee--move the adoption of  
3 these by-laws as amended by our Committee and as we  
4 have them in the Board book.

5 If I can have a second on that I will def-er  
6 to Ms. Bernstein who has some comments to make.

7 MS. MILLER: I will second that.

8 MR. WALLACE: Okay. Ms. Bernstein?

9 MS. BERNSTEIN: I was going to second it for  
10 the purposes of discussion. I don't have a problem  
11 with the language that is here. I have a problem with  
12 the description as general counsel has just given it  
13 because--

14 CHAIRMAN DURANT: What is the number again,  
15 Leanne?

16 MS. BERNSTEIN: 1601.22. As I heard you,  
17 Mr. Duga, you just said that we needed to have an agenda  
18 if we are going--for this recorded vote. That is the  
19 first time I heard that.

20 I didn't hear it at the Committee meeting.  
21 And it says of a specific matter should be closed to  
22 public observation. That says to me that the Board has  
23 to have something in mind before they go into an executive  
24 session that they want to talk about.

25 They can't just close it so that they can discuss

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1 the world that might relate to personnel. But I am  
2 disturbed by your--and I just want to make sure that  
3 the legislative histories as it were in terms of these  
4 transcripts do not bind us to the idea of having an  
5 agenda discussed in the public meeting before we can take  
6 a vote on this because I think that there may be  
7 situations in which simply listing the items of litigation  
8 that are going to be discussed--or if we are talking about  
9 the general categories, if we are talking about discussion  
10 of litigation--of pending litigation--then I don't  
11 mind that kind of a descriptive term.

12 Or, if we are talking about personnel matters, I  
13 don't mind that as a descriptive term. I do mind if  
14 we get down to, you know, personnel matters related to X.  
15 Which is it?

16 MR. DUGA: Indeed. It is somewhere between.  
17 So let me--you do have to have an agenda in mind when  
18 you are voting to close. The agenda items that you  
19 announce in public and that you talked about may be  
20 worded in such a way so that if you are talking about  
21 personnel items, you don't say "personnel items relating,  
22 say, to Terry Duga".

23 CHAIRMAN DURANT: That will be on the next one.

24 (Laughter)

25 MS. BERNSTEIN: It will be if you don't straighten

1 motion , does it?

2 MS. BERNSTEIN: No.

3 CHAIRMAN DURANT: It will be done. The other  
4 thing is that as far as--and I discussed this with  
5 Mr. Mendez--as far as any discussions regarding the closing  
6 of regional offices, I want that to be--I mean if there  
7 is any information or whatever you are thinking of being  
8 done on that, since it does appear that there was  
9 information on our budget regarding that, that the--that  
10 all of the options be explored and reviewed by staff and  
11 talking to those who would have an interest in it, the  
12 regional directors.

13 MR. EAGLIN: Mr. Chairman, I have two concerns,  
14 one of which you just met concerning the study on migrants.  
15 But the other one does not require Board action but I  
16 still would like to have more information about what  
17 our presentation to Congress, who will be going and so forth.

18 CHAIRMAN DURANT: Fine. We are scheduled, to  
19 my knowledge--I am not sure of the dates.

20 (Pause)

21 The 13th. March 13th.

22 MR. EAGLIN: One thing that does require  
23 Board action is the adjournment, though. I am not  
24 trying to hold that up. If you could just talk to me  
25 about that.

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CHAIRMAN DURANT: I will get you the information.

MR. EAGLIN: I don't want to hold them up.

Thank you.

CHAIRMAN DURANT: Can I get a motion for adjournment?

MS. BERNSTEIN: I make a motion to adjourn.

CHAIRMAN DURANT: Could I get a second?

VOICE: Second.

CHAIRMAN DURANT: All those in favor say aye?

(A chorus of ayes)

Opposed?

(No response)

Any discussion?

(No response)

The meeting is adjourned.

(Whereupon, at 4:26 p.m., the Board of Directors meeting was adjourned)

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REPORTER'S CERTIFICATE

DOCKET NUMBER:

CASE TITLE: LEGAL SERVICES CORP. BOARD OF DIR. MTG., OPEN SESSION

HEARING DATE: MARCH 8, 1985

LOCATION: WASHINGTON, D.C.

I hereby certify that the proceedings and evidence herein are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before THE LEGAL SERVICES CORPORATION and that this is a true and correct transcript of the same.

Date: MARCH 19, 1985

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