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TRANSCRIPT OF PROCEEDINGS

LEGAL SERVICES CORPORATION

In the Matter of:)
)
AUDIT AND APPROPRIATIONS COMMITTEE)
)
MEETING OF THE LEGAL SERVICES)
)
CORPORATION BOARD OF DIRECTORS)

Pages: 1 through 161

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Thursday
April 25, 1985

Eighth Floor Conference Room
733 15th Street, N.W.
Washington, D.C. 20005

The above-entitled matter came on for meeting, pursuant to notice, at 1:28 p.m.

BEFORE: PEPE J. MENDEZ
Chairman

APPEARANCES:

MEMBERS OF THE BOARD:

BASILE J. UDDO

PAUL EAGLIN

W. CLARK DURANT III

THOMAS F. SMEGAL

LEAANNE BERNSTEIN

LORAIN MILLER

HORTENCIA BENAVIDEZ

MICHAEL B. WALLACE

OTHER APPEARANCES :

DENNIS DAUGHERTY
Acting Secretary
LSC

DAVID GESSNER
Budget Director
LSC

TERRY ROCHE
Project Advisory Group
LSC

GERRY SINGSEN
HARVARD LAW SCHOOL
Program on the Legal Profession

P. Vaughn Gearan
Assistant to the Director
LSC
New York

PETER BROCCOLETTI
Acting Director
OFS

JIM BRAUDE
National Organization of Legal Services Workers

JOHN MEYER
Associate Director
OFS

THOMAS OPSUT
Interim President
LSC

JUDY STAINBROOK

JOSHUA BROOKS

WILLY COOK
Baton Rouge

DR. PETERSON

KEITH OSTERHAGE

P R O C E E D I N G S

CHAIRMAN MENDEZ: Let's come to order.

The approval of the agenda--and I have to advise the audience--since we are not having meetings tomorrow, many of the Board members want to get out early and various people have flights.

So we are going to change the order of priority a little bit. In terms of the agenda, I would like to take the first quarter budget review quickly and then touch base on the allocation formula for fiscal year 1986 because Mr. Uddo has to leave early.

Then we will take the remainder of the agenda in the order presented if that is acceptable to the Committee. Is there a motion?

MS. BERNSTEIN: I move that we accept the agenda as stated.

(A motion is moved)

MR. EAGLIN: As amended by you.

CHAIRMAN MENDEZ: Second?

MR. UDDO: Second.

(The motion is seconded)

CHAIRMAN MENDEZ: The motion has been moved and seconded.

All in favor?

(A chorus of ayes)

(No nays)

CHAIRMAN MENDEZ: Okay. Now I invite your attention to the minutes. Are there any amendments or corrections?

some data you had from the Bureau of Census and the Bureau of Indian Affairs.

I have LeaAnne's transcript and it seems to be the Department of Agriculture here to which she was referring to. What Mr. Thimell said was the most recent figures according to the Department of Agriculture that are not yet released--statistics for 1983 which have been confirmed over by phone--which would be 226,000 migrants in 1983.

So it is not the Bureau of Census or Bureau of Indian Affairs but the Department of Agriculture.

CHAIRMAN MENDEZ: Let me explain. There should be--the first sentence should be a paragraph because he did have meetings with the Bureau of Census. That should be paragraph.

MR. SMEGAL: But my point is the 226,000 is not based on those meetings he based on a Department of Agriculture unpublished report not yet released. Isn't that right?

CHAIRMAN MENDEZ: He also had meetings with the Bureau of Census. The first sentence is correct. We should correct the second sentence.

MR. SMEGAL: Oh, okay. Fine. Well, whatever it takes.

CHAIRMAN MENDEZ: And I would suggest that

we strike "based on those meetings" and state that Thimell reported that migrants had been double-counted for funding purposes and that their numbers were only 226,000 according to the Department of Agriculture. "According to 1983 statistics fom the Department of Agriculture not yet released" is what I would like to see here.

MR. SMEGAL: Right.

CHAIRMAN MENDEZ: Is that acceptable to the Committee? That is a direct quote from Mr. Thimell.

MR. EAGLIN: If that is a direct quote from Mr. Thimell, that's fine.

CHAIRMAN MENDEZ: Who is taking the notes down? Is Dennis?

MS. BERNSTEIN: It is done from the transcript.

CHAIRMAN MENDEZ: Are you taking this down from the transcript or to correct the minutes?

MR. DAUGHERTY: Mr. Thimell prepared the minutes for this meeting. I believe he is taking down some notes.

CHAIRMAN MENDEZ: Okay. And this will be corrected to reflect it in the next minutes.

MR. SMEGAL: I am on page 43 of the transcript of your testimony. I have a question on the last page. Maybe I had already left, Pepe, but I would not have

voted for your motion and if I was there the vote would have been five to one.

Apparently maybe I left.

CHAIRMAN MENDEZ: Where is that?

MR. SMEGAL: At the end.

CHAIRMAN SMEGAL: The last page?

MR. SMEGAL: If you quit at 7:45, I bed I was gone.

MR. EAGLIN: Yes, you did leave.

MR. SMEGAL: Did I leave?

MR. EAGLIN: Right. Yes, you left.

MR. SMEGAL: All right. Then it is correct.

CHAIRMAN MENDEZ: Mr. Eaglin, do you have any corrections? Mr. Smegal, do you have any other corrections?

MR. SMEGAL: No.

CHAIRMAN MENDEZ: Ms. Bernstein, do you have any corrections?

MS. BERNSTEIN: No.

CHAIRMAN MENDEZ: Ms. Benavidez?

MS. BENAVIDEZ: No.

CHAIRMAN MENDEZ: Then do I understand as corrected that these minutes are accepted?

(Pause)

Any objections?

(no response)

Hearing none, the minutes are accepted.

At this time, I would like to call Mr. Gessner for a brief summary of the first quarter--and we mean "brief".

MR. GESSNER: Very brief.

PRESENTATION BY DAVID GESSNER, BUDGET DIRECTOR, LEGAL SERVICES CORPORATION:

MR. GESSNER: The staff normally conducts a review of the consolidating operating budget each quarter. This review was not held in its usual context for the first quarter of this year.

I did, however, prepare the normal financial statements that the Board receives with the exception of the statement called the Consolidated Operating Budget Projection Worksheet.

The statements that you have in the book starting on page 12 and what I will attempt to do is give you a brief outline of what these are for so you will be more familiar with them next time when we conduct the mid-year review.

The first statement--attachment 1--is the statement of funds available. This portrays the total

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financial resources available to the Corporation, both allocated and unallocated.

The consolidated operating budget--Attachment 2--is our budget in a level of detail required for action by the Board and the same level of detail that is submitted to Congress for its action.

We show the approved budget, the expenses through the end of the quarter in question, the balances, and proposed modifiactions and how the budget would look with any of these modifications enacted.

The consolidated operating budget projection worksheet is essentially the same as the consolidated operating budget but in the level of detail that you have seen in your deliberations on the '86 mark.

The summary of investment income and related allocations give you and idea how much investment income the Corporation has generated since its inception, how much has been allocated by the Board, and how much remains as unallocated.

The final attachment is a proposed statement of funds available. This reflects any staff proposals for allocation of funds that are shown as unallocated in the first statement.

In this case, we are recommending allocation for the entire 1984 fund balance so that amount is shown

as a proposal in the allocated section. I hope that wasn't too brief.

Does the Committee have any questions?

CHAIRMAN MENDEZ: Does the Committee have any questions?

(No response)

None appearing, the Committee will accept the report.

At this time, we are going to, as I said previously, modify the agenda and we will go now to Mr. Uddo's favorite topic of discussion, the FY 86 basic field funding formula and the first witness will be Dennis Daugherty.

PRESENTATION BY DENNIS DAUGHERTY,
ACTING SECRETARY:

MR. DAUGHERTY: Thank you very much, Mr. Mendez.

Joining me as soon as we can notify him that the agenda has been changed will be Dr. David Peterson, consultant that assisted us on this subject in 1983 and 1984 when we were considering modifications to-- considering a new formula for allocating our funds that would be more sensitive to changes in the distribution of poor people, the distribution of legal aids than the 1980 census which by now is based on '79 poverty and

by now is six years old approximately.

It will be seven years old if it is utilized as the sole basis for our funding decisions this coming year.

I am looking for a document that I have copied for you from the 1984 Fact Book that illustrates to you the problem that prompted us to study this issue: the distribution of our funding levels among our programs as we found them when we first received the 1980 census data.

I could pass that down the road to you.

(Document distributed)

It is an item from our Fact Book which I believe is in general distribution. We have done all the computations that you asked us to do. Those tables are attached to the materials in your Board book, looking not only at the formulas which Mr. Uddo and Mr. Mendez have proposed but the suggestion concerning state support that Mrs. Bernstein made and the matter concerning the--but also carrying forward the formula of our current appropriations bill, the formula proposed by the Project Advisory Group, the formula proposed by Professor Peterson and a variation on your formula with a different but harmless feature that I am proposing for your consideration today.

Let me suggest that you start by going back and asking yourself what is our funding formula philosophy? What are we attempting to accomplish here?

The first decision I think you have to make is what is the formula--the purpose of your allocation formula? What is your allocation philosophy? And secondly, when do you hope to accomplish it?

As I articulated, my view of this matter at the earlier meeting was that we should first insure that in every community in the nation there is the basic level of legal services.

The first priority--the highest priority, emergency cases, whatever, be taken care of everywhere before money is provided for other services in any particular part of the country.

That is a philosophy that I think is one that was articulated by the Congress on occasion in the past as their minimum access formula. Congress became very concerned in the late 1970s as they had been earlier in the decate that Legal Services' funds were not being distributed in a manner that insured that every county in the country was served.

It did not insure that everyone had the minimum access which were defined in terms of $7 per person. Congress enacted as its policy from 1979 through 1982 the

premise that none of the funds appropriated should be used to increase funds allocated to programs serving those areas of the country already funded at the minimum access level.

Or, to activity directly administered by the Corporation unless minimum access to civil legal assistance is available or provided in all parts of the country.

We have a situation today where two-thirds of our grantees are funded beneath what anyone would define to be minimum access as it was used in past years. We have other programs that are funded far above that.

One of the differences between your formula, Uddo's formula and that which I am proposing is the question as to whether or not the program is funded at 11, 12, 13, 14, 15, 16, $24--should receive part of this increase.

Or, whether the funds that you are requesting from Congress should be targeted on the people at the bottom that you truly believe they are not receiving an adequate amount of funds.

There is of course a debate as to what that amount is--what is the minimum amount required. If Mr. Uddo's formula would say that it is a third of the increase that should be devoted to raising the floor,

that would raise the people to $8.02.

Your proposal would set the floor at $8.41. The philosophy of the Project Advisory Group as reflected in the second step of Mr. Uddo's formula is minimum access is really $13.57 per person and that until we have that, yes, indeed every dollar that we are putting into this is going to programs that are unable to meet the basic level of need.

I think that is the first principle that I would advocate that you adopt and that is that we first assure every program core funding. The second feature that I think your allocation policy should be is consistent with that articulate by the Congress, articulated by Senator Rudman and his staff is that we ought to be moving toward equality--not at break-neck speed, not disrupting programs.

The direction of our funding should be toward equality. Every one of the proposals before us would accomplish that, some at much slower pace than others would.

And I would suggest in doing that we should be aiming toward 1986 equality as opposed to 1980 equality. One of my concerns about all the proposals that are before us with the exception of Dr. Peterson's are that they are--we have a slow approach to 1980--

Mr. Uddo's--a quick approach to 1980 of yours, Mr. Mendez.

But you are getting to 1980 and a great deal has changed since 1980. I am concerned that when we get to 1990 we may find the same pattern that we found in 1983 when we saw the census results from that year.

I attached to my memo that is in your books a chart on the--regarding poverty trends, It is Table 4, page 137 of the Board Book. And that is a chart that shows that during the period 1980 to 1982 there was a significant shift in the location of where poor people live in this country.

There was a growth--there was hardly any growth in the number of poor people between the '70 census and the 1980 census. There has been growth since that time.

Just as there was dramatic shifts even within a static population between '70 and '80, there continues to be a dramatic shift in where poor people live. The San Francisco federal region has experienced a 42 per cent increase in the number of poor people between 1980 and 1983.

At the same time, the Boston region and New England region has actually had a reduction in the number

of its poor people.

There have been dramatic increases in the middle Atlantic region, the Philadelphia region, in the Chicago midwest region, even more dramatic in Kansas City.

And what we are talking about today is whether you will allocate $11 million of an increase in funds to try to catch up to 1980 and let all the rest of the funds be allocated largely according to neither the 1980 reality or '86 reality but the reality of 1970 or discretionary funding decisions made in the past.

The second principle that I am urging that you adopt--the first principle is that we try to move toward minimum access, move toward providing the minimum level of funding to everybody before we ice anyone's cake.

The second principle I am suggesting is that our objective be to move toward equality in current demographic terms. The third principle and related to that is that that transition be a smooth one.

And that has been the complaint that was raised by field programs at the time Dr. Peterson made his presentation to us two years ago. It is a complaint that has been made in Congress since.

No one raised an objection about the features of

in 1980.

In 1990, we are going to be faced with that chart that is in front of you and the question is going to be how are we going to deal with it then. I suggest we start the transition now or next year--not wait until 1992 to face those wrenching decisions.

We can build some time in for smooth transitions if we don't continue to delay. The fourth principle that I think we need to look at is whatever allocation formula you adopt needs to be achievable within the amount of resources you can reasonably expect.

The Project Advisory Group formula that Mr. Uddo is recommending a variation on would postpone equality until 152 million additional dollars were appropriated for basic field programs, presumably similar increases in other categories of our budget.

This is how Legal Services has dealt with the problems of discrepancies in the past. Mr. Uddo's approach is consistent with the way OEO dealt with this problem; consistent with the way LSC has dealt with this problem.

OEO funded some programs at $14, $15 and $20; left two-thirds of the country unserved. LSC secured an increase in funding of $200 million between 1976 and 1979--another $50 million after that--and was able to deal

with the problem.

We have been fortunate these last two years. We got large increases --14 per cent, 10 per cent, 11 per cent. So we have been able to narrow the gaps that are shown in that chart with a large infusion of money.

Can we expect that over the next several years or do we need a plan that will get us there more quickly?

MR. MENDEZ: The first question I have is in your Table 4, that takes into account poverty populations but in fact the poverty populations in the various states and the various grants are being considered.

We have taken those numbers into account already when we are computing the grants for each separate field problem.

MR. DAUGHERTY: Your current funding--at the present time you have $247 million of basic field funding. $197 million of that was allocated before the 1980 census came into being.

It was allocated on the basis of the 1970 census data; allocated on the basis of discretionary decisions of OEO and LSC. $50 million has been allocated thus far on the basis of the 1980 census.

Well, not really. At least half of that is allocated on the basis that everybody got a 5 per cent

increase in '84 and everybody got a 5 per cent increase in '85 regardless .

So let's say maybe $30 million are allocated according to 1980. You would add another $11 million to that. $36 million allocated according to '80 census. There is no dollars that are allocated according to any proposal before you according to the 1983 poverty except under Dr. Peterson's proposal.

Unfortunately, we can't just use these figures because their statistical sample is not large enough at the country level to be a reliable basis. We have to look for country-level data that serves as some sort of a proxy for this, which was his proposal.

CHAIRMAN MENDEZ: Yes.

MR. DAUGHERTY: I had one other point I would like to make if I might?

CHAIRMAN MENDEZ: Yes.

MR. DAUGHERTY: That is, I did--with regard to achievability, I did some calculations based on the Fact Book data as to what minimum access--what it would cost to furnish two attorneys per 10,000.

My calculations arrived at a $9.22 figure as opposed to the $13.57-$14.08 figure that is being used. You could achieve that level of funding without decreasing anybody's funding, using your method, Mr. Mendez; just

bring up the people from the bottom with $30 million, of which you have already allocated $11.3 million with your 4.6 per cent increase.

I think $30 million is probably achievable. I think a plan that assumes we are going to have $152 million anytime in the near future is not realistic. My last principle is that I think we ought to take into--this is a complicated subject.

We need to take into account client needs, the complexity of their problems as well as their numbers, the costs of service are relevant and the capacity of programs to utilize other funding, as Mrs. Bernstein has suggested.

Those are complex issues that probably do warrant some further discussion, some further study. We did not have the opportunity to have the dialogue with the field over Dr. Peterson's formula that I would have liked.

I would hope that we would, in the future, move away from the notion that anybody is automatically entitled to funding under a formula but that this be a target that they compete for and show that they have a good plan.

If they don't have a good plan, give it to that good program in Boston that has got the attorneys onboard

that can use it, but let's give the folks in Detroit and Youngstown and the other communities where there has been a large increase in poverty a chance to compete for that money.

CHAIRMAN MENDEZ: Okay. I have just got a couple questions.

Does anyone on the Board have any questions of this gentleman?

MR. UDDO: Go ahead and aks yours.

CHAIRMAN MENDEZ: Dr. Peterson, we are stuck with the 1980 census right now as our basis. How easy or how correct can we become with the poverty population count and how can we update that?

DR. PETERSON: The data can be updated by using data that are reliable at the state and sub-state level and that produce figures at the regional level that are very consistent with the current population survey data for poverty.

You have seen some of the data from the current population survey from '80 to '83 showing huge increases. There are much greater increases if you go from '79, which is actually the year used by the census for measuring poverty to '83.

There is a 55 per cent increase in the midwest. You can reach those regional figures very precisely,

much more precisely than the '79 data do.

That is, you can measure 1984, 1985 and subsequent poverty figures by using reliable data at the state and sub-state level that relate to poverty and that produce regional or divisional or multi-state figures on poverty that are very similar to those you would get from the current population survey.

CHAIRMAN MENDEZ: Do you understand that when we talk about giving grants, though, we are talking about approximately 250 grants?

DR. PETERSON: Yes.

CHAIRMAN MENDEZ: They would be given out on a census-based, quasi-census-based poverty population. Now I may have misunderstood Mr. Daugherty but he said that on a county basis that that really isn't a valid count.

DR. PETERSON: You cannot use the current population survey data by themselves, as he said, in order to update poverty at your program level. However, you can use the current population tapes--those tapes along with other data--that are reliable at the sub-state level in order to update the poverty estimates in a way that will be quite consistent with the results that the current population survey gives for poverty at the regional or divisional level or other multi-state

levels.

CHAIRMAN MENDEZ: All right. Assuming that we took your plan, how often would it be reasonable for us to update the data?

DR. PETERSON: You can get annual updates of the poverty estimates for large areas--large states and metro areas and for multi-state areas. And, you can see whether the weight should be changed slightly on any of the variables that are more reliable than the current population survey data and a little bit of fine tuning is possible annually because data are updated regularly by BEA and Agriculture and others that would allow you to do this fine tuning.

I don't see any need for a formula change, a policy change of any magnitude, but rather a--

CHAIRMAN MENDEZ: How much is that going to cost us?

DR. PETERSON: Not very much. Originally the ASI estimated $100,000 as what they would want to update annually their methods that give almost equally good results.

Your information unit people could probably apply for a few thousand a year after doing it one time. The first time you do something of this nature it is more expensive, of course, just to get the people

acquainted.

MR. DAUGHERTY: Mr. Mendez, we investigated that question, discussed it with the Control Data Corporation and the Donnelly Corporation which respectively one is a computer firm and the other is a specialist in demographic data.

They estimated about $50,000 cost to us. This would not only--I think part of that cost would buy us access to other demographic data that we used for other purposes than implementing Dr. Peterson's formula.

CHAIRMAN MENDEZ: Mr. Uddo?

MR. UDDO: Dennis, has anyone tried to run the figures on what would have happened to funding over say the past three years using Dr. Peterson's formula, how it would have changed?

MR. DAUGHERTY: We have not. That is my primary reason for recommending that we postpone adopting Dr. Peterson's formula until we have done that, until we have had some more field review.

We first have to have that contract with the firm to have access to that data for prior years or else it is going to be burdensome on our staff to produce those figures for you.

That has not been done.

MR. UDDO: So we do not know what effect it

would have had had we been using this formula over the past three or four years?

MR. DAUGHERTY: We do not know what effect it would have had had we been using the formula.

Dr. Peterson tested in the abstract in terms of how well would these factors predict poverty. We have not demonstrated its use as a funding formula for our grantees.

DR. PETERSON: May I say that it would have targeted more funds to areas that have had increases in poverty such as the midwest,Oregon, Idaho. I have also had increases.

But to do this ideally one would switch to different data from those that were used in '83. The '83--the data available in '83 are hardly the ideal data to apply to fiscal '86 or '87 funding.

So if you look at the newer data, which is what I have been doing the last two days, it would increase the targeting to places that have had substantial increases in poverty--not just in the midwest, but also Oregon, Idaho and other places that have had increases.

But there are better options available that were listed in appendices and some fine tuning that is possible, too, as well as updating the data.

that every dollar ever received stays where it is.

You have to ask yourself how did the dollars get where they are now? Was it on a basis of some scientific, well-thought-out principles? I consulted a publication published by one of our support centers, now the Social Science and Welfare Center.

Dr. Goodman testified at our last meeting. He wrote a book in 1974 for OE, for the Community Services Administration, analyzing how do they get a situation where they had such incredible disparity.

His conclusion was--and he underlined this--"so far as we can determine, the initial funding of early Legal Services projects was based neither on demographic nor geographic consideration.

It was based quite simply on the desire to distribute as much money as quickly as possible. The result of this was to fund those areas in which a recognized group already existed which could apply for and then use Legal Services funds.

This resulted in a lot of areas not covered at all simply because no funding applications had been received at the opportun moment. That doesn't seem to me like a very good basis for telling people in Detroit with 20 per cent unemployment that you just got to keep on waiting and waiting and waiting.

just--Pete, I would like to know is it still the case--and this is something I am going from in terms of last year's testimony we have had here and there--is it still the case that state support units consider themselves to be direct delivery?

(Pause)

You can't answer?

MR. BROCCOLETTI: I can't answer that.

MS. BERNSTEIN: You can't answer that? I mean are state support units funded as direct delivery units?

MR. BROCCOLETTI: I hate to sound ignorant but I haven't been concentrating in this area in the last couple of months since I started as the director so I am not really familiar with them.

MS. BERNSTEIN: Is there somebody here in field services that would be able to tell me? Let me just go from--

CHAIRMAN MENDEZ: Let's just pose the question so he can research it.

MS. BERNSTEIN: Okay. Would you check and see if one of the purposes of state support is to actually deliver services? And we have some free-standing units and some components.

Would you check and see about what percentage is

considered to be direct delivery because I think those funds at least have to be added into our per capita formula, whatever we are actually doing.

The second question would be if we--if that is direct delivery or we would consider it to be direct delivery in terms of what the clients should be getting and why we think we are funding them, then is there a way for us to factor this in in a way that is not going to punish a client in a program because there is a big state support unit.

And so the program wouldn't get the funds anyway because the state support unit is getting the funds and maybe they don't choose to do direct delivery. And I guess my question to you, Dennis: is there any historical basis for--I don't know--as I understand it, what I am talking about really is kind of a state support backout and is there a historical precedent for our doing this kind of thing?

MR. DAUGHERTY: State support is a fairly new concept in most states. It wasn't until 1979 that we had a separate line in the Legal Services consolidated operating budget for state support.

They were funded as by large with special needs money. You know, we have tried in our new budget format to separate the functions from recipients because

by and large with the exception of the five centers--five freestanding centers, we are talking about grantees who are above.

My recommendation is that we look at the questions separately. One, how do we equitably allocate funds for support purposes? And, how do we equitably distribute funds for basic field programs?

Not every program gets the support funds.

CHAIRMAN MENDEZ: Would you please prepare a memo for the next meeting--Terry, I don't know which one of you will answer this but I would like to have some response to this as well--concerning how you believe what would be an equitable method of funding state support and see if you can prepare it soon enough so that Terry can see it.

Terry, would you be the one that would respond to it or would John?

MR. ROCHE: Whatever goes to me goes to him. It depends on whose xerox machine it comes off of.

CHAIRMAN MENDEZ: Okay. And to see what we can do in terms of equitably dividing state support.

MS. BERNSTEIN: And you understand the thrust of what I am getting at in terms of the per capital funding because I think it behooves us to look at--since we are the national program--to look at it from the

national perspective.

CHAIRMAN MENDEZ: Okay. I am cutting you off, and I am cutting you two off.

MS. BERNSTEIN: It won't be the first time.

CHAIRMAN MENDEZ: If you could remain here for a few minutes just in case. I would like to have you take some chairs a little bit further back.

MR. ROCHE: I am Terry Roche, Project Direct, Legal Services, Southern Piedmont, Charlotte, North Carolina, Cochair, PAG funding, Criteria Committee. Good to see you all again.

CHAIRMAN MENDEZ: Thank you, Terry.

MR. ROCHE: Since I don't think I really heard Dennis oppose Mr. Uddo's motion as a plan of action for this year--he has simply raised a question but I think I also heard him say he hasn't got the answer to it this year either--so I am not going to say too many things.

First of all, the one thing I want to thank Dennis for is the best articulation I have heard out of any staff member so far for why the Board should have been looking for an increase in the allocation for 1986.

I mean from your own staff's word, there is a lot of movement that needs to be done to get everybody

experienced people and you replace them with inexperienced people.

A law firm that stays together and gets experience later becomes somewhat of a larger whole than its individuals make up simply because of the experience there.

That is the basic argument. Contrary to what Dennis said about people not raising any questions about the Peterson formula in December 1983, at the New York Board Meeting I said the same thing--raised that argument.

Those are just tidbits and that is really all I need to say.

CHAIRMAN MENDEZ: Could I ask you just a couple questions?

MR. ROCHE: Sure.

CHAIRMAN MENDEZ: Approximately how many years--assuming that there is no inflation increase from now forward, how many years would it take for us to get minimum access under your formula?

MR. ROCHE: Well, I had to think a little perversely while I was listening to Dennis. That really depends on how successful you all are in raising all of those outside sources of funds that I keep hearing about that are going to get raised and used to supplement

the Legal Services.

CHAIRMAN MENDEZ: Let's assume none of that type funds.

MR. ROCHE: The other assumption is, of course, what happens in 1986. It is a political question. Who knows? We might get there a lot faster this year than you all think.

The point really is it is a conjecture. And the point really is that what Dennis is talking about in using the Peterson formula this year is cutting some programs.

Amusingly enough, some of the programs that will take the biggest cuts are the ones in the San Francisco area which I understand he just said got the greatest increase in poverty.

That is where those cuts are going to come from to equalize it.

CHAIRMAN MENDEZ: Let's do just a straight mathematical formula. Have you computed if there is no inflation factors from now on what it would take, how much money it would take, how long it would take under your formula to bring everybody up to the $13.57 minimum access?

MR. ROCHE: My memory is that it is $415 in basic field funding and we are working from a base

of something like $258 now. It just depends on how much we can attract from Congress and outside sources of funds, how many years.

It could go in one year if somebody decided that social programs were worth funding.

CHAIRMAN MENDEZ: Let me toss a hypothetical to you and see what you say on this. One of the major reasons that Peg came up with this formula was to insure that each of the programs had at least a cost of living increase and--

MR. ROCHE: Not really. The cost of living increase concept in the whole formula really came out of Congress more or less a couple of years ago. Our formula is different from the Congressional formula that has been used.

It will deflate the effect of inflation and so the cost of living increase is in there, yes, on the theory that is you stay stable you really regress because you can't put new money into programs to replace worn out equipment and keep your experienced people.

So that is a factor. But that was not the primary one.

CHAIRMAN MENDEZ: All right. What would happen--what is the major negative if we took a third of the incresae--the $11 million--and put it in cost of living

and put two-thirds in a floor.

MR. ROCHE: Well, what you leave out is the fill-up-the-cup portion of the thing which begins to bring programs towards a common level. You would be raising the floor but you wouldn't do anything for the programs in-between except give them a cost of living increase. You wouldn't move them additionally.

Mr. Uddo's formula does something for virtually everybody except those folks that are at the moment bumping fairly up towards $13.57.

CHAIRMAN MENDEZ: Does anybody else have any questions?

Please.

MR. SMEGAL: I have a question. This year we have $11 million because--I guess that is what we are talking about, $11 million--and that is coming from redistributing $305 million.

Now, Pepe, if we did that again next year, where would we get the $11 million next year?

CHAIRMAN MENDEZ: That is not the question I was asking.

MR. SMEGAL: How are we going anywhere? In effect you go $305 to $305.

MR. ROCHE: You count the Reggie and migrants and they deliver direct services too. So it is just a

shuffle.

[redacted]. But my point is that we have to have more money or we don't go towards the answer to your question, which was when do we get to minimum access because we don't get to minimum access if we stay at $305 million.

We can shuffle money around like we did this year. I don't know how we are going to shuffle it next year.

MR. SMEGAL: Maybe we will find out by next year.

MR. BRAUDE: Mr. Chairman?

CHAIRMAN MENDEZ: Please.

MR. BRAUDE: I will be brief. My name is Jim Braude from the National Organization of Legal Services Workers, District 65, UAW.

If Mr. Daugherty referrred to the highest fund in 100 or so programs as icing, I guess I am going to talk about the ala mode for a moment.

(Laughter)

That is the seven highest funded programs that would not get any increase in fundings, even under Mr. Uddo's proposal, as we mentioned briefly at the last meeting.

A couple things bear noting, very briefly. One,

two of those programs, two of those seven are San Francisco-based programs and it is particularly ironic in light of the fact that Mr. Daugherty once again mentioned the fact that San Francisco has seen this dramatic increase in its poverty population.

Secondly, there is a real life aspect to not giving an increase to those seven programs. It seems like a a small number out of 320-something but the reality is, one, that clearly is not freeze for those programs; that is a cut for those programs equal at least to the inflation increase.

No. 2, it will mean,when one is talking about keeping competent staff, that a vast majority of the staff people in those seven programs will see a wage freeze.

And, that the remaining few people in those programs will lose their jobs unless there is some very creative financing working there. And I should say that my belief is that the approximate cost to give the--make the seven programs part of step 3 of Mr. Uddo's proposal would run roughly $300-$400--would mean an average of $300-$400 less for the other 300 and some programs that would be funded any of the three steps in Mr. Uddo's proposal.

So I would suggest for those variety of reasons that you as the Committee and ultimately the Board take

sure.

MS. BERNSTEIN: How about Dr. Peterson?

CHAIRMAN MENDEZ: Where is Dr. Peterson?

DR. PETERSON: Here.

CHAIRMAN MENDEZ: I am sorry. I didn't see where you were, Doctor. What do you think of that statement?

DR. PETERSON: We used the trend data during the 60s and 70s in the development of this and the job trend data and other data that have been recommended there, and they were very useful.

If you want to have the maximum tracking or updating, of course, then you would go beyond the text of the paper to some of the things in the appendix that we did not have time to research.

But I do think you get useful insights by looking at the trend in the 60s and 70s and what best predicted poverty in that time frame. And we have got five different approaches that have already been pretested for updating poverty to this last census from the previous 12 years or so.

CHAIRMAN MENDEZ: So in effect you have already done this?

DR. PETERSON: I can give some initial findings about why some of the things were chosen that were

in the '84 Fact Book there is a list of the ten highest funded programs in the country in 1983--you find that nine of the ten are in above-average cost areas.

When you adjust their cost per poor person by the amount that they exceed the norm in funding in the country, that only one of them ends up above $11.76 per poor person.

In other words, while the initial figures are quite high, when you adjust them to the cost of doing business in the areas they are located in, the figures come down.

There is one exception. The one that is not above the average is Polk County in Iowa, the Des Moines program, which of course has a special relationship to our Corporation.

I would be glad to provide that if you would be interested in the adjustment.

(Laughter)

The third factor is--if we have a magic marker, I would just like to draw a little chart for you.

(Marker handed to speaker)

The question about money above the minimum access level has two ways to be discussed. One way is how many programs are funded at levels above the

$7.80 which is our base level today. The other way to talk about it is how much money are we spending above the $7.80, and that is the way that I would like to address it for just a moment.

Let me start--and this will not be the scale--by drawing a little bar graph--the amount of money spent in 1985 if what you did was fund all your programs at a flat $7.80.

And of course you are all funding them all at at least $7.80 so you actually spent this money at the $7.80 level. And the amount of money comes out to $229,710,000.

This is out of a total of $246 million, I think, that was spent in '85. Now $8.43 was the national average. The amount of money spent between the $7.80 level--this is in programs now funded over $7.80--and $8.43 for the poor people in the programs that had the higher funding was $6,846,000.

The next level up that I suggest looking at is $9.36. That is 11 per cent above the $8.43, 20 per cent above the $7.80 and I pick it arbitrarily, the idea being if you were considering equalization you might not really want to move the programs here that were so little above.

You might want to not disrupt their service.

The amount of money up to $9.36 is $4,667,000. The total amount of money that is above $9.36, moving all the way up to your highest funded programs, is $5,800,000.

So that when you talk about equalizing, what I suggest to you is that you are really focusing on that amount of money that you would be interested in realizing.

It is about 2 per cent of the field. It is less than half of what you are looking at for your cost of living. And it is distributed very substantially, as I mentioned before, in programs that are in high-cost areas.

So that if you made an adjustment to the cost of business that took into account not just California but larger urban area adjustments, I think you would find a good deal of that money is no longer available.

Those are the three points that I wanted to make.

I would be glad to take any questions.

CHAIRMAN MENDEZ: Thank you very much.

Anyone have any questions?

(No response)

Okay.

MR. DAUGHERTY: Can I respond?

CHAIRMAN MENDEZ: Yes.

MR. DAUGHERTY: The statement was made with respect to San Francisco. I was referring to the San Francisco federal region having the largest increase in poverty.

That is the full state of California, Arizona, Nevada, and I can't recall what the fourth state is. We had in 1980--in 1983 we had programs in southern California at $4.23 and programs in the immediate San Ffancisco area at $14.

We are talking about apples and oranges, the city of San Francisco and the federal region.

CHAIRMAN MENDEZ: I think the Board understood the distinction.

MR. DAUGHERTY: The other point has been made about the high-funding programs are in the highest--areas of highest cost. That is true. And we have recommended that there be a cost adjustment factor.

The differences are not accounted for by those differences in funding. Alaska's cost of living according to BLS is 50 per cent above the national average. Their Legal Services funding are 300 per cent the national average.

San Francisco's funding is twice the national average. Their cost of living is approximately 11 per cent

above the national average.

So that accounts for or justifies part of the difference but not all of it. We were recommending there be a more explicit recognition of that factor rather than that being used to excuse differences that really aren't based on that. They are based on good grantsmanship 20 years ago.

MR. SINGSEN: I would just like to call your attention to the distinction between cost of living and cost of doing business.

The cost of living figures that Dennis has quoted are correct but the cost of doing legal business has a different set of factors according to the study.

Alaska was 1.66 times the national average. San Francisco was 1.23 times the national average.

CHAIRMAN MENDEZ: What study are you referring to on legal study?

MR. SINGSEN: It is called Cost Variation Study.

CHAIRMAN MENDEZ: The '78? That is the study you were referring to?

MR. SINGSEN: Yes.

CHAIRMAN MENDEZ: Okay. Are there any other questions?

(No response)

Okay. If nothing else, we will turn to the next item on our agenda. The next is OFS reorganization. First on the line is Peter Broccoletti.

(Pause)

We have received several documents and we have just received a current updated one. I don't know if it is more current or more updated or what.

(Pause while witnesses come to witness table)

MR. BROCCOLETTI: I would like to introduce Joshua Brooks, Deputy Director, Field Services, and John Meyer, Associate Director of Field Services.

The proposed OF reorganization--I am just going to read a short statement and then I am going to go through these charts for you--follows almost four years or corporate reorganizations initiated in 1981 to respond to Congressional demands for more timely and effective monitoring of the Corporation's recipients, response to OFS's needs to eliminate within its operational structure inefficiency, unequal work load distribution, historical staffing inequities, duplication of efforts and functions, unjustifiable overhead and top-heavy layers of management, response to the budgetary reality which requires OFS to reduce the division's operational cost to $4.1 million thereby enabling the

Corporation to reduce its overall management administration to 10.7.

If you don't mind my moving around so I can go through some of these--

CHAIRMAN MENDEZ: Make sure you use the mike there.

MR. BROCCOLETTI: Yes.

(Speaker goes to easel)

Of primary concern was one, the budget, which we had to keep our OFS budget within $4.1 million, increasing efficiency and not disrupting the Corporation's business or carrying out of its functions.

As you can see, if we fully staffed the nine regional offices, our budget would be $6.1 million which is impossible for us to do. Even at the current staffing level it would cost us $5.3 million.

We were asked to come up with a plan that we could operate efficiently at $4.1 million. I firmly believe in regional offices. I think regional offices can be very helpful in carrying out our functions.

I don't think that we needed nine regional offices. Many of the government agencies have reduced their number of offices. For example, the Department of Education.

But I thought it was important that we have

regional presence: and office on the west coast, the Rocky Mountains, the midwest and the southern area.

The northeast, we felt Washington was an important part of the northeast corridor and could be serviced from headquarters. We planned to service the northeast offices or basically monitoring and evaluation through the increasing the office of monitoring and evaluation up to 19 personnel.

Two desks of approximately four people apiece would man these northeast operations. You are probably wondering how we got down from $6.3 or $5.3 down to $4.1 million.

This comes from a permanent yearly savings through closing four underutilized offices and I would to bring up the point about underutilized offices. For example, there are no permanent personnel.

In New York, there are three permanent personnel. In Philadelphia, there are two permanent secretaries. In San Francisco, two permanent personnel. We think there is a gross inefficiency here and we don't have the money to fully staff them and I don't think it would make us operate more efficiently.

There is over $400,000 of savings from just closing these underutilized offices. The rest of the savings comes from a reduction in the expense of monitoring

visits, the use of more staff and fewer consultants, and through a slight reduction in the size of the larger teams which proved unwieldy in the past, the economies in operation including a reduction of personnel slots in headquarters of OFS in some areas and a reduction in travel and consulting expenses.

Again I think it is important to note that the plan that was present when I came onboard February 11 of closing down all the offices except for Denver I did not think was workable at all.

I do believe in the regional presence. Also, even with that plan, the budget didn't come within $4.1 million. So we tried to devise something that would come within the budget making us an efficient operation.

Also, I have heard talk and comments recently and before in meetings of the human interest. I think that we have tried to take this into consideration as much as possible.

All the people in those regional offices and in Chicago, Atlanta, San Francisco and Denver below the director's positions will be offered similar positions in the regional offices there.

In the positions that are being abolished--Seattle and the northeast offices--those people will be

encouraged to apply for open positions in headquarters LSC.

For example,in monitoring evaluation we are increasing slots. In audit we are increasing slots. So these people will be encouraged to apply. ALso, we don't plan to--if the Board approves of this--we don't plan to just close the offices immediately.

We plan to gradually close them down to the point of October 1 so we have a more orderly consolidation as well as giving the people that might be affected more time to see whether they are going to come into headquarters or apply for another job at regional offices.

Speaking of the regional offices, you could see here we have the current staff and current personnel in these offices. Atlanta only has three permanent personnel.

We plan to increase that office, the southern office, to seven. Chicago presently has five permanent personnel. We plan to increase that midwest office to seven.

Denver has three plus three at the native American desk. We plan to increase the Rocky Mountain office to six. San Francisco only has 4.5. We plan to increase the Pacific office to six.

put Ohio and Michigan with the midwest. It will increase to 63 programs and $52 million.

The Rocky Mountain region with 40 programs and $72 million. The Pacific region and California with 41 programs and $37.6 million. You are probably wondering why do the Rocky Mountain and Pacific regions have less programs.

Well,they have less programs because the distances between the programs are so tremendous. In the Rocky Mountain region it would take almost a week to drive from one end to the other.

That is an important consideration. In the Pacific region we've got Alaska, Hawaii. It takes much more time to monitor and service these programs. And I think one thing that I did leave out that is very important is that we were changing the functions of the regional offices.

Their primary responsibility will be monitoring and evaluation. Their only other responsibility will be reviewing of the quarterly financial reports and purchase order requests of $5000 or more.

Previously, especially back in the 70s when the Corporation was expanding, when field programs were in expansion, the field programs needed a lot more assistance from the Corporation's regional offices in

helping them to expand. The field programs look to them for 1001 questions.

This isn't the case today when we are not in expansion. Also, we do not want to duplicate the efforts that have been taking place in headquarters in the regions.

For example, review of the Board composition, review of the refunding application and a list--I won't bore you by going down a list. But on page 7 of the book of this material it lists the whole myriad of functions that the regional offices have had, presently have, but only propose to have monitoring and evaluation--that is the main function--with the two other lists.

We do have in a proposed budget money for the regional offices to travel to their regional meetings so they can relate with programs and come into headquarters to meet with the rest of the staff.

But again to summarize, I think we have devised a program here that is very workable, will make an efficient operation, takes into consideration the human element and will do the job that we are mandated to do.

I will sit down if you don't mind and answer your questions.

CHAIRMAN MENDEZ: Tom?

MR. SMEGAL: Well, to start off on a lighter note first, there was a book written a few years ago in which the depiction was that California was going to slide off into the ocean and I don't know that that is a factual basis for your chart here, but I notice you have California slide off into the ocea.

(Laughter)

It does not appear in the new proposed set-up. You might want to include California in it.

(Laughter)

In talking about the offices that were ineffective or had little staff at the present time, you mentioned San Francisco. You didn't mention Seattle which was being closed.

MR. BROCCOLETTI: I'm sorry. I thought I meant Seattle.

MR. SMEGAL: You did mean Seattle?

MR. BROCCOLETTI: Seattle, not San Francisco.

MR. SMEGAL: You were going to move those to the San Francisco office.

MR. BROCCOLETTI: Yes. We plan to consolidate the Seattle and San Francisco offices.

MR. SMEGAL: I assumed that you meant Seattle. You didn't say it though. The Seattle right now--Seattle office--has two permanent employees?

MR. BROCCOLETTI: Yes, Sir.

MR. SMEGAL: Is one a director?

MR. BROCCOLETTI: Yes, Sir.

MR. SMEGAL: And one other lawyer or what?

MR. BROCCOLETTI: Lawyer.

CHAIRMAN MENDEZ: Any questions from the Board?

MR. WALLACE: What does MC stand for, did you say? Is that Micronesia or something, under Pacific?

MR. BROCCOLETTI: Yes, Sir.

MR. WALLACE: Okay.

CHAIRMAN MENDEZ: All right. No further questions appearing at this time, will you please remain available and we will let Mr. Braude--I think that you are next and whoever else after him will come up.

MR. BRAUDE: Thank you, Mr. Mendez.

CHAIRMAN MENDEZ: Would you identify yourself, please, and introduce the people that are with you?

MR. BRAUDE: I am still Jim Braude.

(Laughter)

To my left is Judy Stainbrook who works in what I believe is still called the Northern Virginia Regional Office.

Is that what it is called these days?

MS. STAINBROOK: Yes.

MR. BRAUDE: And to my right is Vaugh Gearan who currently works in the New York Regional Office.

Let me start by asking a question, if I may. I am gathering from the earlier discussion and from the direction that this has taken that there is not going to be a decision on this question here today?

Is that safe to assume?

CHAIRMAN MENDEZ: That is very safe to assume.

MR. BRAUDE: Okay.

If that is the case, you will be happy to hear our presentation will be much briefer than it would have been otherwise.

(Laughter)

CHAIRMAN MENDEZ: I would suggest to you that you better make it full because we will take a vote at the next meeting.

MR. BRAUDE: Let me speak to that question then, if I may. And Ms. Stainbrook and Mr. Gearan will address you.

I should say to being with, which I am sure you probably know but you will be glad to hear again, is that you will not hear, I don't think, from any of us that there is complete satisfaction with the current regional office structure.

We are not about to suggest that they are

functioning perfectly nor that there should be nine offices as currently structured.

It will also not surprise you to hear that we don't agree with the proposal that is before you for a variety of reasons that you will begin to hear about.

The problem we have, which is why I don't believe we can give as full a response as you, Mr. Mendez, requested a moment ago is --really goes to the question of process.

Mr. Thimell on your behalf spoke to me several weeks ago and invited me to come to this meeting which I appreciate. And I in turn said I would like to see a copy of the proposal that the Board would be discussing in advance.

He did forward that. I got that at the beginning of the week. At the same time, people who probably have a much deeper interest in it than I, namely one, the people who work in the regional offices themselves who one, because they work there and some of their jobs are at stake and two, probably more importantly have a terrific amount of expertise which I assume would be of some value and interest to all of you in making a decision about the functioning of those offices.

I think it is safe to say that the overwhelming majority of them to this moment don't know that you have an item on your agenda which we didn't know wasn't decisional an hour ago but conceivably could cause their offices to be closed and their jobs lost by the end of the day.

At the same time, I think another element of the Legal Services community that has something terribly valuable to say about this and I hope will are the people who run the 300 and some programs who in turn work under--for lack of a better expression--the current regional offices and will work under whatever reorganized structure there is.

Because of the shortness of time--

CHAIRMAN MENDEZ: Let me clarify.

MR. BRAUDE: Yes.

CHAIRMAN MENDEZ: There is no shortness of time.

MR. BRAUDE: No, no, no. I don't mean shortness of time for today; shortness of time in that at least the two people sitting here have seen the proposals for I believe in one case less than 48 hours and the second case approximately less than 48 minutes, give or take a little bit more.

I am not quarreling with you, Mr. Mendez. I

am just trying to make a point that if we are to have an intelligent discussion about what probably will be the first major decision you all will make about this structure and function of the Corporation internally, we hope that as your Committee, frankly, and some of the others--but we don't always agree with the decisions, quite obviously--there have been on a number of other items where there were even time constraints like the budget, for example.

Well, while we have obviously some serious disagreements, there was quite extensive dialogue on some of those; same with Mr. Wallace's committee on regulations; and as you suggested a minute ago when you were speaking to Mr. Roche on the state support question, you asked that I believe Mr. Daugherty get whatever the working document is to Mr. Roche.

And he in turn to his colleagues well in advance.

CHAIRMAN MENDEZ: Well, we provided you with the working document as well.

MR. BRAUDE: I said you absolutely did. And I believe it was sent last week and I got it on Monday. And as I said, I believe--I think I can say this without much of a chance of contradiction, that with the exception of Ms. Stainbrook, I don't know if there is one

nonregional director in a regional office who had seen the plan before today.

If there is one, I haven't spoken to him. I have spoken to plenty who don't know about it. They know that you are contemplating as you have been for months in your meetings between you and your colleagues some reorganization.

But the proposal itself they have not seen. Not only needless to say am I concerned, as they see it. And I assume so are you just from the perspective of fairness, as I said.

I think that the people who probably have the most valuable opinion, even though the final decision is yours, on this question are the people who perform the functions.

Whether they perform it properly or not is a decision ultimately you have to make. Despite all of that, Mr. Gearan and Ms. Stainbrook are going to be addressing the Board today.

I would hope that since I am sure you want to make the most informed decision possible, that prior to your next meeting--which I guess is in late May--that one, whether it be the Board or your staff, your senior staff, meet with at least the representatives of the regional offices. I would suggest that you meet with all

the regional staff.

Secondly, if there are project directors around the country who have opinions about this question, I think frankly the best way to do it, while this is a public meeting, if we really want to reach a consensus on issues--and this is not one of those moral questions where some people are at one end of the spectrum and others are at the other.

There is plenty of room for compromise, I believe. My sense is that before the next meeting that dialogue should go on and my hope is that there is resolution at the next meeting that most people find pretty close to acceptable, both the Board and the people who work in the offices and the programs themselves.

So I would urge you to instruct your staff to agree to such meetings and participate fully and openly in those meetings. I think that it would be very helpful.

Mr. Gearan is going to speak first as someone who has worked for the Corporation over a period of roughly 20 years. I think he is a good representative of a hell of a lot of experience in those regional offices which I am sure you find of value in your considerations.

And Ms. Stainbrook, despite the fact that she

really hasn't had the proposal for a terribly long time will speak to some of the substance of the matters before you.

I should say finally before they start that not only are we and the regional office staff absolutely willing and anxious to meet and participate in ongoing dialogue between now and whatever it is--May 20-something, whenever you are meeting again--we hope within I would say a week to have a very comprehensive written response to the proposal and an affirmative position, some of which you will hear today from Ms. Stainbrook, on the question

But quite candidly, much more important than written communications back and forth, I think we have opened the issue and I for one am quite convinced that if there is good faith dialogue back and forth in the next four weeks, you very likely will have a consensus come May 23 on May 24 on this issue from the field, the regional office staff and the Board itself.

So on that note I will introduce Vaughn Gearan.

MR. UDDO: Jim, just one second.

MR. BRAUDE: Yes?

MR. UDDO: I am concerned about your suggestion that not enough people know about this. I mean it was included in the agenda that I think goes to all project

directors and the chairpersons of the boards of all the field programs and is in the Federal Register that reorganization of the regional offices was going to be discussed.

MR. BRAUDE: Correct.

MR. UDDO: So I don't think that it is really think it is something that came out of the blue. That should be some notice that that if you are interested in that topic that you would want to get your input in at this meeting, wouldn't it?

MR. BRAUDE: Well, I say, one, that I am quite certain you are right, that the notice as you suggest did go out. I don't know if everybody has seen it but it absolutely is out in the places you are talking about.

But at the same time it, needless to say, doesn't include the proposal which has only been ready, from what I understand, at least from the date of my copy, from the 18th.

Secondly, I am sure we would all agree that there have been a number of meetings where we will have what I would call false alarms over the last several months where the restructuring of OFS has been on the agenda and when we come forward to ask are we discussing the closing or reorganization of regional offices, we are

have received it in the past--so that when we make our final decision,at the next Board meeting we will make a decision--

MR. BRAUDE: We hear you.

CHAIRMAN MENDEZ: And we will have all of the information that you care to present to us in writing before us.

And I would suggest that, as I have stated in the past, that you present it to us with substantial time so we can read it and comprehend it.

MR. BRAUDE: I think that is absolutely correct and we will do that.

CHAIRMAN MENDEZ: Now I am going to go ahead and exercise the Chair's prerogative and ask you to turn the mike over to the gentleman from New York.

MR. GEARAN: Thank you, Mr. Chairman.

I would like to thank you and the members of the Committee for an opportunity to address you today. With your indulgence, I will take a minute to tell you who I am.

CHAIRMAN MENDEZ: Of course.

MR. GEARAN: My name is Vaughn Gearan. I have been working in Legal Services and in community action work since 1966. I was admitted to practice law in Massachusetts in 1961.

I practiced for five or six years as a sole practicioner in private practice in the early stages of a practice--for those who know what sole practice in the first five or six years might be like.

During that period, I was elected President of the Fitchburg City Council. And in that capacity, when the community action program was inaugurated, people came to me and asked for their assistance in setting up a Legal Services program among other things, other community action programs, and I took an interest in it.

And because I liked my--because my dad was a country lawyer and spent virtually every morning in the local District Court representing people for free, just because that is what you did in those towns--there was no pro bono in those days.

Everybody did a little bit of that. And I took an interest in this program. Frankly, I was one of those lawyers who had a hard time charging a fee. I found that, and from my perspective then, however naive and young I was, that I wanted to work in this program.

That I could do the kinds of work that I really enjoyed doing, having learned about the community I lived in--a small city of 50,000 people--by working in Legal Services where I could handle those cases and I

would get a salary.

I think they came to me and asked me if I wanted this and the salary was like $12,000, $12,500 to be the director of this little program. And I took it.

I am very happy to this day that I did. I spent two years there. The program won the OEO Rural Legal Services Award . I guess out of that grew an invitation for me to come to New York City and be the regional director of the northeast region, which in those days, in 1968, included all of New England and New York and New Jersey.

In 1970, there was a switch and Puerto Rico and the Virgin Islands became part of the region and New England became a separate region. I was the regional director there in the days when regional directors had a lot of authority and in the northeast we had a lot of money considering the total amount.

We had about a third of the money in the country in the northeast. We got things started early up there. We had a lot of cooperation from the bar up there. That was less true in other parts of the country.

In 1975, when Legal Services Corporation came in, I became the regional counsel to the Community Services Administration. At that time--by the way, I

should mention that there was a shift in the regions in 1970 that in my view was the only true management decision that was strictly a management decision in the whole 20 years I have been involved in this about how to set up a regional national network for domestic programs.

It came out of the Ash Commission report, which you may be familiar with. If not, I suggest you take a look at it. President Nixon commissionerd the Ash Commission report which set up the ten regional offices around the country.

And it wasn't for Legal Services; it was for all domestic programs. And the idea was after an exhaustive study on all the data that is necessary to make those decisions in terms of management, population, et cetera, the decision was made that there should be ten regional offices around the country.

The only one, to my knowledge, whose boundaries remained the same today as 1970 is the New England region. All the rest have been changed. Frankly, in 1975 when the Legal Services Corporation came into being, they made a decision to not stay with the Ash Commission report.

I was not with the Corporation but I can tell you I was very displeased with the decisions they have

made which still exist today about how some of the regions are organized.

And I think that many of us would like to see a second look taken at that. In 1981, having worked a couple of years with John Meyer who is on the staff here now, at CSA--he was in the General Counsel's office of CSA and I was in the regional counsel's office.

After--by 1981, the Community Services Administration was out of business. It is a very interesting story how that happened. By the way, part of the way that occurred was to reduce the grades and the staffs in the regional offices first; then move it over to the block grant program and then make a move to close the block grant program.

There is some similarities in this. I am sure you have seen the Heritage Foundation report which was designed to close both the Legal Services Corporation and the Community Services Administration.

One down and I hope not one to go, since we have listened to your testimony.

(Laughter)

So in 1982--as a matter of fact, on December 10, 1982 I was hired by the Legal Services Corporation and you may ask how the heck did that happen with a background like this, right?

Well, I was hired by Bucky Askew on the day before--this is the day before Don Bogard took office. But I have one achievement I would like to share with you.

In the last two years, I have gotten favorable personnel evaluations from both Greg Hartley and Gene Potack and I don't think there are many people here who can make that statement.

(Laughter and applause)

So why am I here today, now that you know who I am?

MR. WALLACE: That's a good question.

(Laughter)

MR. GEARAN: Well, I thought about that all the way down on the train this morning and I feel a lot like the two fellows who were before the firing squad. The executioner came forward and offered the first one a mask.

He said would you like to cover your eyes and be blindfolded for this. The first fellow said why thank you very much. I would gladly take the blindfold. Thank you very much.

He went to the second fellow and he said would you accept this mask. The second fellow said absolutely not. I believe in what I am about to die

The regional offices, quite frankly and I am very grateful for this, can go about the business of doing their work. Now what is our work? Our work is monitoring programs, first of all, right?

Let's talk about what your priorities are. The first thing I would mention is strictly on a pure management point of view. It is not sound management and it does not advance the provisions of the Legal Services Corporation Act as it is written now to close these regional offices, at least without a lot more thought being given to it.

Because one of the sections of the Act which I am sure we all agree on is 1007(a)(3) which talks about economical and effective delivery of Legal Services.

There might be great discussions over which is better or worse in given situations but we all agree on that, I believe. And all management studies will tell you that if you are dealing with a service organization as distinguished from a profit-making organization that the emphasis should really be placed on effectiveness: how effective is what you are establishing in terms of a management system for what you want to accomplish.

I would recommend Peter Drucker--and probably

priority is strict enforcement of the regulations. And I don't think you would find anyone working in the regional office that doesn't agree with that.

The second is the advancement of private attorney involvement in this program. If there is anything I have heard that I think frankly--and not that it matters--that you certainly have a right to do is try to advance that agenda.

As a private attorney, I know a lot of--I knew a lot of private attorneys that would have liked to have seen that happen. I think it needs to be developed. And I am telling you that you won't be able to do it, at least in New York, without an office in New York.

Let me tell you why. There are 16 Bar asociations in New York City. There are some 60 Bar associations in upstate New York. This is just one state.

There is only one Bar association in Puerto Rico. It is an integrated Bar down there. But it takes a long time to get to know the people in the Bar down there. It takes a longtime to get to know the people and to understand their own internal politics in Puerto Rico, when you try to work effectively as an administrator with that program and with the Bar down there.

In my view, if you really want to advance the involvement of private attorneys, you need firing line managers as close to the action as possible. In New York, many of the Bar associations have already gone on record with Mr. Bogard and others when they came to New York--Denny Daugherty came to New York--and have gone on record as saying they are really not interested in Judicare right now.

And they are also concerned that the private attorney involvement is a ploy to destroy the staff attorney program in New York. Now that can be turned around but that is going to take a lot of work.

It is going to require having people around that they trust, that they will listen to, who will interpret to them what it is you are setting out to do.

And I am not going to make judgements about whether headquarters staff or regional staff can do it better but I can tell you that the people who are expert in monitroing the staff attorney program, in getting the information from them--it is one thing to go in with a monitoring team; it is another thing to find out something.

And you have to have people who they will trust to give the information to because they know it

is going to be used fairly to improve their program andyou will find across the country people who would tell you that their program isn't quite what they wish it was and they would like changes in it but they are very afraid that if they expose themselves to this that they political consequences will be very, very disruptive.

So it is important to have people around who have had the experience and who have the trust and it is simple really to set up a management system where they have to report on what they are doing without a whole lot of rules and regulations about what they do from morning to night, but to get back with the effectiveness.

What have you accomplished for us? This is what we want you to do. Now my personal experience on the issue of monitoring has been quite unique and successful, I might say.

I have been given a relatively free hand by OFS over the last two years to work with the New York City program. You have got an $11 million program with nine subsidiary programs and all kinds of issues and a lot of administrative issues.

I have been given a free hand to work with them. They complained here and I have been supportive.

And I would hope that this Board would like to see that replicated around the country with all the regional offices and the regional staffs. If we don't do our jobs, then all right, you have a remedy, if we don't get the job done.

But we would like an opportunity to sit with the staff here--and I must say that many of the people here--although I have told them right upfront that on several issues I disagree with them but we are all in this together if we want Legal Services to survive and if we want Legal Services to work for poor people.

And that our differences over delivery systems cannot be the be all and end all in this thing. And there will be political questions answered by the Congress and by the administration and by this Board.

Policy issues will be decided. And we have got to go with those. But we all want those programs to be clean. We want no scandals. We want no problems. We want them to be effective.

We can all help you do that. But you have got to give us a chance. We have not had a chance in two years. Despite all the personal comedy I have had--I have had that and I can't say I haven't--I have been treated very well by people in headquarters.

titles, lowering grades of the job and then inviting people to apply.

One thing--you know, without getting into all the merits of this plan because obviously we haven't had the time to do that--keep in mind a couple of things before you start closing the regional offices.

In 15 years since the ten regions were set up in 1970, there have been 12 national leaders of the Legal Services program, while in the northeast corridor there has been one regional director in Boston until very recently.

I think there were two or three regional directors in New York--give or take one. And I think two in Philadelphia. While 12 national administrations turned over down here.

It is the regional offices that have maintained the stability, who have done the day to day work, who made sure they complied with the regulations. And it is the regional offices who have made it possible for the political winds which have drifted back and forth from the beginning of this program, not to turn the whole program upside down.

And we may not be as useful in that way right now but we have had that background and we do know what was right with those programs and what was wrong with

in getting the dialogue going that I think Chairman Durant is trying to re-establish.

CHAIRMAN MENDEZ: Thank you very much.

MS. STAINBROOK: Since Vaughn asked for dialogue, I think I will just tell you what the plan is that we came up with.

CHAIRMAN MENDEZ: You are going to send us copies of your plan?

MS. STAINBROOK: Yes, we will.

MR. BRAUDE: With a significant amount of detail that we are not going to go into today.

MS. STAINBROOK: Yes.

CHAIRMAN MENDEZ: I just want to make sure that we are on the same wavelength.

MS. STAINBROOK: Right. It was only last night that we were able to try to communicate with every regional office and it was only last night that we could reach consensus on what we thought our plan should be.

We are still working on the numbers of how much it is going to cost. Our plan calls for eight regional offices. We realigned--we closed the Boston regional office.

We realigned five or six other regional offices along a more traditional structure. For example, we would

eliminate the Northern Virginia regional office that has always had great identify problems because it has Virginia, West Virginia, Ohio and Michigan.

And so we try to make--and I have worked in it and I know how awful it is to go to Michigan and say you are from the Northern Virginia regional office. So we have corrected a number of problems that we have seen in regional offices as we have been working in them.

We believe based on the--we have been very confused by all the budget--by the different figures that we have been given since February 1985 as to how much this Corporation actually wants to spend on monitoring; not just on the office of field services but how much this corporation wants to spend on the components that are monitoring components.

We believe that we can do the job just on monitoring personnel, not on whatever else may be in field services,for about $2.5 million. That is whether or not you centralize.

In other words, we believe that our eight regional offices will cost you just about as much as full centralization would cost you. But we are somewhat hampered in that because we don't have access to the same hard data, though we have asked for it, that the

people who are coming up with the budget figures do.

So we have had to guess. But we think that is more or less true. Therefore, we do not believe that the primary consideration that you should face in making this decision is cost.

CHAIRMAN MENDEZ: When you talk about monitoring, are you--one of the things that I repeatedly stated is that I want to see monitoring at least once every 18 months in every program.

I just want to make sure that we are operating on the same--

MS. STAINBROOK: Yes, we are operating on that same assumption. Yes, we have everything the same. We don't know what personnel levels we are talking about.

We don't know--

CHAIRMAN MENDEZ: Well, I think the best thing to do is back into the personnel level based on the monitoring that we desire to have done.

MS. STAINBROOK: All right. We also don't know--we have always received a lot of different policies about team size, independent consultants. We don't know what kinds of things you will want to have in your monitoring, for example.

We don't. But we still think it will probably

frankly say we want to centralize and therefore close all the regional offices because we think that you really are centralizing by putting 19 people in headquarters and still leaving only a few people out in the field.

Either we ought to frankly centralize and close the regional offices, which we think are here for window dressing but we do not think will work; or, you ought to say we will decentralize, take those 19 people that are at headquarters and staff up our eight regional offices or some other reasonable configuration that you have.

CHAIRMAN MENDEZ: How many people do you want in the regional offices?

MS. STAINBROOK: We have --we took the figures that the Corporation had which we think comes out to 46 professionals total, which is headquarters, monitoring personnel, plus the people that will be in the regional offices.

We were working with what we were given by the Corporation. Forty-six.

CHAIRMAN MENDEZ: Forty-six.

MS. STAINBROOK: Then we took a funding --a formula that was based on revenue going into the regions, number of dollars going into the regions.

minimum provide information --

CHAIRMAN MENDEZ: Strange that you should ask. At this time I will recognize Peter Broccoletti.

MR. BROCCOLETTI: First I would like to mention that there was a long process involved in this plan. As you probably know, when I started with the Corporation back in March of 1983, there was under discussion by then director of field services Greg Hartley to either shrink the number of offices, consolidate them or do away with them.

And this dialogue has been going over these last two years. Second of all, on March 18 of this year we had a regional directors meeting. At the regional directors meeting, we had representatives from each regional office and from Denver, two people.

We went through the plan, the previous plan, which had been consolidating the office to one office in Denver, consolidating the plan to one office in Denver, one in Chicago; another plan with one in Denver and one in Chicago; and one in Atlanta.

We went through that. As a result of that meeting and some of my concerns about those plans, President Thomas Opsut directed me to work on a new plan which would take into consideration the field, the regional office personnel's concerns.

that.

So I think by having some further discussion with those folks and perhaps getting some field people involved will help. But I can tell you a couple things that have occurred to me that might be helpful.

My program, which is in the southeast region, was monitored in January of 1980 and then the next monitoring visit occurred in August of 1984, four and a half years.

That was before Jack Mitchell, who commented favorably on this plan, was the regional director and it was before they got down to three people, I think, probably in 1980, '81, '82--Judy or one of the others can tell you--they were at that 12 person level.

Now I understand that I share a region with some programs that are considerably more volatile than mine and they may have taken a little more attention. But nevertheless that is track record.

CHAIRMAN MENDEZ: We try to understand that yours is just run perfectly.

(Laughter)

MR. ROCHE: Can I use that in response to my monitoring report?

(Laughter)

The other point that I would like to make

right now is that though I am sure there is some really genuine and well-intentioned rational in this, I am confused by a plan that suggests that fewer people be involved in regional offices that are going to be largely responsible for monitoring than there have been in the past, on the one hand.

And on the other hand, OFS is also coming to you as part of their presentation on fund balancing and asking for a million dollars to catch up monitoring for 18 months.

Those two just don't fit together in my mind. And I think that there is some kidding around going on about the amount of money that it really takes to run this corporation and you may want to be re-examining a lot of that.

CHAIRMAN MENDEZ: Okay. Thank you.

Are there any other comments?

MR. COOK: I am Willy Cook, project director here in Washington, D.C. My comment doesn't deal directly with the last subject matter of regional offices.

But I am here to make a request. That request is I don't know when your next committtee meeting is--I guess sometimes in May. If it--is it in May?

CHAIRMAN MENDEZ: Yes.

MR. COOK: All right. I would like for the

Reggie program to be on the agenda. The reason I ask that it be on the agenda is that I am rather struck by a number of the subject matters on the agenda.

It seems that this committee and the staff at least publicly have gone through a lot and are continuing to go through a lot in the way of effort in terms of studying various issues--regional offices, et cetera.

Now to my knowledge, there has not been the same attention, at least publicly, given to the Reggie program. As a matter of fact, I was not here at the last Board meeting and frankly was astounded and quite concerned that the Board recommendec zero funding for the Reggie program in 1986.

One of the reasons that it troubled me even more is that I remember very specifically, Mr. Chairman, when I testified before your Committee at the--not the last meeting but the one before that--one of the things that I had done was to try to get some information about how programs were presently using former Reggies.

And one of the things that I heard you say to OFS people was how is it that Mr. Cook can get this information and you all haven't. One of the things I want you to do--speaking to the staff--was to get certain information about the Reggie program.

So I took it from that that we were going to have one, some study by OFS on the Reggie program and some discussion. So when I was not at the last Board meeting and heard that you had decided to zero out the Reggie program for 1986, I was quite astounded.

It brings me to my present point, which is: one, I would like for the Reggie program to be on the agenda next time; the other thing is I would like to know why is it that the Reggie program does not deserve the same kind of study and discussion publicly as regional offices and other important parts of the budget?

I really do not understand the Board action on the Reggie program without the kind of public discussion and study that you and the Committee and the rest of the Board are affording to other aspects of Legal Services.

CHAIRMAN MENDEZ: Thank you for your comment.

MR. COOK: Can I have some view about whether or not we can have the Reggie program on the agenda for the next committee meeting?

CHAIRMAN MENDEZ: You cannot. It will be within the next three but I will not give you that commitment.

MR. COOK: I didn't understand what you were saying.

CHAIRMAN MENDEZ: Within the next three meetings.

Let's say by the end of September. But I will not give you an assurance that it will be on the next meeting.

MR. COOK: Is the next meeting going to be in May?

CHAIRMAN MENDEZ: The next meeting is going to be in May.

MR. BELL: Mr. Chairman, may I be heard?

CHAIRMAN MENDEZ: Please.

MR. BELL: My name is Murphy Bell and I am from Capital Area Legal Services, Baton Rouge. What I would like to know is whether or not this hearing on the reorganization of the Office of Field Services can be held open a little while longer so that persons in the field like myself and others who are concerned about the operation of the regional office and the standards which they have utilized to approve purchase requests and other matters,whether or not that will be included as part of this reorganization process.

And the reason why I am saying that: we have had some problems with the Atlanta regional office for the past three years that we have not resolved. We feel it is necessary that in any reorganization that you ought to have a uniform standard by which the field person can determine and operate that program in an orderly way.

I think we have a problem. We came up here today to see if we can resolve it and now we heard that they are going to reorganize the Office of Field Services and keep the Atlanta office open.

We are very concerned because we have not been able to operate our program in an orderly fashion because of some problems that we have been complaining about for two years.

I would like to find out whether or not we will have a chance to come back in. I know you have said that this is it but I didn't know about this program. We came up from Baton Rouge and we feel that we ought to be given an opportunity--

CHAIRMAN MENDEZ: Can you prepare written documentation?

MR. BELL: Yes, Sir. I think we can. If you can give us about ten days?

CHAIRMAN MENDEZ: That is fine.

MR. BELL: All right.

CHAIRMAN MENDEZ: I will tell you what I would like you to do.

MR. BELL: All right. Yes, Sir.

CHAIRMAN MENDEZ: I would like --Joel, will you give him the addresses of all of the Board members?

MR. THIMELL: Sure.

CHAIRMAN MENDEZ: I would like you to make copies and mail it each one of the Board members as well as send a copy to Mr. Thimell in the headquarters. This is the gentleman right here.

MR. BELL: Okay. That will be fine. And thank you very much.

CHAIRMAN MENDEZ: Thank you. Is there any other comment about the regional offices?

(No response)

None appearing, let's take about a ten-minute break since we are down to the last item on the agenda.

(Whereupon, a brief recess was taken at 3:37 p.m.)

Back on the record.

At this time, the Chair would recognize Mr. Opsut and Mr. Gessner and Mr. White.

Now how are we going to divide this?

MR. OPSUT: Mr. Gessner will give the report, Mr. Chairman.

CHAIRMAN MENDEZ: Please.

MR. GESSNER: The 1984 carryover fund balance is $5.385 million--$5,385,137. The staff is proposing that the commitments identified in attachment 2 be allocated to the extent of $1,584,377.

There is a list in my memorandum to Mr. Opsut.

distributed until those receivables were collected.

The programming will require notification to Congress under Section 509 of the Appropriation Act. I can answer any questions.

CHAIRMAN MENDEZ: Paul?

MR. EAGLIN: Yes. The beginning of your initial memo indicates that those receivables are questionable--the collectability of them is questionable.

So it is possible that the funds that you are indicating for basic field might be as low as a maximum of about $400,000, am I correct, at the very beginning there?

I do not like the entire approach of this, not at all. As I see it, we've got money here--nearly $4 million uncommitted that I feel ought to be going to the provision of direct service.

CHAIRMAN MENDEZ: Do you have any questions about the committed funds first off?

MR. EAGLIN: Not the committed funds, no. I have a lot to say about the whole matter though.

CHAIRMAN MENDEZ: Okay.

MR. EAGLIN: If you want me to hold off, fine.

CHAIRMAN MENDEZ: No. Go ahead.

MR. EAGLIN: Let me get back to where I was. Well, do you want to say anything about that, the

receivables? That was the initial question I led off with.

MR. WHITE: Well, on the receivables I just felt as though there will be a better posture for the Board to take to wait until we collect those funds before we decide to award that money.

Again the probability of it is one that at this point is really questionable. I do expect us to recover the money but I am not sure the extent of time it is going to take.

One of the receivables, at least the major portion of it, is a refund due from the Internal Revenue Service of approximately $255,000. It is a matter of time, whether we get it in this fiscal year or next fiscal year.

So I wouldn't want the Board to allocate those funds or at least make the awards for those funds until after we had received the actual cash from the IRS.

CHAIRMAN MENDEZ: So you have included those numbers in carryover funds?

MR. WHITE: That's correct.

CHAIRMAN MENDEZ: So that is really a contingency or is it not? Are we for sure going to receive the $250,000?

MR. WHITE: Yes, I believe we will receive it. The question I have is the timing. At the time the receivable was recorded, we felt that we would receive it before the end of the fiscal year.

As of yet, we have not--I have been in contact with the IRS and they are still processing it.

MR. EAGLIN: Let me ask you, Mr. Chairman, do you want me to go down and just indicate where I differ with them or just broadly?

CHAIRMAN MENDEZ: That would probably be the most expeditious method.

MR. EAGLIN: Okay, you indicated the committed section. Let me go over straight to the uncommitted. When we talk about direct delivery of services, I don't understand why we are going to go with $1.26 million to these newer projects when we have our basic field programs, our staff attorneys, who have had a sucession of them meeting after meeting letting us know that we need these funds for direct delivery.

MS. BERNSTEIN: These are the projects that are delivering uncontested divorces for $75 a divorse.

MR. EAGLIN: I have indicated before and I still feel the same way that before we get into these newer more experimental systems that we ought to get involved in bringing up our staff attorneys, okay--staff officers.

MS. BERNSTEIN: Paul, the question really I think is what can we do for the client and not what we can do for the attorneys. And if we can get more services for our clients through these programs and the early results show that that is what we are doing, then this is a small part of $247 million of direct delivery.

MR. EAGLIN: Well, you and I have our differences in terms of our emphasis. Yours, I understand. My emphasis is more toward staff attorneys. And I have to have much greater confidence in the efficiency and--

MS. BERNSTEIN: I hope we do not have a difference in terms of the client being our focus.

MR. EAGLIN: No, that is not it. That is not where it is. I see the staff attorney method as the most efficient way of delivering that service to the client and that is where I have my confidence.

MS. BERNSTEIN: I understand. You and Tom both do not have exactly an open mind on this issue.

MR. EAGLIN: Pardon me?

(Laughter)

We don't have an open mind?

No, I think it is because I do have an open mind about it. One, I have confidence in the staff attorneys and the staff officers, that concept. I would

anything near the $5 million?

MR. GESSNER: Nothing to the extent we had--the $1.7 we had last year, no, Sir.

MR. SMEGAL: Dave, when are we going to have the second quarter numbers? March, isn't it?

MR. GESSNER: Pardon?

MR. SMEGAL: Are we talking about October to December was the first quarter and January to March the second quarter?

MR. GESSNER: We will have the mid-year review at the May or June meeting.

MR. SMEGAL: Okay.

CHAIRMAN MENDEZ: Will we have them at the May meeting?

MR. GESSNER: I would hope so. But definitely by June.

CHAIRMAN MENDEZ: Any other?

MR. EAGLIN: You have my general instincts. I think this money needs to go not as you proposed but needs to go into our basic field programs and instead of allocating almost $700,000 of--well, it is carryover funds to basic field programs of which $300,000 is questionable receivables.

I think we ought to put the uncommitted into the basic field programs.

MR. GESSNER: I would also point out that it has been our history that as surpluses have been identified during the year, we have moved money into the field.

Last year I think third quarter review, approximately $1.2 million was moved in from surpluses identified in other activities. $500,000 of that came from management administration.

MR. EAGLIN: Mr. Chairman, could I ask a question, too? Do you want me to address--Mr. Meyer had a memo in here, too. Do you want me to go into that now or should I hold that because I don't see him there at the table?

CHAIRMAN MENDEZ: I would like you to go ahead.

MR. MEYER: I am here behind the table.

CHAIRMAN MENDEZ: I would like you to address all of your questions.

MR. EAGLIN: Okay. I had a lot of concerns about the emphasis under monitoring. Different ways, I guess--as I was reading through this I was trying to think of different ways of accomplishing what we want to under monitoring.

The memo mentions from time to time the consultants, the problems mentioned with the consultants:

who has counselled on us too much and who hasn't produced reports in a timely fashion.

Another big problem is reports sometimes take six months to get in. We are really going to try to meet the 100-day standard after the visit. That sounds like a lot but I think I have detailed it--

MR. EAGLIN: Right.

MR. MEYER: The other thing is most of the cancellations are not consultants because you can often replace them. Cancellations are caused by a number of factors.

If a large number in the program cancels on you--they say we aren't ready; our executive director is in the hospital was the latest one--and that is a legitimate excuse.

Bad weather causes cancellations. There are a number of things. We are going to try to get the cancellation numbers down where we have to do--one of the things we have to do for that is to gain more uniformity in procedure.

Everybody does it differently, both in terms of standards and in terms of when you do what. And we are trying to get a grip on this. I really believe we are going to succeed in getting a grip on this and have much more efficiency.

But the numbers that I used have to take into account the fact of cancellations. There is actually no numerical expense for cancellations. Most of the expense doesn't exist if you cancel it.

It is more of a scheduling problem. Obviously if you have too many cancellations we won't get up to the 18-month cycle as fast as you want to. I believe that we will be able to lick that problem.

MR. EAGLIN: How many different individuals serve as consultants on these monitoring visits?

MR. MEYER: You mean our total pool?

MR. EAGLIN: Um-huh.

MR. MEYER: To be honest, I don't have a number but it is several hundred.

MR. EAGLIN: And you said--

MR. MEYER: And we are trying to expand it.

MR. EAGLIN: Yes. Did you say that you already have or you are trying to put together a list of who they are and how much they have made say on a year by year basis?

MR. MEYER: Okay. We are trying to computerize so if--really the objective was if somebody cancels or a team isn't any good in a particular region that it is possible to look through and see who we could put.

We are computerizing for that purpose. That will

or plus their fringes would be X-amount of dollars and their consultancy fee is a little bit more than that, why not just reimburse their program for that amount of their salary plus their fringes and perhaps we could get some savings from that.

MR. MEYER: You might possibly get some savings from that. I don't think I would count on it a whole from that. You are suggesting rearranging--pay the program and effectively have them send the person rather than us paying the person and have the person take leave.

MR. EAGLIN: Um-huh. Look into it.

MS. BERNSTEIN: I think we run into a conflict of interest question there if we are paying a program.

MR. EAGLIN: We are taking away their worker for a week.

MS.BERNSTEIN: I don't know. I would have to think about this a little bit more but it seems to me the cleaner relationship for us to be paying the individual to perform the work.

MR. EAGLIN: Let's all think about it. Let's all think about it.

MS. BERNSTEIN: Okay.

MR. EAGLIN: It is something to work on. It is something to work on. Okay?

CHAIRMAN MENDEZ: Let me ask a question. At the present time, are these consultants hired by--is there a contract?

MR. MEYER: There is always a contract.

CHAIRMAN MENDEZ: There is a written contract?

MR. MEYER: Right.

CHAIRMAN MENDEZ: And they have the duty to perform the contract?

MR. MEYER: Right.

MR. EAGLIN: I think we ought to working on it, all right, and keep thinking about that.

The other thing is we pointed out in our service delivery that we are resorting to private Bar and pro bono and so forth as a feature in service delivery.

Perhaps we could have consultancy done on some basis a pro bono expenditure of somebody's time from a law firm for a week or three consultancy visits per year as their pro bono service to Legal Services.

Or, retired attorneys from major law firms, directors of programs. I think we need to go into new avenues there as well, all right?

MR. OPSUT: I know that on occasion we have had monitors either upfront say that the would not charge us for doing monitoring or that after doing the

monitoring they would not accept their consultant contract price for doing monitorings. So there are some consultants out there that will do it as a pro bono effort.

MR. EAGLIN: We may be able to expand that, too. I think if we push that enough I think we could get more out of that. I think there would be persons willing to do that from law firms.

If you can have a law firm here in D.C. that would assign an associate for six months.

CHAIRMAN MENDEZ: I tell you, I would go to Hawaii anytime.

(Laughter)

MR. EAGLIN: Why not? Why not? So it is a good point, it is a good lighthearted point but it is also a very good serious point, Mr. Chairman.

CHAIRMAN KENDEZ: That's very true. I agree because if you can work the expense aspect of it out.

MR. EAGLIN: Right. Just reimburse them for expenses.

CHAIRMAN MENDEZ: Any anytime you have Palm Springs in December, look up me.

MR. MEYER: Mr. Mendez, could I make a comment on that?

CHAIRMAN MENDEZ: Please.

They were discussing this problem of getting that pro bono attorney to follow up to complete something. They had to drop some persons I think from a panel because of the type of problem that you are talking about in direct service delivery.

And I recall that they did not say that there were very many. I don't think you are going to have very many doing this as well.

CHAIRMAN MENDEZ: I would really like to have you examine that.

MR. EAGLIN: Let's look into it. Keep going with that. I think we can cut some costs there.

CHAIRMAN MENDEZ: Let's see if we can give them a little bit better direction here.

MR. EAGLIN: The whole thing in reading through all this, I didn't have a good enough idea of the role of these consultants, who they are, how much each one is making on an annual basis.

I don't want anybody to get rich on it and I couldn't tell from this whether somebody is really making a killing as a consultant. Then address this issue of utilization of staff attorneys and managers from various offices around the country to go to other parts of the country because there will be a lot that they can then bring back to their part of the country and to

their programs that could be applied there where they find out something that is being done well elsewhere and they might be able to apply it to their part of the country.

MR. MEYER: Let me try to clear the record on that because the fact of the matter is I believe the majority of our current consultant pool are those people so again it is not a change you can make because it already exists.

I know that when I see the consultant teams I frequently see a consultant team of six and three are from a program.

MR. EAGLIN: I guess just as an aside, I notice this is a drastic change from I think the December memo when there was a recommendation of something like $1.8 instead of something like $700,000 to basic field back in December; the recommendation was $1.8 million in the same category. Quite a departure. Quite a departure. Right?

CHAIRMAN MENDEZ: Why is the change?

MR. GESSNER: The increase in the request for monitoring and the identification of certain requirements within headquarters during those several months are certainly contributing to that change.

CHAIRMAN MENDEZ: Is there any questions from the left of the table?

the inefficiencies are horrendous.

The problem with trying to catch up too fast is that you suddenly have a tremendous peak. Now there is a great deal of administrative work and so on to get these teams out of there and back, to get all the reports written and so on.

We are intending to have the ability to control this problem in headquarters so it isn't erratic and comes out reasonably uniform and reasonably timely. And we worked on this more than almost anything else.

We believe the proposal here is the efficient way;with this extra million dollars we will catch up to the 18-month cycle by April first. If we are lucky and achieve exactly what we said, we will even be a little better than 18 months.

Then if the people want to give us some more money, we can get it down to 15 months and eventually to 12. Let's not try to jump all at once because it really is true that crash programs cost twice as much per result.

MS. BERNSTEIN: You say by April first?

MR. MEYER: April first.

MS. BERNSTEIN: Are you talking about having back reports by April first or are you talking about having sent your last team out by April first?

consultant list you believe by next meeting?

MR. MEYER: I think we can get the consultant list computerized by the next meeting.

CHAIRMAN MENDEZ: All right. Can you also, maybe on a separate list without going to a great deal of difficulty, get us a list of when the last time programs were monitored?

MR. MEYER: Yes, if we keep them simple like that, we can definitely get them without being a tremendous compilation.

(Laughter)

Yes, we can give you a list of every program.

CHAIRMAN MENDEZ: I understand what you want but we have to be realistic about this, LeaAnne. You are going to have to do some of the manual labor yourself, LeaAnne.

Is there any other questions from the Committee?

MR. EAGLIN: Can I ask the meaning of "committed" in this section on committed. Just as an example, on page 48, the program development, when you speak of the private law firm project, $431,000 plus, is that money that is now owing or are we just trying to set aside a definite amount of money for the payment of some expenses?

MR. GESSNER: There were contracts let with

these law firms that called for 30 per cent to be paid to the firms upfront and the balance to be paid as the work was done.

This is the balance remaining on the contracts. We are contracturally obligated to pay those.

MR. EAGLIN: And the work has not been done though on these, right?

MR. GESSNER: Right.

MR. EAGLIN: It has not been done yet?

MR.GESSNER: No. It is in the process of being done. And commitments are being made.

MR.OSTERHAGE: Some of the work has been done. We are operating on a pay as you go basis whereby they submit a monthly invoice.

MR. EAGLIN: Yes, I saw that.

MR. WALLACE: For the benefit of the Court Reporter--and for me for that matter--can you say who you are?

MR. OSTERHAGE: Okay. My name is Keith Osterhage. I am acting manager in program development and substantive support, a unit in the office of Field Services.

Those contracts are out of my unit and we specifically designed the contract structure to allow some initial payment upfront and then allowing for monthly

CHAIRMAN MENDEZ: If there are no other qeustions of these gentlemen, Terry do you want to carry out a dialogue with them ?

(Pause)

Why don't you just sit back in the back then.

Mr. Roche?

MR. ROCHE: I am really sorry but I have got a bunch of stuff. I would like to start by arranging a trade with LeaAnne. By the way, I am Terry Roche and I am still the same guy I was earlier.

(Laughter)

There was a memorandum--I had a memorandum nine months ago that listed all the programs that had not been monitored in something like the previous three years in the schedule for monitoring.

I will see if I can find it in my files although you are better at that than I am--

(Laughter)

--and see if I--I mean literally if I have it, I could send it to you. OFS has it someplace. It does list the programs and that is fairly quickly available.

But the trade that I would like to arrange, and maybe I didn't understand you correctly. At one point in your exchange with Paul you talked about the early results on the five private test sites.

Were you talking about a report other than the material that was included in the budget?

MS. BERNSTEIN: I was talking about what was presented to the Board.

MR. ROCHE: The one that shows that the contracts were let at?

MS. BERNSTEIN: No, the information regarding--yes, what the contracts were let at and what it looks like in terms of the total dollar value that we are getting from them?

MR. ROCHE: I guess what I am asking is is there a report right now through something like the first or second quarter of the stuff that--

MS. BERNSTEIN: No. We had to do some manual labor in terms of looking at the report.

MR. ROCHE: Okay. What I was about to ask for was a report that showed the numbers and costs that have come out of the first several quarters of this and the evaluation instrument if it exists.

CHAIRMAN MENDEZ: I think we have everything that we had at the present time.

MR. ROCHE: Okay. So you guys haven't seen anything like that? You haven't seen any reports of that nature on the first five?

CHAIRMAN MENDEZ: Go ahead, Keith.

MR. ROCHE: Okay. I guess what I was confused about is what I think I just heard Keith say, is that right now other than the contract prices there is no information about the cost, the quality, the quantity, or anything about these first five projects that has come in to the Board for you to make any judgement on about continuation of any of these projects or whatever you want to do.

Is that correct?

MS. BERNSTEIN: Well, I can't completely agree with you from the standpoint that what--that the way that the contracts were let and this is something that I asked for and maybe this is something that hasn't been given out.

But I am sure that Keith would provide it for you. I asked for some client satisfaction surveys which are part of this and as far as the quality and so forth, the evaluations by the Bar and the communities and so forth that went into the awarding of the contracts and so forth, I think we have some preliminary data--which is how I stated it--that we are, for $75 or whatever the contract price--getting some good services.

And the client satisfaction surveys are very favorable, the ones that I have seen and it has been a limited number.

problem that you have in any kind of new program where you don't serve clients nearly at the rate that you intend to in the first three to six months, and you have only got six months left in this fiscal year.

This was data that I want to be sure was out on the table.

MS. BERNSTEIN: Okay. Let's clarify one thing though. Just because the lawyers are not paid during that fiscal year doesn't mean the clients were not served during that fiscal year.

So to some extent we are really leveraging our money faster than we would under a staff attorny model because the clients have already been served but the attorney has to finish everything, complete all the paperwork, go through every bit of procedure, submit his bills and wait for us to process it before he gets paid.

MR. ROCHE: But I would want to see the CSR data and the stuff Keith was talking about before I said that that was anything more than a conjecture.

MS. BERNSTEIN: I understand that you are complaining about the process and I am simply saying that--

MR. ROCHE: I am not complaining about it. I am just suggesting that you need to be taking this into

account.

MR. ROCHE: The whole question of the first quarter carryover that Paul brought up, some of which is embedded in this whole discussion of both the experiments and the monitoring, the way I read it there was $94,000 and some odd dollars spent out of the program experimentation line in the first quarter of fiscal 1985.

That is what the first quarter budget looks like to me. And I understand their plans and I understand that there may be an upswing in the rate. But last year in that same line the first quarter expenditures were $114,000, something larger than this year.

And that is the line out of which $1.2 million got transferred ultimately to the field, not during the fiscal year but the checks actually got out at the beginning of this year.

And it ended up with only having $1.8 million spent entirely. I mean you can talk about projections and rates but let's do business with what we've got on the table in front of us.

Program development, underexpended in the first quarter, $363,264. Management administration, underexpended, $801,130. That is a total of $116,394 for a fund balance of 35 per cent off of those lines in the

to expend everything that it wants or requests in its budget.

In the earlier budget as it stood back in January at the beginning of this year, the carryover that had been requested before the Board was much larger by a figure of $500,000 or $600,000.

This memo which was included in the materials provided you indicates that we took that original budget, prioritized our projects, identified site-specific projects in a good faith effort to reduce that carryover request and make sure that we could successfully implement those projects and get contracts signed.

I am also very concerned that although these are research projects and as such they are not a normal routine, much the less we are getting double-duty out of them and that service is being provided to clients.

They are both a research effort for the corporation and delivery service for the Corporation.

CHAIRMAN MENDEZ: Let me just--you have a right to make your presentation. I don't know if you want to have them respond to your points.

MR. ROCHE: That's fine. I enjoy a little dialogue.

CHAIRMAN MENDEZ: Okay.

MR. ROCHE: What I am trying to do is wash out

applied to the migrant situation , also.

Last year in the third quarter budget review for reasons that I was not privy to,because I wasn't playing very close to it at the time, had to do, I believe, with migrant efforts and migrant programs in Arkansas and one other state.

$195,000 was moved out of the migrant line into the basic field. If the philosophy is going to be that we use in '85 some of the stuff that didn't get used in'84 then why shouldn't the migrants have that close to $200,000 particularly in light of the fact that we are looking at a cut for '86.

I think that is something you ought to very carefully consider. I mean it may not be spendable in Arkansas but I am sure it is spendable someplace else, particularly looking down the line at some kind of retrenchment.

Almost finallyy--I do try to be--I remember Clark at the first December meeting. He said be civil, be civil. I have tried to be civil all this time. But there is one thing that I get angry about.

In the recommendation there is $353,000--$87 and some out of it in the $1 million monitoring recommendation and the balance from OIM--for upgrading of computers and for purhcase of word processing.

That one really does get me angry. I have got a xerox machine that I have not been able to replace for years because I am beating it to death. I cannot afford that money.

I can't buy a computer. I have only got one CPT. My God, before they get into Star Wars in the central office, how about letting us get into the 20th Century.

We need that money and it is a great place for the use of one-time funds. Lots of older programs have been forestalling, as I told you in the memorandum I sent you, a great deal of capital replacement because we want to keep people out there serving clients.

If they are going to get $353,000 to upgrade equipment, let's get some money into the field for the same thing. When we did our survey that was one of the highest needs mentioned.

Finally, I think that the contrast between some of the testimony yesterday and today and then some of the written testimony that as a rationale for the shifting of 4.6 per cent into the basic field programs--many of you stated over and over again that we honor and want the direct delivery of services to clients--and I say that is a message that you are not giving if you adopt the staff's recommendation here. You are

just not giving it.

It is going into experimentation. It is going into more management. It is not direct delivery of service to clients. And I do know from my own experience testifying before the House Appropriations Committee and yesterday in listening to the testimony before the Senate Appropriations Committee, that the Nol 1 thing on those committees' minds is how this carryover gets spent. Absolutely.

And I think that if you all pass this particular--if you all adopt this recommendation and state by it that there are a lot of other things you want to do besides direct delivery of service to clients, that that may not be--it may not square with the testimony that has been filed and made ready.

MR. WALLACE: I have not been to either of those Appropriation Committee meetings.

MR. ROCHE: One of them I was the only person there from the field. For some reason or other, the Corporation wasn't interested in hearing what PAG had to say.

MR. WALLACE: Yes, I think I remember that hearing. And frankly I didn't even know it was going on until it had happened.

MR. ROCHE: Right.

MR. WALLACE: But I have looked at some of the testimony. What is your impression of what our appropriations subcommittee thinks this ought to go for?

MR. ROCHE: What is the "this" that you are referring to?

MR. WALLACE: The carryover funds. That is the most important thing they are looking at, you say. What is it they are looking to see?

MR. ROCHE: Well, I can tell you what Senator Rudman said yesterday.

MR. WALLACE: Okay.

MR. ROCHE: David and Tom, if I misquote please correct me. But after the presentation of the staff's proposal, Senator Rudman I believe looked and said why aren't you just putting that out into the field where you can deliver direct services to clients.

And I think the staff suggested to the Committee that the final decision was yet to come and that the Board, in making it, it may have suggested that it was being made today at the committee level.

And Senator Rudman said please give me that decision as soon as it is made. I am very interested in taking this into account in the 1986 appropriations process.

Did I get it wrong, David?

MR. GESSNER: No.

CHAIRMAN MENDEZ: We've got a couple more questions for you.

Do you basically feel that the commitments that they have listed in Mr. Gessner's report are accurate and we ought to follow those commitments with the exception--based on your statement to us--with the exception of the $431,000 under what is listed as committed funds?

MR. ROCHE: That's a problem because I have got a different memorandum in front of me. I would have to look and see. I haven't thought about that.

Is it the same?

(Pause whole peruses document)

No, this is simply experimentation. That is just programs.

I would have to pull that. Just looking at program development, there is $200,000 in commitments, $31,876 in the national support study which I haven't got a whole lot of choice about, and $22,603 IOLTA which you haven't got a lot of choice about.

I don't know that there is a whole lot of choice about the committed. It is the uncommitted that I am addressing my remarks to.

CHAIRMAN MENDEZ: All right. So let me ask you one other question that really sort of bothers me. They talked about the $300,000 that had not been selected.

MR. ROCHE: The $300,000 as I understand it is it represents the value of all the unquestioned costs that are out there inthe field right now. I don't know that the Corportion has every collected unquestioned costs.

I don't know frankly that the Corporation even has a mechanism for collecting unquestioned costs. It seems to me there is an interesting sort of biplay here.

There is $426,000 in interest income that is being held back for emergencies. Maybe what needs to happen is that the $426,000 gets added to the pot to be put out and the $300,000 becomes a contingency reserve against emergencies.

That is another possibility.

CHAIRMAN MENDEZ: Okay.

Mr. Gessner, do you want to respond to some of his statements?

MR. GESSNER: Out of that $300,000, as Mr. White pointed out earlier, there is $255,000 that is a receivable from IRS. We may get that this year. We may not get that this year.

Because it involves a clean action, we recommended that that be allocated. The money that we requested for private law firms, it is theoretically possible that the entire $431,000 could be expensed in 1985.

It is doubtful. And there will be carryover on these longterm projects into subsequent years. That is just a given. It is a much cleaner approach to deal with these things in lump sums.

Take the $431,000 allocated and then look at the carryover next year. There will be carryover. It is prudent management to retain some carryover. The Corporation has never gone from year to year without a substantial amount of carryover.

It is certainly our intention to minimize the carryover and I would hope that as the second and third quarter review is materialized, we would find money and shake money out particularly in program development.

See how they are going out, going about spending this money and letting these contracts. And if there is money, then move it into the field. That is the approach we took last year.

And that is the approach that I would recommend taking this year. But give them the chance this year to take on these experimental projects.

Let me respond to specific questions if you have any.

CHAIRMAN MENDEZ: I have nothing.

MR. ROCHE: May I just say one thing in response to that?

CHAIRMAN MENDEZ: Please.

MR. ROCHE: Well--

CHAIRMAN MENDEZ: Terry, is your thing in writing?

MR. ROCHE: I was just figuring it out this last couple of days. I can do it.

CHAIRMAN MENDEZ: Would you do that?

MR. ROCHE: Not next week.

CHAIRMAN MENDEZ: Do it this week then.

(Laughter)

MR. ROCHE: This weekend.

(Laughter)

CHAIRMAN MENDEZ: With a copy to David.

MR. ROCHE: I don't mean to be mean but last year everybody was going on the prudent management theory also. And before the end of the year, $1.2 million got pulled out of the experimentation line into the field.

That was good. But it happened on the third-quarter budget review and it didn't get out until the beginning of 1985. Another million--and I still haven't

figured out where this came from--got shifted around so that it got out at the last minute to the three back-up centers.

Even so, out of a $4.2 original budget for experimentation, only $1.8 got spent. And everybody held onto it. And now what we are doing is talking about the money that David is saying will get shifted out on the second and the third quarter review and here it is after the second quarter of '85.

We need it,folks. And there are things we can do to serve clients directly. We can become more efficient with these one-time funds. We can--I know that I have got a position right now that I am hanging onto hoping to get some money so that I don't have to fire the person at the end of the year or the middle of the year--before the end of the year.

I would sure like some money to bridge that. And there are others like that all over the country. Direct service. We gave you a plan. Please.

CHAIRMAN MENDEZ: Thank you, Terry.

Anyone else care to make any comments?

Please.

MR. SINGSEN: I'm Gerry Singsen. I will try to keep this to less than a minute.

Two thoughts. One is that if I am not mistaken,

in the last three years,each year the program development budget has been over $4 million.

And each year there has been at least $2 million of carryover uncommitted by the end of the year against that original budget. I have got probably some longer experience than you folks in the spending of program development and experimentation money because of course the Corporation in the '70s as well as in the '80s has tried to experiment with improving the delivery system.

And I can tell you that this is not a new problem. And if you look back at the budgets and the expenditures in the '70s you will find that the desire to experiment and the amount of money held to try and experiment almost always exceeds by a substantial amount what is expensed during the year.

So I suggest you take a look at that experience as well as the experience of the last three years and perhaps in these resource-scarce times this would be a good year to be conscious on some kind of adjustment basis; that it is not necessary to hold the full amount that you hope to be able to commit to experimentation.

Because in fact,as this happened to every group who has tried to do it, you will fall somewhat short. Now that is the broad point going to a larger

amount of carryover.

But I have a very specific suggestion to make. You have $300,000 of receivables which are being assigned to the field but the cash related to those receivables is proposed to be held back until the receivables are collected.

That is, that $300,000 won't go to the field until at best right at the end of the fiscal year. Why not take the $300,000 of receivables and assign it to program development?

And take $300,000 in cash that you now have in hand and put it into the field. That way you can get at least the $300,000 out. You have already been told you are going to have commitments carryover coming into next year against program development.

CHAIRMAN MENDEZ: You make a really excellent suggestion. I wish that everybody was as succinct as you were and could manufacture $300,000 as quickly.

MR. WALLACE: It was more than a minute but it was a good idea.

(Laughter)

CHAIRMAN MENDEZ: Are there any other comments?

(No response)

Hearing none, I will entertain a motion to adjourn.

MR. WALLACE: So moved.

CHAIRMAN MENDEZ: Second?

(Multiple seconds)

Seconds from everybody.

We are adjourned.

(Whereupon, at 5:03 p.m., the meeting was adjourned)

REPORTER'S CERTIFICATE

DOCKET NUMBER:

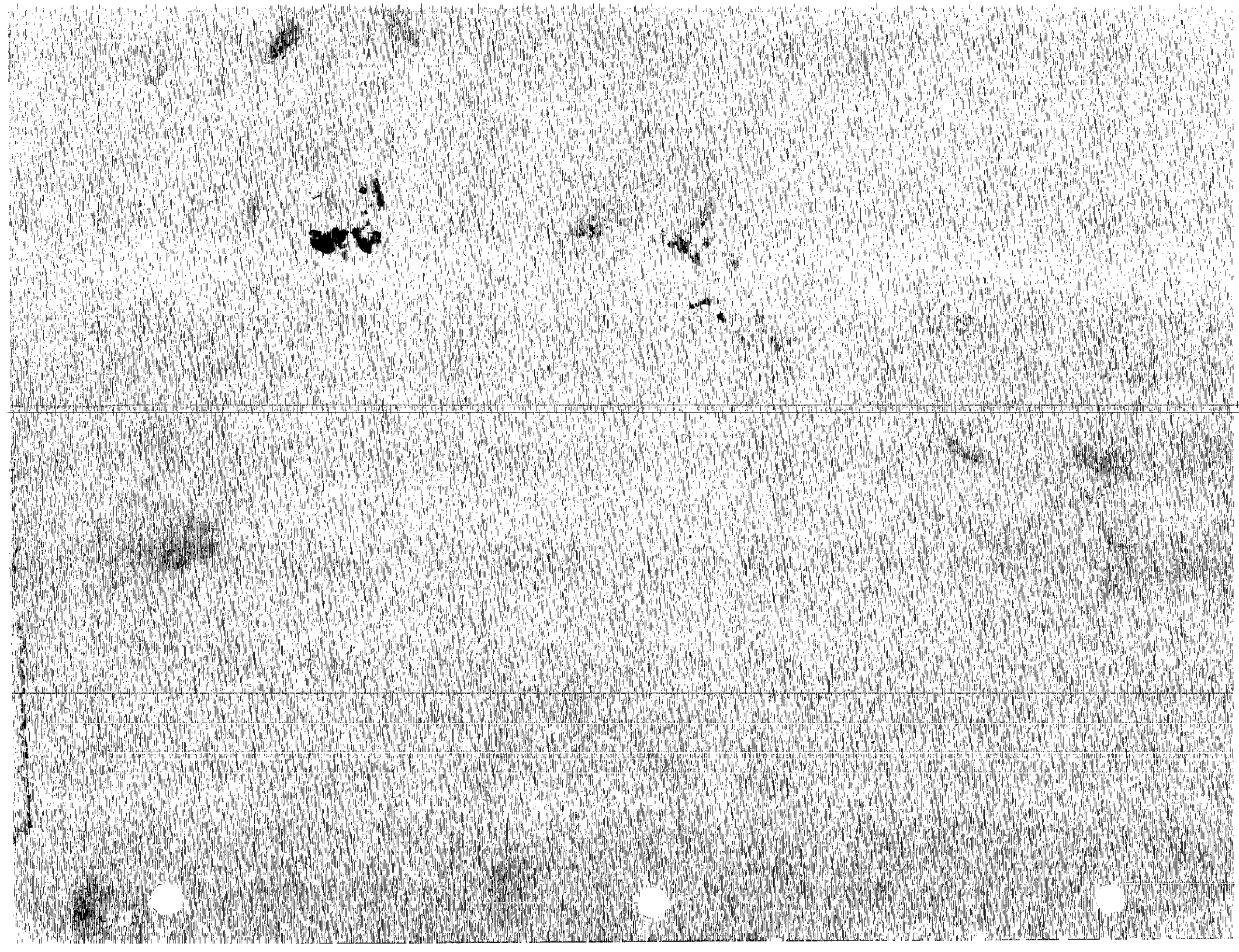
CASE TITLE: BOARD OF DIRECTORS MEETING, LEGAL SERVICES CORPORATION

HEARING DATE: APRIL 25, 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

and that this is a true and correct transcript of the same.

Date: APRIL 25, 1985

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