wjm

LEGAL SERVICES CORPORATION

- - -

1979 BOARD RETREAT

- - -

East Room
Airlie House
Airlie, Virginia

VOLUME I

Friday,
January 26, 1979

The meeting of the Board of Directors was convened, pursuant to notice, at 9:45 a.m., Hillary Rodham, Chairman, presiding.

BOARD MEMBERS PRESENT:

HILLARY RODHAM, Chairman

ROGER C. CRAMTON

STEVEN L. ENGELBERG

CECILIA D. ESQUER

GLENN C. STOPHEL

J. MELVILLE BROUGHTON

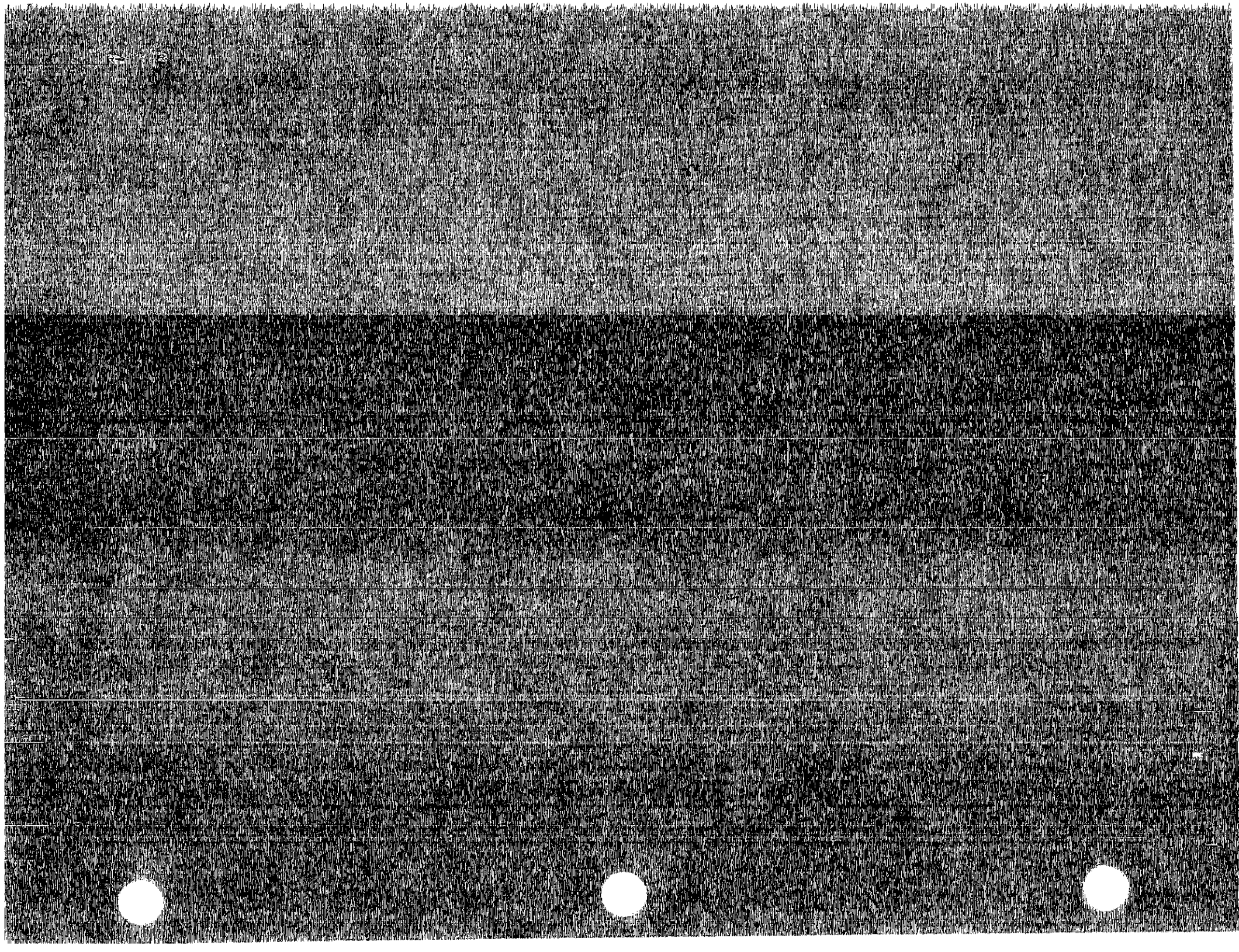
REVIUS O. ORTIQUE, JR.

RICHARD TRUDELL

ALSO PRESENT:

E. CLINTON BAMBERGER, JR.
Executive Vice-President

THOMAS EHRLICH
Ex Officio



wjm

LEGAL SERVICES CORPORATION

- - -

1979 BOARD RETREAT

- - -

East Room
Airlie House
Airlie, Virginia

VOLUME I

Friday,
January 26, 1979

The meeting of the Board of Directors was convened, pursuant to notice, at 9:45 a.m., Hillary Rodham, Chairman, presiding.

BOARD MEMBERS PRESENT:

HILLARY RODHAM, Chairman

ROGER C. CRAMTON

STEVEN L. ENGELBERG

CECILIA D. ESQUER

GLENN C. STOPHEL

J. MELVILLE BROUGHTON

REVIUS O. ORTIQUE, JR.

RICHARD TRUDELL

ALSO PRESENT:

E. CLINTON BAMBERGER, JR.
Executive Vice-President

THOMAS EHRLICH
Ex Officio

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1330 VERMONT AVENUE, NW
(202) 234-4433 WASHINGTON, D.C. 20005 (301) 261-4445

BOARD MEMBERS ABSENT:

GLEE SMITH

ROBERT KUTAK

JOSEPHINE WORTHY

ALSO PRESENT: (Nominees)

MICHAEL KANTOR

RAMONA SHUMP

HOWARD SACKS

WILLIAM MC CALPIN

ALSO PRESENT: (Consultants)

JOHN ARANGO

GERRY SINGSEN

ALSO PRESENT: (National Clients Council)

MARY LENIER

BERNIE VENNY

CATHERINE DAY-JERMANY

ALSO PRESENT: (Project Advisory Group)

ANH TU

MR. SEGAL

ALSO PRESENT: (Staff)

MARY BOURDETTE

ALICE DANIEL

HARRIET ELLIS

FABIO de la TORRE

LOUIS STEADWELL

HAROLD THOMAS

CHARLES CHAPMAN

ELIZABETH GIRTON

CLINTON LYONS

HULETT ASKEW

FRANCIS HENNIGAN

LEAH WORTHAM

RON SIMON

ALAN HOUSEMAN

LINDA PERLE

DELLANOR YOUNG

P R O C E E D I N G S

CHAIRMAN RODHAM: Again, since I know that the new Board Members have seen a lot of new faces that are going to take some time to connect up with names, and it might be useful to go through one more time who we all are and that includes our members in the audience who are probably as -- we are as well acquainted with them as we are any of the rest of us.

I'm Hillary Rodham and I'm Chair-whatever -- person, thing or whatever the Corporation --

MR. EHRLICH: And I'm Tom Ehrlich.

MR. CRAMTOM: Roger Cramton, Attorney, Cornell Law School.

MR. BROUGHTON: Melville Broughton, Attorney, Raleigh

MS. SHUMP: Ramona Shump, Harvard.

MR. MC CALPIN: I'm Bill McCalpin, a lawyer from St. Louis.

MS. BOURDETTE: Amelia Bourdette, Legal Services Government Relations.

MS. DANIEL: Alice Daniel, Legal Services General Counsel.

MS. ELLIS: Harriett Ellis, Legal Services, Public Affairs.

MR. DE LA TORRE: Fabio de la Torre, Legal Services Comptroller.

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
WASHINGTON, D.C.
261-4445

MR. BAMBURGER: Clinton bamburger, Legal Services, Vice President.

MR. STEADWELL: Lee Steadwell, Office of Programs Support.

MR. THOMAS: Carl Thomas, Legal Services Administration.

MR. CHAPMAN: Charles Chapman, Legal Services Equal Opportunity.

MS. GIRTON: Betsey Girton, Office of Foreign Support Management.

MR. HEENIGAN: Buck Hennigan, Corporation Budget.

MS. WORTHAM: Leah Wortham, Corporation Assistant to the President.

MR. ARANGO: John Arango, Membership Consultant.

MR. SINGSEN: I'm Gary Singsen; I'm a consultant to the Office of Planning and Budget.

MR. ASKEW: Bucky Askey, Office of Field Services.

MR. SIMON: I'm Ron Simon, fro the Legal Training Unit of the Corporation.

MR. SACKS: Howard Sacks, from the University of Connecticut Law School.

MR. TRUDELL: Dick Trudell, Board Member.

MS. ESQUER: Cecilia Esquer, Board Member.

CHAIRMAN RODHAM: And we have Bernie Venny from the National Client's Council with us and Julius Wilson from -

Stu Smith from NLADA and Anh Tu from PAG and - I'm sorry, I can't remember --

MR. SIEGEL: Jeff Siegel, I'm also with the PAG staff.

CHAIRMAN RODHAM: Great. You're welcome. One of the things that we wanted to do first this morning is to have Tom kind of bring us all up to date as to why we are here and to provide some history as supplemented by any of the -- I guess we are going to have to call it the original Board Members, the founding Board Members, or forefathers of the Legal Services Corporation, about the whole planning process that Corporation has engaged into -- up to this point.

You want to do that?

MR. ERLICH: We will have some of the additional senior staff coming in and sitting at the table, and I will try to introduce them or have them introduce themselves, as they do, but there some others who somethow got lost between Washington and Virginia, as well as some Board Members.

About a year and a half ago, it became very clear to all of us that we were indeed going to be able to do what we claimed we were going to be able to do, which was to provide support for a minimum level of service around the country, a minimum access plan was indeed going to be completed.

We had hoped it would be completed by the end of

1979; instead, it's going to be 1980, but it's going to happen. It was clear, then, that we needed to begin planning for the next steps after the completion of minimum access. It was clear we were successful, and as we have been in achieving the goal of minimum access only because we did have people in a program, a goal, we ought to turn our attention to where we were going after it was achieved.

The Board met in its first retreat in Alton, two years ago, outside of Salt Lake City, and talked about some very basic goals the Corporation might adopt, directions it might have, and that was the first real discussion of where we might be going after the Next Steps process was completed and well as an opportunity for Board members and staff and others to step back and look at the processes of the Corporation and, incidentally, get to know each other better.

Later that year, I commissioned Mike Krister to prepare a discussion paper based upon analysis and review with all of the staff of the Corporation, Board Members, and a good many others outside in the Legal Services community, a paper that would outline the major kinds of issues and possible directions for the Corporation and problems that we might be facing.

It became clear in the course of the work that Mike and I and others did that we really ought to divide the future into two parts: a short-term effort and a longer-term one;

the short-term thinking about two or three years after the completion of minimum-access, the longer one the next three to five years.

And in the shorter term, in terms of what we kept hearing, the major concern was improving the quality of the legal services, strengthening those services. Based on the analysis that Mike did, we divided the key areas of concern into five major clusters, appointed task forces to look at each of clusters, task forces composed of staff attorneys, clients as well as Corporation staff, and others -- other lawyers, academics.

Each of them prepared a discussion paper on one of those five clusters, and the Krister paper, together with the five task force papers, of course, were put into this book and very widely distributed throughout the country.

The Board, you will recall, had one set of discussions in California about the materials in these papers and another one later on.

Based on those papers, we then turned and held regional meetings throughout the country, six of them, at which clients, staff of programs, private lawyers and others were urged to come and talk about the kinds of obstacles they saw to quality legal services and the ways those obstacles could be overcome.

John Arango was asked to head the effort to bring

out of all of us our ideas and issues in the way of -- it would be most helpful.

John is not from the Corporation staff, had no vested interest in the outcomes of any of the issues; could instead be sure that he facilitated discussion. And I think, and those of you who went to some of those regional meetings, I believe, will agree, he did that superbly.

Out of those regional meetings came sets of papers on the judgments, the conclusions and recommendations of each group, as John may want to go into more detail.

Most of them concerned the strategies that ought to be taken by the Corporation and by programs, and how they might be achieved. It was clear to us at the outset that PHE, Client's Counsel, would only join with the Corporation and NLADA and ABA in sponsoring these meetings as they did, if there was a feeling that there would be a national session at the end of the summer, early fall, at which representatives from these various meetings could come together and put their recommendations in a more focussed way.

That meeting was held in September in Washington, and the recommendations from that are in the materials in Agenda Book Two that the Board received for its October meeting called, "Improving the Delivery of Quality Legal Services and Outline of Issues".

All during this process, the staff of the Corporation

in consultation with the Board, was designing ways in which the recommendations that emerged from the Next Steps process, particularly in the area of support, but also in evaluation and a number of the other areas as well, ways in which we could implement those recommendations, because we didn't want to be in a position of coming to the end of the process and then saying, "What are we going to go?"

So, in fact, much of what came out in terms of strategies to be adopted by the Corporation is already underway and has been discussed quite extensively at various points by the Board, particularly in the area of support. The document that Judy Riggs and Alan Houseman prepared that is also in this book, that focusses on the support area the Board has discussed, largely emerged from that process, as did the paper on monitoring and evaluation, which Clem Lyons and Bucky Askew prepared. They too are implementing that.

Of course, the issues involved in the 1007H Study are very much related and that is a process that is still going on.

One of the issues that kept emerging during the process was, what are the basic goals of the Corporation, and what are, of course, the strategies to achieve those goals?

You see in the papers for the next process a variety of answers to those questions, but it did seem to us as a culmination of the Next Step process, very helpful for

the Board and the staff together to step back and ask ourselves: first, that basic question, what ought to be the goals, and in what ways do the goals that might be developed conflict with each other and in what ways do they complement each other; and then look collectively at some of the strategies to achieve at least one of those goals.

Next, the aim of the session and how it does emerge out of and mark a culmination point for the next step's process -- culmination in the sense of this stage. Of course, the process goes on continually.

We hope, most importantly, that staff and Board get to know each other, get to understand what their views are, what they're like as human beings, but this kind of a process and context seemed a useful way to do it and we hope it works.

CHAIRMAN RODHAM: Any comments or additions anyone would like to make to that.

MR. SACKS: Question.

CHAIRMAN RODHAM: Sure.

MR. SACKS: Do I understand that this paper that appears in the green book as Appendix B, "Support Policies and Options for 1979 and Beyond" -- is that now being implemented?

MR. ERLICH: Much of it is being implemented.

To give an example, one of the major recommendations that emerged out of the Next Steps meetings was a shift of

some of the training we do to the local level, where it can be tailored to specific local needs.

We have undertaken, in the 1980 Budget, increased funding for training on the local level, as you will see. Another of the recommendations was for an increase in State support -- coordination of the State support effort. That, too, is reflected in the 1980 Budget.

Transitions to both of those are taking place now in 1979. A lot of the recommendations didn't take additional funds; what it took was a shift in strategy, a shift in emphasis, and some of those are also occurring.

MR. SACKS: How about National Support Centers -- development of new areas in national policy representation and support?

MR. ERLICH: No decisions have been made as yet on any new national support centers or the allocation of funds to areas not now covered by one of the 12 national support centers, but --

MR. SACHS: And how about the two-year plan.

MR. ERLICH: Well, the other thing I was going to say was, each of the centers has been mandated to produce that plan, to be more involved in the training now taking place and, based on material there, a study was done by the Research Institute in some depth of some particular areas, family law among them, where there wasn't adequate national

support, or at least the Next Step process indicated there wasn't adequate support and we have that but we haven't taken the next step, however, and tried to come up with specific ways to meet the needs.

MR. SACHS: Would it be possible sometime to look at some of these two-year plans?

MR. ERLICH: Yes. All of that material is certainly available to anybody.

CHAIRMAN RODHAM: John, would you like to introduce the process and talk a little bit about it?

MR. ARANGO: What I thought we'd do, just very briefly, is quickly run through the materials that we passed out and be sure that I've answered questions and we kind of all know how this is going to proceed.

Then, I hope, with as little extra introduction as possible, we can get right into the meat of the session.

The sense that I got, in talking to a variety of people, about what it is we're trying to do here is to explore, through informal discussion, possible goals and strategies for the Legal Services Corporation.

That is, I don't think there was any expectation that, at the end of today or tomorrow, we would come out with a list of goals chiseled in stone that would then become the kind of final set of goals, but rather that this was a more informal kind of meeting at which we would look at the ways

of various ideas about what Legal Services is all about relate to each other, interact, and what kinds of effects some decisions made at this level might have in terms of the services that are ultimatly delivered to clients of Legal Service programs.

In a very general way it seemed to us that a way we could get into that would be, first of all, to talk about general goals for Legal Services; then, this afternoon, springing off of a couple of the goals, talk about strategies; this is, things that could be done.

And then, tomorrow morning, talking about funding, which is obviously a major issue and then in the afternoon, as I understand it, provide an opportunity for the Board members to meet informally among themselves. It wouldn't even be a meeting -- kind of a get-together, I guess, would be a better word, and so that -- since none of us -- or at least I am not going to be involved in that; that would be strictly for the Board members. I wasn't exactly sure what the purpose is, other than an informal discussion, so I didn't even fill that one in.

But that was kind of --

CHAIRMAN RODHAM:

MR. ARANGO: Yes.

(Laughter)

MR. CRAMTON: I think the Saturday p.m. is the Role

and Function of the Board --

CHAIRMAN RODHAM: Yes.

MR. CRAMTON: -- and is the question about -- it's not the Corporation, but what is the Board's responsibility.

CHAIRMAN RODHAM: I must tell Roger that yesterday, in one of our briefing sessions, Howard asked what our liability was as Board Members, with all the suits that had been brought against us --

MR. CRAMTON: The by-laws deal with that.

CHAIRMAN RODHAM: That's right, the by-laws deal with that. And Buck and Bobby are trying to talk about, you know, the limits of our insurance and things like that.

(Laughter)

CHAIRMAN RODHAM: We have one subject already on the agenda -- raising the insurance.

(Laughter)

MR. ARANGO: We did hand out this kind-of longer paper -- it's the only long sheet -- that talks about some definitions of terms, but very simply, the things that we are talking about when we talk about goals, we are talking about results to be achieved, we are talking about ends, we are talking about what it is that, ultimately, we are trying to get to.

When we talk about strategies, we are talking about means or approaches that will be used to produce the goals

of the desired results.

When we are talking about objectives -- and there is a lot of confusion about the difference between goals and objectives -- and that's mostly due to the fact that the planners themselves can't decide which term they are going to use and so sometimes they call results to be achieved objectives and sometimes -- it's all very confused, but I was hoping that here we could try to use something like this: to call objectives "verifiable events that will occur as strategies are executed".

So, if you think about some goal that you want to achieve, some end result that you want to get, you start off and, using some kind of a strategy to get from where you are to where you want to get to, and maybe before you actually begin your work, you can sit down in your head and imagine this strategy in the future.

Every once in a while, something will occur in your head, which is a nice, verifiable, solid event, something that's very readily identifiable. And that is what we call an objective.

So that, for example, if we were talking about training staff at the local level, we might think about the point of a new attorney arriving at the program. So you could say one objective in terms of openly producing a highly experience, qualified staff would be, first of all, to start

with competent people at the beginning.

Then you might think that there's some process going on within the program that consists of an orientation and experienced staff members working with that new staff member to give him or her initial skills -- introduction to poverty law, taking him around the community to meet clients, giving him a sense of the environment in which they're going to operate, and building up the skills so they can deal with that environment.

And you might think that the -- let's say in breaking it down -- calling it more than it really is, but at some point, the -- you would have a staff member who could give back to you a new staff member who could give back to you the names of organizations and community -- a reasonable description of the problem and some sense of the strategies that he or she was going to use to deal with those problems, and that might be your first objective.

And if you wanted to get very picky, you could say, "Able to pass a test in which the staff member could name 20 problems in the community, list six objectives or six strategies commonly used by the program, and put together in a decent order."

But the sense that, periodically, you kind of -- you can picture the flow stopping and looking at one single event that's very clear, is the notion of an objective.

And so, goal is where we want to get, strategy is how we get there, and objectives are key, easily identifiabl events to be seen along the way.

When we were talking about all this a week ago with some of the staff members, we made this little kind of diagram, the black line representing a strategy.

The sense that there are Corporation goals and Corporation objectives and Corporation strategies which ultimately have an effect on the Legal Service projects objectives and the Legal Service project goals. And that probably, actually, we should talk about this, too, in the sense that the Legal Service projects also have their strategies of what they'd like the Corporation to do, and so we are kind of going back and forth like this.

But the thing that we kind of hit on as we were talking about all this is the fact that there is a kind of what we came to call the "sloth of strategy"; that is, if you think about the way the groups talk, you find that it is very easy to talk about strategies.

For example, if you look at the material from the Next Steps process, 99 percent of it talks about strategies. And then one percent of it talks about objectives and virtually none talks about goals.

There is a sense of "We ought to have some goals", but there is very little material in there that states what

the goals ought to be.

And so we made this little diagram to illustrate the kind of problem that we are going to be in here this morning, which is the difficulty of getting away from talking about approaches and talking about the ways that things should be done, and instead get up here to this level where we are talking about what it is that's supposed to happen as a result of doing all these things -- to talk about the goals.

I kind of put this up because I thought it might help make it a little bit easier to sense that what we are going to get into this morning is hard to talk about and that the thing we prefer not to talk about this morning, but to wait until this afternoon, that is how we are going to go about achieving goals.

It's very easy to talk about, and therefore we are going to find ourselves constantly sliding down into this area of strategies and talking about what we can do. And I think that would be something that, if possible, I'm going to try to keep you avoiding, if we can.

We also passed out this little paper, called "Examples of Goals and Strategies for Legal Service Corporation." This was our attempt -- and two or three of us worked on it -- to go through the three sources of materials, the results of the Next Steps process, which is like this, so there was quite a lot of it.

The original OEO goals, because the Legal Service program, in 1966, did have a set of goals, mostly for Legal Service projects, but there was some clear connection between what the Legal Service Program and the Office of Economic Opportunity -- you know, what they saw happening out here, and then to read through the material that was presented to Board at the Board in Alta two years ago and extract from that the goals that were also discussed.

To try to give the people at this meeting a sense of some of the work that had already been done, so that we would not start absolutely from scratch, but instead try to build on some of the things that had been done before.

It's clear that, as we did this -- as we read through all this material, one of the main things we did was to ask ourselves the question: if this is the strategy that's being discussed, more support to local programs, produce more experienced staff, involve clients -- all these things, which are strategies, then what is it that people are trying to get to?

In other words, in listing this many strategies, we had to try to think to ourselves, what was it that people were saying that we were going to use all the strategies to get to? And the material that we passed out is our attempt to do that.

Now, a couple of things: one is, there are -- the goals that are listed on that, those examples, are not

consistent; that is, many of the things that were being suggested were inconsistent with each other, or in some cases almost directly opposed to each other, but we didn't want to screen out, because we made no attempt to say that we are not going to write something in those examples if we couldn't show that it was consistent with things that we had written earlier.

The second thing is that not all the things that are in there, we accepted as goals, but we felt that if anybody said that it was a goal, or if it looked like it would follow the strategy to the point where it produced some result that could be called a goal, that we would include it in the list.

The third thing is that writing goals is a very subjective process; that is, it is our wording in most instances, although wherever we quoted directly, we put things in quotes.

And the choice of words, when you are writing goals, is extremely important. All this to say that those are really examples, and we tried to choose the title carefully and not, in any sense, anything more than one possible way of reading through this material and expressing the ideas.

In no way did we want to create the impression that those particular words or those concepts were something that you had to work off in order to lead the discussion or get

into the discussion today. We thought more that it was just an example of the way things could be phrased, that that might help keep us on the track and avoid us falling into the "sloth of strategy", but we did not want to, in any way, say that it must be these words, draw them only from this list, or anything like that.

The final thing that I think we ought to say, before we get into this, is that I think, for a public agency such as this one, or an agency that appears to be a public one, whatever it is, there is a sense that you probably cannot have goals that are the same as goals that exist in private industry. That is certainly one of the efforts in management over the past 40 years has been to put enterprises in a position where they can state very, very precisely their goals and their objectives, so that, then, the managers will know exactly what it is that they are trying to achieve to satisfy their stockholders or regulatory agencies or whatever.

I think the sense is that you can see the virtue of taking that idea and applying it to enterprises in the public sector, but it gets tricky, because it's clear that in the public sector, what you're really talking about is a kind of dialectic, a sort of bouncing-off of various goals, depending on the pressures that are brought to bear by a whole variety of groups, like Congress, like the Legal Service Programs themselves, other organizations -- a whole group

that are, over a period of time, are bringing pressure to bear on the decision-makers or changing the nature of the environment in which the Corporation is operating.

And because those forces are constantly operating, probably it makes it very, very difficult to list five or six or ten or however many goals you are going to try to achieve and stick to them, regardless of the nature of what happens out there.

There is more a sense of defining five or six or however many kind of -- I don't know what you'd call them -- motifs -- or something like that -- something that would, in a certain extent, define the boundaries of the general kind of thing that you think that Legal Services is going to try to achieve, with the notion that, as various forces come to bear, that this may cause a kind of emphasis more towards this direction and next year more to this direction.

But that there would always be this core of central ideas that would define the general nature of the results that all of the people working in Legal Services would like to achieve, even though from year to year, because of varying forces, the way you explain it or the way that you use it to define your day-to-day operations might change.

So, again, this is just a caution, I think, to say that it may not be possible, even though you can can say it is theoretically desirable to come down to a list of precisely

defined goals that will be used to order your operations for the next three, four, five years.

What we are more defining is a sort of area that is a little hazier around the edges, that will serve as a kind of underpinning for decisions that are made by the Board or by staff or whatever, but may, as time changes, vary a little bit.

Any questions about that kind of introduction? Does that seem to make sense?

What we thoughtwe would do, because we wanted to get into discussion, was to ask you Board Members and the nominees to glance through the material and to select three goals that they would like to have discussed, as a kind of preliminary exercise.

That doesn't relieve the staff of the responsibility for contributing ideas too, but we just wanted to kind of get things going, and so, be prepared for me to turn to many of you, perhaps very quickly, and say, "Do you want to add anything to the list or whatever?"

But, at least initially, we thoughtit would be a good idea to have the Board members give us the list of ideas that they would like to talk about, to be sure that we hit the ideas that you are interested in.

And as we indicated on the form we passed out, these are not necessarily ideas that you have to support, but rather

ones that we'd like to talk about. And they need not be drawn, obviously, from the list we passed out -- although we hope that the list might be helpful to you in kind of getting everything together.

What I'd like to do now is to, just as quickly as possible, get down in shorthand -- not literally in shorthand - but perhaps abbreviating a little, some of your ideas and see which ones are mentioned most often, if there are any.

Then spring off from that list in terms of actually getting into the discussion. Let's see -- Howard, do you want to start? Let's take one.

MR. SACHS: The first one is, "To cause the legal system to alleviate the basic conditions of poverty."

Mr. ARANGO: Why, just so that I don't spend a lot of time walking around -- let's just go around and have everybody read off one and I'll write them down and then we can come back and just go around two or three times.

MR. SACHS: Okay. See, that's even more important. Okay, Dick, do you want to --

MR. TRUDELL: Put down as one, I guess, "Development and implementation of needed training programs, which address long-range as well as short-range goals of LSC."

MR. ARANGO: Gary, do you want to tape and I'll write? Okay.

MS. ESQUER: The first one, "Develop high-quality

legal services process."

MR. ARANGO: Hillary?

CHAIRMAN RODHAM: Well, those were the three that I had.

MR. ARANGO: I'd be happy to do --

CHAIRMAN RODHAM: You might add, you know -- I don't think it's worth adding, but about high quality lawyers and high quality legal service projects to provide high quality representation for poor people.

MR. ARANGO: I do want to, at this stage, get the words down the way you want them, because as I say, the words you use are really important. Was that "high quality lawyers and high quality projects to --"

CHAIRMAN RODHAM: -- provide high quality services.

MR. ARANGO: Dick?

MR. TRUDELL: Just let me add one more, I guess. It's the meaningful involvement of eligible clients in the development of LSC goals and objectives.

MR. ARANGO: Roger, do you want to --

MR. CRAMTON: Well, number one was a kind of different formulation of the goal of quality delivery of legal services for the poor.

I phrase the goal in this way: quality legal services for the poor and the question that it raises: how can LSC define and identify "quality legal services for the poor"?

So that the goal leads to a question of implementation. The question of implementation is, "How can LSC define and identify "quality legal services for the poor"?

CHAIRMAN RODHAM: While John is writing, I'd like to introduce, for those of you who don't know, Glen Stophel, a Board Member, of Chatanooga Tennessee; Mickey Kantor, a nominee from California; and Steve Engleberg, a Washington lawyer.

MR. CRAMTON: And then my other two goals were kind of different than has been stated thus far, in a sense that they raise different questions.

One was, "A rational and equitable allocation of inevitable scarce resources among areas, segments of poor, and the individual versus group service dichotomy". Also raising a question of "How can you identify and implement rational and equitable policies for rationing justice?"

MR. ARANGO: Okay. I got "rational and equitable distribution of inevitably scarce resources between --" and I --

MR. CRAMTON: Well, I -- "areas -- geographic areas, segment of the poor"-- you know, handicapped as against the Indians, as against the veterans, the elderly, and then -- "and the individual versus group service, or the individual versus lower form strategy or approach."

You want one more to --

MR. ARANGO: Yes, that's fine.

MR. CRAMTON: I guess I'd phrase the goals as in terms of, "The appropriate mix of diversity (local option) as against national standards (paternalism?)." That I would shorthand as the "Federalism question".

Clint Lyons, the Director of Field Services, just walked in the room, too.

Steve, you got a goal?

MR. ARANGO: Why don't we go to Mel?

MR. CRAMTON: All right.

MR. BROUGHTON: I have pretty much what Roger said on Number Six, first, and --

MR. ARANGO: Pretty much meaning that you, at least for now, don't want to quibble with the wording --

MR. BROUGHTON: No. Seven, I would add to it. I think that part that I would possibly add to it, "The development of greater understanding as to distribution of corporate funds at the local level." That, as I view it and as I get correspondence -- and I realize this is always going to be a problem.

It seems to me that there is still a lot of misunderstanding in the field as to how the Corporation goes about spreading the resources it has to work with.

And I think that, in effect, as you have it there, is a sub of what Roger put as Number Seven. Also, I had, "The

intensity of involvement and understanding so far as organized law is concerned."

Again, that being a field, at least in my opinion, that we have a long way to go in that respect. And that would include --

MR. ARANGO: The intensity of involvement by the client.

MR. BROUGHTON: Yes.

And that would include, I think, brilliant leadership by the Corporation in causing that to be done. That's not to say that the course of past efforts have not been successful, but it is, I think, a recognition that there is still much to be done.

CHAIRMAN RODHAM: Ramona?

MR. ARANGO: Yes, would you like to make any suggestions?

MS. SHUMP: I think that if I were to number them, in my own estimation I would begin with six, five, and nine, pretty much, and that would be the way I would like to see it done.

MR. ARANGO: Okay. So those -- six was, "Quality legal services for the poor", the central issue being, how to define and identify quality legal services for the poor.

Five was, "Meaningful involvement of clients in development of LSC goals and objectives." Nine was "The

intensity involvement and understanding by the private bar, greater leadership by the Corporation and involvement with private bar."

Would you like to add any to that?

MR. MC CALPIN: While I realize that it's kind of a double-headed objective, it would seem to me that an ultimate goal ought to be to provide high-quality legal services to the greatest number of potentially eligible clients.

Secondly, I would like to suggest that a goal ought to be to inject that element of balance into the administration of justice which would facilitate realization of the societal goal of equal justice under law.

MR. CRAMTON: Is that different from One?

MR. MC CALPIN: Well, yes, I think it is. I think it is. I think it is closer to what Gary Bellows has talked about in terms of the objectives.

MR. CRAMTON: The law enforcement approach.

MR. MC CALPIN: I'm not sure that making the laws more equally for everybody necessarily alleviates the conditions of poverty.

MR. CRAMPTON: Right.

CHAIRMAN RODHAM: Anatole France said that.

MR. MC CALPIN: Yes.

MR. ARANGO: Let me just be sure that I got it right.

"Achieve an element of balance in administration of justice to facilitate equal justice under the law." Is that right?

MR. MC CALPIN: Good enough.

MR. ARANGO: Did you have another one you wanted to add?

MR. MC CALPIN: No, that's all.

MR. ARANGO: Howard, you left off your last two. Do you want to get them in and then we can go to Steve?

MR. SACKS: One of them has been taken care of by Roger. The other one, I don't think is on the board.

"To develop within the community of poor people -- I don't like the phrase "poor community" -- the ability to use the legal system to solve their own problems (develop a capacity for self-help)."

MR. ARANGO: Let's see; Steve and Mickey, do you have a kind of a sense of what we're into or should we -- essentially what we're looking for are suggestions of goals that you would like to discuss -- not necessarily ones that you support, but ones that you would like to hear discussed today, and that can be -- anything.

MR. KANTOR: Go ahead, Steve; I always defer to you.

MR. ENGLEBERG: I don't -- just looking at that list, I don't think I like -- the last -- I like the last three, the ones that were added. I don't have anything that I could see to add. I think we are starting to say the same thing

a little bit.

MR. KANTOR: Well, we -- let me just define what we are talking about. Are we talking about Corporation goals, or goals of our clients?

MR. ARANGO: Corporation goals.

MR. KANTOR: Well, that's different, because, you know, if you're talking about an overall goal, we've not really talked -- those are just strategies and tactics; they're not really goals at all, just ways of of getting there.

(Laughter)

MR. ARANGO: You're leaping ahead into the next minute.

MR. KANTOR: Because, in the Corporation -- well, the only goal I would have, that's a real goal, would be access to our clients to and exercise of power, because that's what it's all about. The rest are just strategy and tactics, how to get there, and the Corporation itself is an entity now.

Those are goals for the Corporation; some are contradictory and some are consistent. But in terms -- if you've got -- at least in my view; it may not be in anybody else's -- you've got to start with access to power, because if you don't get there, then you can't understand -- at least as far as -- I can't understand what all this is about.

And once we understand that -- and we may have different views of what that is, and we may disagree or agree,

but then we go to the -- then we get to this, and it makes some of this, I think, clearer, once you understand that.

MR. ARANGO: A critical issue for the remainder of the morning is, obviously, which are really goals, which are strategies, which are above -- which are the ultimate ends; which are ways to lead to it.

But I just wanted to be sure that we had that kind of raw material out here so that we got -- so we weren't implicitly assuming things or having to add a whole bunch of statements as we went along.

CHAIRMAN RODHAM: Bryan, do you have anything to add?

MR. SINGSEN: No, I wouldn't dare add anything now.

(Laughter)

MR. ARANGO: Let's open it up to the rest, too, and see if there is other things that anyone would like to see on the list, before we -- as I was sitting here, I just had a flash, that's all we can do immediately next, which is to -- there are clearly some that go together and we can put them together so we can see a kind of cateogry.

If there is other raw material you'd like to throw out, to get into ideas, why don't we write them down now? That doesn't mean that we can't get other ones in in a minute.

No other suggestions?

MS. BOURDETTE: Well --

MR. ARANGO: Tom's got one.

MS. BOURDETTE: Go ahead; it's probably the same one.

CHAIRMAN RODHAM: If you're single-minded, it might be to ensure sufficient resources for the legal needs of poor people -- or, change that to "those otherwise unable to afford an attorney."

MS. BOURDETTE: No, it isn't always --

MR. EHRLICH: To provide services to those otherwise unable" -- is that all right, or --

MS. BOURDETTE: No. "To those who can't afford an attorney."

MR. ERLICH: That's a lot of people.

MR. ARANGO: Okay. Tom, you had one?

MR. EHRLICH: Another area is to reduce the need for legal services, of which Twelve is a part. And the second, I think, is to protect Legal Services from political interference.

MS. ELLIS: The first one I have is to "Raise consciousness on a broad basis; i.e., the public, Government officials, judiciary and the private bar, of the importance of legal services for the poor, and the importance of the work that Legal Services lawyers do.

MR. ARANGO: Would you mind if I abbreviated the last phrase and just say, "the importance of the work of

Legal Services"?

MS. ELLIS: All right. And I have another one. "Work to bring about and enforce the right to counsel for indigents in civil matters".

MR. ARANGO: Anyone else?

MR. BAMBERGER: "Enforcement and enhancement of legal rights of the poor."

And I think a sub-goal under that, or goal directly related to it, is that the Corporation lead in the development of a consensus of the legal need that will be met by public money. Could you put -- I guess put quotes around that "legal need"?

MR. ARANGO: Are there some people who would like to add?

MR. CRAMTON: John, it seems to me that all of the goals that have been stated fall under one of four heads, and you can organize them all as related to almost four kind of words.

One word is "justice" and in that I take One, Thirteen, Eleven and Twelve, Fifteen and Nine and also, perhaps, Five, that deals with the client involvement. And Two would be the word "quality", as referring to Legal Services, and that's Three, Four, Six and Ten -- different things directed to "what is quality?" here.

The third one is the word, "resources", and that's

Seven, Seven-A, Nine and Fourteen.

And a fourth one would be, I guess, "institutional LSC", and really almost coming from the statute and the special existence of the Corporation, the special goals of the Corporation, and those clearly are the assurance of sufficient resources, Fourteen -- which overlaps with "resource and Sixteen, the protection of the program from political involvement, which is Sixteen.

The first one asks a whole series of questions: what is the role of the Legal Services Corporation and Legal Services Program in achieving justice in our society?

The second one asks the question, what is the role of the Legal Services Corporation and the Legal Services Program in assuring quality legal services for whatever -- however you define poor -- people who can't afford it, everybody, and so on?

The third one is, where are the resources going to come from and how can they be allocated and divided equitably and fairly?

The fourth one says, the statute and what we know about the special institution gives a special obligation which we'd all share and agree on, to try to achieve those resources and to protect the program from political interference and political involvement.

MR. VENNY: Well, are you suggesting that Twelve

is purely a justice issue?

MR. CRAMTON: No, some of these -- some of the issues -- some of them, of course -- they are all interrelated.

Some of the justice issues, obviously, relate to quality and vice versa. All of the -- you know -- there are obviously some interrelations.

MR. VENNY: That's not the question I was raising. I read Twelve -- and perhaps in my own particular point of bias -- as a question of social justice rather than just access to the justice system. When you put it under the rubric of justice, I just wondered whether you felt there was an implication there of both justice and social justice.

MR. CRAMTON: No, I include both of those as -- if you wanted to subdivide -- you ask the question, "what is justice?" and you raise the question of whether you are talking about process justice, or the question of access only, or are you talking about distributive justice, social justice?

Obviously, that's -- they are both under that head. I'm lumping them together, saying those -- and partly, the question is deciding which or both or what proportion.

MR. VENNY: Okay.

MR. ARANGO: My guess is that there may be others that might want to challenge either the headings or what goes underneath it, but my sense is that what Roger is

suggesting is the appropriate next step, which is to get these together in some kind of a clump where we can look at the differences between statements that appear to be similar and then decided where people -- where things actually belong and what heading should be.

And it will take us about five minutes to actually lay out this thing as a possibility. If people would like to get a cup of coffee or stretch, Gary and I will very quickly cut these apart and paste them back together in some kind of order -- which will not be The Order; it will only show you how these things look when they are arranged one on top of the other.

MR. BAMBERGER: Well, I'm bothered by what you said at the beginning, and what Mickey said without knowing what you said. And that is, maybe what we need to do is look through there and see how many are goals and how many are strategies and objectives.

MR. ARANGO: We will do that. It just seems to me that it might be helpful to at least get the ones that somebody thinks are similar together and then we can take -- go two ways. Are these -- do these really belong together and then -- which we may have additional categories.

Mickey has at least proposed that there is one super that is kind of above all these. And then, once we get something along both lines, we can also talk about

whether some belong on the list of goals at all.

I just think it would be helpful to kind of group some more ideas together so we can look at the variations without having to leap all over the wall.

MR. BAMBERGER: Okay.

MS. WORTHAM: I think that the notion of the parochial view, because it is the one that we are faced with every day; I think it is not surprising, then, that Mary and Tom raised the institutional goal.

I think one of that faces us, and I think it is useful to focus upon, are that many of these are things that a number of people would agree are good goals for Legal Services, generally. When the question becomes, "Is that a goal for the Corporation?" there is much feeling in Legal Services that they are not appropriate goals for the Corporation, to the extent that perhaps the local programs should be allowed to encourage and to go towards that, but the Corporation should not play a role in it.

And I think -- as far as I am concerned -- that's one of the interesting things to discuss and it's -- because, I mean, we're faced with it every day, this -- you know, how much of a role should we play and in what way, in all of those.

It would be very easy to sort of have a general discussion and that is one of those things that would be a

nice thing to have, but the leading question is, should we have anything particular, as a "Corporation player" role.

MR. ARANGO: We're obviously right here to get right into it, but I do think it would be helpful to group the ideas first, and so, if you wouldn't mind taking a short break, we can proceeed.

(Whereupon, at 10:44 p.m. o'clock, a short recess was taken.)

A F T E R R E C E S S

MR. ARANGO: Let me just read off, kind of, where things stand now.

Under the category of justice, we have: "Develop within the community of poor people the ability to use the legal service to solve their own problem (develop the capacity for self-help).

"Work to bring about and enforce the right to counsel for indigent in civil matters.

"Access for our clients to power.

"Achieve element of balance in administration of justice to facilitate equal justice under the law.

"Reduce the need for legal services.

"Enforcement and enhancement of legal rights for the poor.

"Use the legal system to alleviate the basic conditions of poverty.

"Meaningful involvement of clients in development of LSC goals and objectives.

"Intensity of involvement and understanding by the private bar.

"Greater leadership by the Corporation and involvement by the private bar." That seemed to be that one category.

The second one, under the heading of "Quality" was: "Develop high quality legal service projects, high

quality legal services for the portentially eligible clients.

"Quality legal services for the poor. Issue: how to define and identify quality legal services.

"Develop high quality lawyers and high quality projects to provide high quality service", under a kind of elaboration of Number Three.

Under "Institutional":

"Appropriate mix of diversity local option, as against national standards" -- paternalism versus federalism question.

"Ensure sufficient resources to provide legal services to those who cannot afford an attorney.

"Protect legal services from political interference.

"Raise consciousness on a broad basis; that is, within Congress, the general public, the bar, the judiciary, of the importance of Legal Services.

"Develop and implementation of training programs that address long and short-term goals at Legal Services Corporation."

Under "Resources":

"Rational and equitable distribution of inevitably scarce resources between area segments of the poor.

"Individual versus law reform strategies."

And in kind of a subcategory:

"Development of greater understanding of distribution

of Corporation funds."

Another one was: "Lead in the development of a consensus of legal need that will be met by public money."

And then we repeated one, that could fit under both -- and clearly, a bunch could: "Intensity and involvement of understanding by the private bar.

"Greater leadership by Corporation and involvement by private bar."

So that could both produce resourses and there may be some cause and effect.

One danger that we could get into, but we may want to do some of, is, we could spend a lot of time moving stuff around. And it seems to me that, at this point at least, we ought to use the criteria that unless your gut has been retched by one of these things being where it is, we probably, temporarily at least, ought to leave it there and, instead, talk about some of these categories in general, so that we don't find ourselves at the end of the day with a list for everything perfectly placed but never having gotten any farther in our discussion.

So, I guess what I suggest we do is maybe to take a kind of general category, like -- anybody can start anywhere they want -- and talk about the concepts and what, in general, we're trying to get to or which of the variations that are here you think express best this -- the idea that you want to

get to -- something that has to do more with content than simply, "Does this idea belong under this heading or not?" and then, as we work on the cocepts, we may then arrive at a consensus that we ought to change the heading and move something around because, as our ideas develop, it just doesn't seem to belong where it is.

Let's just try that. Roger.

MR. CRAMTON: I wanted to suggest a way to approach the justice goals or issues. It seems to me that there is one goal that there is fairly ready agreement on the part of everybody, that is part of that justice packet.

And that's the various formulations of access by the poor to the legal system. And the problem -- and one reason that it gets so much emphasized in our behavior -- is in fact, that's the only formulation, in the justice goal, that gets broad agreement among the Board, among the entire Legal Services community, and certainly among the broader society and the political process.

And so I view that as a kind of essential or necessary minimum goal on the justice side, on which there is broad agreement.

And then, it's more interesting if I'm right on that, which everybody accepts that as a minimum statement, the real issue arises as to what more -- and here there is division -- because some people say minimum access is really all we ought

to be doing in the justice area, whereas other people would say, no, it is not enough. It is okay by itself, but more is required.

So, is it the kind of exclusive goal in the justice system or is it access plus something else, and the question is, what something else, and that gets you into the distributive justice, alleviation of poverty, access to power by poor people, and so on, as either more important goals for some people -- ultimate goals, and non-goals for others, on which there is disagreement.

So I think we initially ought to focus on that question if we are going to talk about justice.

MR. ARANGO: Let's just quickly test the idea of whether there is consensus on the notion of access to the legal system. Anyone disagree?

MR. SINGSEN: Okay, just a question on the definition of access, whether we are talking about actually receiving service or we're simply having a shot at a program, or having a program funded for you.

MR. CRAMTON: I suppose in theory, meaning practically getting at, but you see we are moving now almost to the resource side, in terms of its actual provision. We are talking about goals; I would say in theory, everybody who can't afford it.

MR. SINGSEN: Actually getting service.

MR. CRAMTON: That's right. In theory.

MR. ARANGO: Anyone else want to ask about Gary's question; that is, do you mean by access actually getting service, or is it simply that there is a program that covers your geographical territory, to which you theoretically have access, even though it may be, as he says in one of his papers, the nearest office may be a hundred miles away.

MR. SINGSEN: Well, I guess -- I think the question in access is just too slippery. I mean, if we agree, if we accept it on space, but I think it -- just reading what you said, it's more than a question of geographical access; it's what kinds of cases they can take, what kind of expertise the people have, the fact that there is an office there.

Very few offices have the staff capability to handle any type problem or the staff to handle the amount of cases that come in.

I don't really have a problem with the idea of access; I guess in spelling it out, I just wonder what it really means. Maybe we agree on it because it is too easy and it is problematical. I think when we run around the country this summer with them, I think most people have some sort of limited policies due to priorities, as to what sorts of cases they would take, or their staff limitations, what they could do, or --

I'm just not convinced what we've said when we've

said it, I guess.

MR. BROUGHTON: We're talking about goals, and that's what we ought to be talking about.

MR. KANTOR: Right. If you try to sit here and define access -- I might determine -- degine access as when the Goldberg case came down, every poor person in the country therefore had access to that case, because it allowed a fair hearing to every poor person involved in the welfare system and in many other Government programs.

Therefore, that's more effective access, I might say, than providing a program to every county in America, because that's more effective access than others.

But if we get off on that -- I mean, I think you are right; access to justice is something we all can agree upon. Our strategies, tactics, whatever else, are going to determine what we all think access is and, with limited resources, how we are going to get there.

But, I mean, we could sit here and, obviously, we have been doing this in Legal Services for years, talking about that one question. But I think you are right; we all could read "access to justice" is a major goal of the Corporation.

MR. ARANGO: Steve, did you want to --

MR. ENGELBERG: No, no. Except that -- you said something different. Access to justice is something different from access to the legal system.

would there be agreement that substituting the work "justice" for the legal system here would give us a broader field from which to operate?

That would be closer to the sense of what people are looking at. It's not only getting you to the legal system, but it's also getting the legal system in some way to open up.

CHAIRMAN RODHAM: It would be broader, but I think it would do what Roger was talking about, taking a step beyond. I think that there is, even as slippery and as glib -- I would not hesitate substituting it, John.

MR. KANTOR: A step beyond what, Hillary?

(Laughter)

CHAIRMAN RODHAM: You know, I think that the concept of having access, however we define it, to the legal system as it is presently constituted in this country -- you know, the provision of lawyers and dealing within the established legal system, is but one element of access to justice, which to me is a much harder and more difficult goal for us to even be talking about than access to the legal system.

Hopefully, access to the legal system through whatever ways the Corporation can facilitate and enable that to be done, will lead to justice. It's going to lead to other things, too, you know. It's going to lead to non-justice. I mean you are going to lose. You may not get

justice, just because you get access to the legal system.

And I feel more comfortable saying that access to the legal system is a goal upon which I can agree, and there is then another goal, sort of a further goal, about access to justice, that hopefully access to the legal system leads to -- but not necessarily.

And -- one more thing -- when you originally said access, you said "access to power", which is very different from either access to the legal system or access to justice.

MR. KANTOR: Well, let me define my terms -- they're inter- -- justice and power are interchangeable to me, and so we don't have to talk about it; we don't have to get into that philosophical argument. But I --

CHAIRMAN RODHAM: Well, that's why I don't want to go in my feelings, beyond the legal system, which I feel more comfortable with --

MR. KANTOR: Let me just tell you why I disagree --

CHAIRMAN RODHAM: All right.

MR. KANTOR: -- if we don't go beyond access to the access to the legal systems in terms of defining what our goals are, our trying to maybe just understand and rationalize what our goals are, we have limited ourselves terribly, because if you take access to the legal system as a first goal, you begin to define then what kind of Corporation and Legal Services Program you're considering and I submit you come

MR. KANTOR: Okay. Then we disagree. I think we are talking about access to justice.

MR. CRAMTON: Maybe that's more --

MR. KANTOR: Access to the legal system is only one part of access to justice.

MR. ENGELBERG: That's right. Access to justice is a much broader concept that access to the legal system.

MR. KANTOR: That's right.

MR. ARANGO: Tom.

MR. EHRLICH: Well, maybe his point does underscore that when you underscore the word "access", you tend to think of the legal system as static and the only thing you can move is the access, when in fact, it very often is much easier to alter the legal system so you either do away with the need or service or in some other way help the problem, as opposed to just increasing the access.

MS. DANIEL: The thing is -- I understand Mickey's point; it's to recognize use of the legal system as being instrumental in itself toward some other goal, which is a broader kind of social justice and that although on one level or one aspect of is is that access to legal systems is, and I think should be, a goal of Legal Services' programs, yet there are many who see that -- do have some ideas about how that should be used -- how the system should be used.

MR. ARANGO: Let me just ask one quick question --

down on the side of some issues, once you've done that, that I certainly wouldn't agree with.

If you say access to justice, and then within that access to the legal systems is one way to get access to justice, it begins to broaden and make more creative your thought in how to use limited resources. That's my point.

MR. ENGELBERG: Well, it seems to me, Mickey, if you' up there -- this gets back to the realist -- if you're up there trying to get the money to run the program, I don't see you -- and I didn't see it six, seven years ago -- saying to Congressman Cedarburg or any other establishment figure, who generally supports this program -- you're not going to go in there and talk to them in these cosmic terms about justice and everything.

You're going to scare those guys, Mickey, and you know it. What you're going to talk about is about the simple notion that everybody is entitled to a lawyer. Now, I think that one of the differnces is that when I think about access to the legal system, I am thinking about legislatures, which is -- then, you see, we get a little closer to what, I think, concerns you.

I mean, I think you're thinking about access to the legal system, meaning connoting a fairly restrictive court-oriented --

MR. KANTOR: Okay.

MR. ENGELBERG: -- program. I think that -- certainly in my definition, this system includes the legislatures and any law firm -- many law firms in America deal with legislatures. You know, that's what they do for their clients.

And that's -- I think you can, pragmatically, sell that to the Congress. We went through that debate on legislative advocacy, with the Congress.

You can sell them the notion that that's what lawyers do, and the lawyers for the poor should do it just as lawyers for the --

MR. KANTOR: But, Steve, for the next -- you know, you and I obviously agree, but the next 15, 20 years, or maybe the millenium, we are going to have to talk in the terms you are talking -- I mean, I certainly understand that as well as anybody. But if we are here talking about what are the ultimate goals and trying to work backwards, and then trying to determine what tactics we are going to have to use to get to whatever that ultimate goal is, I think we're limitin ourselves unnecessarily.

And also, doing violence to what I think this is all about, rather than going ahead and saying, okay, make it access to justice -- which we may not agree. If that's what it is, then what does that connote?

Then we have to come back and talk about strategy and tactics and how you get there. I would agree with you --

no one -- Mary can't go up and talk to most of the people in this Congress about the kinds of things, but I would hope we are free enough here to at least throw the ideas out and then begin to work backwards --

MR. ENGELBERG: Well, what are we trying to do? I guess, having missed the first hour -- what are we trying to do? I mean, are we trying to come up with a --

MR. KANTOR: I thought that helped us a lot.

(Laughter)

MR. KANTOR: I always thought being unfettered by knowledge was --

(Laughter)

MR. BROUGHTON: What do you mean by access to power? I'm not sure I understand that, as related to access to legal system and access to justice. Is that within the two or secondary --

MR. KANTOR: It's just part of what I aways have considered to be what I do with my clients in private practice. The fact is, it opens up the entire -- I've always considered this society an adversary society. Everything we do is adversarial in nature.

And the fact is that Legal Services at its best becomes a general counsel, so to speak, for everyone eligible for its service in the country, and therefore there is nothing not open to a community or to a group of people that a lawyer

can help perform, whether it is organizing a community development corporation or it's lobbying or just filing for a divorce -- whatever it happens to be, what any of us would do for our clients.

My problem with what Hillary said -- and I understand what you're saying -- my problem with that is, you begin to narrow yourself when you think of just access to the legal system, because what it implies to most of us, rather than talk about the broader --

CHAIRMAN RODHAM: Let me respond to that -- and, you know, I don't want to turn this into a debate between us -- I think everybody else has something to say.

I want to deliberately limit it, I guess, for a couple of reasons. First, because I think that it is inevitable, in any society, that the legal system is principally an establishment, conservative system.

And that good lawyers are better able to manipulate it than bad lawyers, for whomever their clients happen to be. But that it, by definition, stands for the established order. Now, one of the things that was most distressing to me, as I went through the Next Steps Process, is that the legal system, as the Corporation is trying to deal with it, has become an end or a goal in itself for many clients.

If we talk about the Corporation, as one of its goals, ensuring access to justice without being better able to define

it than any of us are, because we have debated about justice, you know, for years, then we raise expectations and give signals that we are going to be able to do things for people that we can't do for them -- in my opinion.

Now, I think any good lawyer thinking about the legal system is going to be as creative as we can help them to be about justice and all the other issues.

But too many people, in my opinion, look to the legal system as an only route toward which they can achieve justice or power, at this point in the history of our society, which I think is a dead end and a disservice to them, that we now have more people finding themselves as clients of the Legal Services Corporation, who should be looking to their other roles in society for the achievement of justice and power, since the legal system is but one route for that.

And they're not. Through the Next Steps meeting, I heard over and over again, people are talking about the Corporation and the legal system as the only way that they could achieve better housing, better organization, better communities, better power sources, and I think that's a real disservice to them.

And I think that we should be honest and say that, even if we are working as hard as we can, we probably can't even achieve that goal -- but that's the only one we can achieve, and in that effort to achieve it, we are going to do

a lot of other things, hopefully, like open doors to justice and open doors to power and enable people to help themselves, and do all the rest of it.

But all that we can promise and all we can do is access to the legal system -- I think.

MR. TRUDELL: I agree with Hillary, in terms that if you are going be realistic or to strive for realistic goals, rather than pie in the sky, I think those are the kind of things we should be discussing, and you can leave the philosophical things to the academics and to a certain extent the organized bar.

But I think, in terms of what people are expecting of this Corporation and what they need -- and if we are really going to, you know, provide access to eligible clients to the decision-making process, we have to do it within the Corporate structure that we presently have, and I, for one, am not perfect or satisfied yet that that's really happened.

CHAIRMAN RODHAM: Yes, that's -- I mean, I don't think anybody disagrees with what you are saying. I don't think in any way any of us want to limit whatever we can to inspire as much creative, imaginative use of the legal system to achieve justice.

I think -- at least for me and -- Dick and I have talked about this; we're not sure yet that the Corporation is even providing adequate quality access to the legal system.

And before we set a goal that provides any more people the opportunity to avoid that responsibility, which I see going on -- you know -- lots of talk about justice and power, not much talk about how you get your client into court -- and I want to at least have a goal that we can work toward achieving.

And I don't think it in any way mutually inconsistent with justice, power, and all those other things which follow from using the legal system effectively.

MR. CRAMTON: I was going to reiterate -- I guess I agree with Hillary that it's better to start with the formulation which can get broader agreement, in terms of a goal, talking about access to the legal system, and then ask the further question of, "Are there any -- is that too minimum a goal?" Do you have to add some other goals, and that either goes to access to something broader, like power or justice, or it talks, not in terms of access at all; it talks in terms of results.

It talks in terms of outcomes -- social justice, alleviation of poverty, good -- better housing, better this, better that, for whatever group you are talking about.

That's on the results side. Achievements are not just the opportunity to participate. The minimum goal on which we all can agree, it seems to me, although we might argue at great length about how we define access and what we

mean by it, and what we mean by the legal system -- and I agree with Steve, we certainly mean everything that lawyers do, before administrative agencies, legislatures, and courts.

But that is the kind of minimum set of goals. The tough issue for us is what more than that is really a goal in addition. And that, it seems to me, is where we are going to fall out and we are going to disagree.

MR. ARANGO: Let's just pass on that one for a minute. It's the sense that access to the legal system may be something we can agree upon and the question is, to what extent does the responsibility of the Corporation extend to.

What several people have said is a legitimate goal for the client, which is access to justice, or power, or however you want to phrase that word; that is, that the client can be seeking.

To simplify greatly, Hillary's idea was that the client may need to pursue services or support from a variety of other agencies, other than the ones that are funded by Legal Services, to achieve this kind of ultimate end.

But this would be, certainly, something that they could expect from Legal Services in a very direct way. Just try -- is that, the concept of access to Legal Services, at least a piece of what we are aiming for, maybe the minimum statement of what we are aiming for?

Is that something that, again, not -- we can feel

kind of comfortable with that and then go on to deal with the question that Roger just raised, of how much more that we want to get into?

And the issues there seem to be ones of practicality and ability to achieve, the notion of setting the goals so high that, in effect, we then provide an excuse for the people who are actually delivering the services to move away from what seems to be achievable and practical to more philosophical and possible avoidance of --

MR. CRAMTON: Well, more than that -- actual disagreement on whether public funds ought to be used in an endeavor of that kind. I think it goes broader than --

MR. BROUGHTON: Aren't you saying, really, that you've got a problem of the danger of creating a rising expectation that may not be realistic?

MR. CRAMTON: Well, I was just making this point, that John was saying that a kind of prudential or pragmatic reasons why one would not want to go to the broader formulations. I'm saying they are more than prudential and pragmatic; there are some people that, very frankly, disagree that public funds ought to be used in a kind of deliberate social change or other broader formulations, as distinct from private or volunteer efforts and the like.

MR. SIMON: Nobody, again, seems to get real upset with the notion of access to legal services. Do we want to

to keep talking about how much higher? We're already into that, okay? Anyone else want to pick upon that point?

MR. KANTOR: I'm hardly one to argue with lowered expectations.

(Laughter)

MR. ENGELBERG: Well, again -- I hate to -- going back to the first hour we missed -- but I think it is imperative, if in fact -- are we trying to -- is the end result that we are going to, hopefully, come up with some Board consensus on where we go over the next three or four years, or it is just to force people like Ken, who hasn't had a thought in the last ten years, to think --

(Laughter)

MR. ENGELBERG: Seriously, what is the -- because I mean, that get to what Mickey said. If we are -- Mickey might agree that this is really a Board consensus policy; he might have a little more --

MR. KANTOR: I think he's saying I might be a little more restrained.

MR. ENGELBERG: Yes, I'm trying to get him to calm down.

(Laughter)

MR. ENGELBERG: No, seriously, is the purpose to get --

CHAIRMAN RODHAM: I don't know -- there's no Board

purpose; I can tell you what I, as a person, would like to achieve. I would like to achieve some consensus for understanding among the Board as to what it is we are trying to do, because I think that we have an enormous number of very difficult and important decisions to make in the next year. We are going to have increasing demands and pressure, not just from the people that we work with and we serve, but from other people.

And I think that, to a certain extent, we have been postponing some kinds of decisions, out of a reluctance to make them, the fear that we may make the wrong decisions, but also because we don't feel that we have a shared basis on which to make those decisions.

And, you know, I think that it is inevitably we're going to have to decide on some things, like our funding policies and as it relates to certain specific programs that represent goals of the Corporation, like the Reggie Program, or whatever else.

And we are going to go through this process unconsciously or indirectly every time we come to one of these decisions in the next year.

And I, at least, would like to have some -- not a consensus; it may be too strong a term -- but some shared understanding of where we are going, because I think we're going to have some tough times and at least we may make the

wrong decision, but at least we'll make a decision and go on from there and be able to say, "Well, here's how we are moving and progressing and here's what we're trying to achieve", not just to Congress, but to ourselves.

MR. ENGELBERG: Okay, that's helpful. My problem, I guess -- and I don't want to -- I'll just throw this out -- my problem is -- maybe it's with the process, John, but when you talk about, like, access to legal systems, I suspect we go around the table -- I'm talking about just the Board, much less the staff and the people in the field; it's going to be a -- even on some of these things that we think we are in strong agreement on, and we may not be in such strong agreement on, like on access to legal systems.

For example, if we go ahead and say, yes, fine, everybody agrees on access to legal systems, probably there is some sharp disagreement among some of us about what that means, and what they --

CHAIRMAN RODHAM: That's the next step.

MR. ENGELBERG: We'll get into that later, is that the idea?

Mr. ARANGO: Yes. There are -- I think we ought to move around to some of the other categories, but it seems to me that at some point, maybe this afternoon or later on this morning, we can come back and fill in some spaces underneath this.

MR. CRAMTON: You need to add one more, it seems to me absolutely clearly. You have to have something that suggests the result aspect of this -- either social justice, the two words "social justice" or "social and distributive justice" -- now, I guess I would phrase it as the minimum thing that we all agree on is that access to legal systems may indirectly lead to justice and power as a process.

They also may indirectly lead to better housing, more employment, more welfare -- a better distribution of the world's good -- social justice. But that we would not -- my own preference is -- I would not phrase the goals of the Corporation as social justice being the direct goal. It is an outcome of our direct goal, which is access to legal systems.

And it seems to me -- but there is a difference on that. When people in the field talk, they talk many times as if the goal of the Corporation ought to be the direct achievement of social justice. So I think that is an important issue that's worth talking about.

MR. ARANGO: I think -- let me, again, simplify. The notion seems to be that we are working in -- at least, no one has contradicted Hillary's formulation that the clients, as a whole, and I think that is a tricky concept -- but their drive for access to justice and power is legitimate, and the question is whether through Legal Services they are going to be granted

access to the legal system and indirectly do that, or whether there is a direct line right up through this. I think that seems to be one way of looking at what we are talking about.

MR. MC CALPIN: I think we have agreement on the minimum access to legal systems. Implicit in that, I take it also agreeable to everybody, is the idea that one way to get access is to get people representation. That's what lawyers do.

Well, I'd like to advance the discussion one modest step and see whether people are willing to agree that another way to get people access is to develop a capacity for self-help.

MR. SACKS: But that's a strategy.

MR. ARANGO: I assume without having to talk about it that representation is one that people would agree is a sub-category; that self-help may be one --

MR. SACKS: But those are strategies.

MR. MC CALPIN: Okay; I'll wait until this afternoon.

MR. SACKS: I want to just respond a little bit to Roger's formulation, because I think is raises an important issue, which is: we agree on a minimum and I think a lot of people, as Steve articulated, Mary -- what is our posture toward Congress and the feeling that we do have to have a limited posture?

But we also speak to the field programs, and as you just indicated again, Roger, this summer, at the task force meeting, the Corporation was repeatedly attacked for

sort of, basically, a very broad access goal and that we were -- there is some role in which there is some leadership or some idea that we are projecting to field programs and what they ought to do, and the field has come back to us and I think that -- I hear many people saying -- that we were sort of not projecting very high expectations.

So I think we ought to at least realize in putting the point over, a lot of people are talking about lower expectations in Congress, but on the other hand, what role do we have in the field to project some other sort of expectations?

Although we may not have -- I think the people are right who say we can't articulate the social change goal. In some ways, I think on the other hand if we just don't have any goals, we are subject to a lot of criticism from the field that I take very seriously, that we are not projecting any higher expectations to them.

And maybe when we get to the strategies, we will get to ways that we can project that, you know, through other things that we do. But I think that's a really serious consideration that all of us in the Corporation heard and haven't forgotten, I guess.

MR. STEADWELL: Hillary, I want to play by the ground rules, as established by where we are seated -- I mean, I understand that. But I don't, also, want to let Bill's

comment go unresponded to. In fact, access to justice might be a strategy in accomplishing the self-help aspect that Howard just raised. I think that we've got to look at that.

In simple point of fact you may, as a first step, want to have people gain access to the justice system but in fact have empowerment as the goal of the Corporation. And so that becomes a very sensitive kind of thing and I would hope, Bill, that you would agree that that might be looked at.

MR. MC CALPIN: I'd agree with anything to be looked at; I'm not so sure I agree with your conclusion.

MR. STEADWELL: Okay.

MR. STOPHEL: I think the terms "power" and "justice' and that type of thing, to me, misses the point if -- ask mid-America if they have power. It just blows their minds. And I'm talking about the guy who is suppposed to be able to afford a lawyer.

As I see it, what we have here is a myth. I see access to justice, I see the formulation of -- Government's role is to assure due process and to provide justice for all its citizens.

The legal system is our niche, within that role. But I don't see that as a goal -- the big goal -- of us heading for that, to the exclusion of other groups within our citizenry. And I think that if we stay within the legal

system here, as our niche, and we do a good job of that, that a great number of things will naturally flow from this, which I think our worthy goals, worth objectives, whatever you want to call them, and that we will arrive at strategies, but I think that we must stay within our charter, which is in our statute, which set us up to provide quality legal services to those who can't afford it.

MS. SHUMP: If I may go on and comment on this statement, one of the most important things facing the clients out there is not the legal access but the information and the education to help themselves through access to legal systems.

We have got to learn how not to depend solely on lawyers. We are very capable people; we may lack education; we may lack knowledge that many of you -- most of you in this room have, that I do not, but that does not make me any less a person.

MR. ARANGO: I think that -- I don't want to kick this too hard, but my notion -- the sense of whether self-help is a strategy under access to the legal system or a goal in itself seems to me to be a question that is important.

If everybody agrees that it isn't, then we can go on to something else, but a couple of people have hit on it and nobody has come back to address it, and so I will just try to force it here and see if anyone wants to talk about

whether, in essence, as was suggested up here, giving clients the capacity to help themselves is an end in itself or simply a means to get access to the legal system.

MR. KANTOR: May I just say one thing? Would it be okay if we just stuck to the Act? And it says, in Section 101.1: "Equal access to the system of justice", purely and simply.

MR. MC CALPIN: I think that is the legal system.

(Laughter)

MR. KANTOR: Some of us -- but, if we just stuck to that -- I mean, we can -- that's going to come in other ways, but that is what the Act says.

And that was not put in there without reasons. And it's with a little "j", not a big "J". And that's what Congress has agreed upon. And so it may be a little broader than some of us have comprehended in the past.

MS. BOURDETTE: I'm trying to get back to an honest point, which is also, I think, what your're dealing with, in one of the goals.

Someone stated it as to reduce the need for Legal Service or reduce the need for access to the legal system, de-lawyering, whatever.

I wonder if that's too much of a substantive goal, or if that is something itself that we, as a Legal Services Corporation, might be addressing, which, being a non-lawyer,

it does appear that every day, one needs a lawyer more and more and that greater need is being created, one might say cynically, by the legal establishment.

I don't know if that's --

MR. ARANGO: I want to get Howard, because he has --

MR. SACHS: I would like to get back to this question of self-help. The difference of opinion seems to be whether it is a morning discussion topic or an afternoon discussion topic, and I wonder if you could help us, John.

You have, probably better than any of us, a sense of what is going to happen, what should happen, for a most efficient operation. Where would you suggest we take it up, this morning or this afternoon?

MR. ARANGO: I think that's a critical question that we need to discuss, because it seems to me certainly impossible just to give one answer, but in the Next Steps Process, we heard very often from clients that they felt that the goal of the Legal Service Corporation itself is to create within the client community the capacity for self-representation.

There were a bunch of sub-catagories under that; for example, to invest more in community education to provide direct training to clients, to provide funding to client organizations to bypass the Legal Service program -- you know, a whole bunch of strategies that were suggested there.

And it seems to me that it really is an issue to decide whether client activity -- I mean, I don't want to characterize it too much, because I think that's something we need to decide, but that the question of whether it's an end in itself or whether it is a sub-category, that it is a way to get to something else, I think is a critically important question, at least to a lot of people that were involved in -- it is -- in one sense, just to give you a concept of how a manager might look at it.

In one sense, you would say, let's say, that you had somehow equipped 40 client organizations around the country with a substantial number of lay advocates that were now active in the welfare administrative process. You could see that in two ways; one would be to say, as a manager, because those welfare advocates are there, almost regardless of what they're doing, just creating those welfare advocates and putting them to work representing clients is an end in itself.

And the fact that we have done that is satisfactory. The second one would be to say -- to ask the question, "What are the welfare advocates accomplishing? What work are they actually performing?" Which implies that perhaps some other that you're applying -- that is, that it's not simple; that what you're then saying is that achieving gains for welfare clients in the system is the end for itself and we are pursuing

two or three strategies: representation by lay advocates, representation by lawyers, and a pressure to change the system. I mean, there is a whole bunch of things.

But deciding whether having those lay advocate clients is an end in itself or a means to something else seems to me to be a critical decision.

And that's why we have listed it as a possible goal, rather than simply saying that it was a strategy under various forms of representation -- that self-representation could be seen as as one kind of representation, or it could be seen as an end in itself.

Is that helpful? I don't know; I want to be careful I don't get into the discussion.

MS. ESQUER: I think at this particular time I'd like to see it in this morning's discussion, because by eliminating it and saying it's merely a strategy, I think that we're really cutting down on some possible creative ways that we can do this.

And I really see it -- you know, if we place it as a goal, it really gives it a very different tinge than when we place it as merely an objective or as a strategy.

I feel it broadens -- you know, again, it goes a little bit further than just the access to the legal system, because we could just stop at providing representation on access to the legal system. And I'm really tending to see it

as a goal right now.

MR. ARANGO: Is that helpful in formulating the question? Self-help as a goal versus self-help as a strategy leading to some other goal -- what is that goal?

MR. EHRLICH: I don't think it's as -- any more or less significant an issue to say I see the issue, the question of self-help as one kind of representation and in that sense one kind of strategy, which I do -- a strategy to achieve one of these other goals.

We could discuss it this morning or this afternnon, if it's less important than -- that's what it's -- I don't see, in other words, self-help as an end in itself or desirable in itself, but desirable because it is perceived as an important way -- or maybe an important way -- to reach some aims that are important to poor people, if only because, I think, it may be easier to see the limitations as well as the advantages, I find some utility in therefore calling it a strategy.

I wanted to, when we get there, at least, follow on also to the point that Mary made.

MR. ARANGO: Right. Roger.

MR. CRAMTON: I was going to say pretty much the same thing as Tom said. I guess I agree with his conclusion, in part because of the relationship to what Mary is talking about.

I think one can talk about the self-help aspect or the role of the Corporation in kind of improving the justice system. I think we do have some responsibility that goes beyond just access to justice and I would phrase some responsibility in terms of the improvement of the justice system itself.

One can think of that either in collective terms; that is, empowering clients to do it themselves, which starts talking about power for clients as really the ultimate goal of the Corporation, I don't go that far.

I think that may be an indirect result, but I would have it an indirect result with our goal more limited. And the more limited goal I would state would be in terms of both some educational activities, some other activities, which both help clients to help themselves, and which also improve the system, so that they can.

So they make legal procedures simpler, so that they de-legalize some things, so that something's out of formal process; make lawyers unnecessary, and then start having important resource implications in the sense that our society may be able to meet them because they can do so less expensively and in a less cumbersome fashion.

So that's a kind of more individual approach to -- or a more institutional approach to change in the justice system, rather than the kind of empowerment of client

representatives, who may not really represent the clients who are there, in kind of a collective empowerment.

MR. ARANGO: Hillary, do you want to --

CHAIRMAN RODHAM: I'm convinced.

MR. ARANGO: Okay.

Let's pick up on Mary's -- yes, go ahead.

MR. MC CALPIN: I'd like to make an additional point with respect to access to the legal system. It seems to me that there really are two elements to that very short phrase.

We've got a tendency to talk about "access" to the exclusion of "legal system". And, of course, the fact of the matter is that access to that system is not very important unless the system works for the people you represent.

It seems to me that not only "access" has to be a goal of the Corporation, but, right along with it, is the goal to make that legal system work for the benefit of the clients of the grantees of the Corporation.

It doesn't do you any good at all to get into the legal system if you lose every time you get there. And I think that the goal of the Corporation has to be to make that system work for the people who are the clients, in the large sense, of the Corporation.

MS. DANIEL: John, I wanted to turn back a moment to the notion of representation; that is, I wanted to

emphasize the point that Hillary made, that in talking about the goals of the Corporation, I think that we should focus first on those that we have the power to carry out, and that, whether one views access to the legal system as an end in itself or as instrumental toward the realization of greater justice, that access -- it is crucial that that access, to do anything at all, be effective and that Goal Number Four, developing high quality lawyers, high quality projects to provide high quality service -- now some may say that's just strategy, but unless that is implicit in access to the legal system, then the access doesn't mean anything -- I think.

MS. TU: I just have one observation that does not have anything to do with justice or with strategy. But I have the observation that means that right here when we are talking about access we are being very inaccessible to people in from the field.

I talked to a great number of people last week, last Friday, and I just happened to mention that, well, the Corporation is having a retreat for the Board members and nominees to the Board, and, you know, people just said, "What? What are they going to talk about? What is it about? We don't know."

And I think we -- the Corporation, anyway -- we received, being in Washington -- the office being in Washington -- I received a notice about this retreat on Monday.

Obviously, PHE had learned about it earlier, but, you know, I sense just a sense of helplessness, of anger in people from the field about, you know, this being a closed meeting, elitist group, who sit here and then are going to give out directions to the field again.

I know that, you know, democracy sounds very good, but it's not possible. But I think when you talk about access, at least we should talk about our concerns for ourselves first, the viability of information and please provide that to the field.

I think the Corporation has been quite inadequate. So I just wanted to inject that notion right now, as this --

CHAIRMAN RODHAM: I understand that, and appreciate your comment on that. I guess, from the point of view of somebody who may be held liable under insurance for doing something with this Corporation, I feel that we have gone through a long, arduous, and maybe to some people, much too involved process to reach the point where we could make some decisions.

At the last Board meeting we talked about this retreat; it has been in the newsletters; it has been sent out as notices. Part of the reasons we are holding it here instead of in Washington is so that we can, hopefully, reach some kinds of decisions.

I, for one, although I appreciate your statement

and your position, feel like the time has come for those of us who have to bear the responsibility for what this Corporation does in the national formation of it, as opposed to the field, have to come to terms with some of these issues, and that we have, I think, made a very diligent and sincere effort to get as many opinions and as much information from as many people as we possible could absorb.

I'm sorry that, you know, that you feel that way, but that, at least, is my opinion about it.

MS. TU: I don't have to feel bad about it because I knew about it all along, but I was just trying to convey to the Corporation how the field feels, and I think that it's: here we are; we are going to present this -- you know, you have -- you could only achieve whatever goals the Corporation set out today and tomorrow through the field, and if that's the feeling they have, like no communication -- this is not meant to be a criticism; it is just an observation.

MS. RODHAM: All right. Thank you.

MR. ARANGO: We should get back to Mary's -- go ahead, Roger.

MR. CRAMTON: I was going to suggest that it seemed to me that Alice's comment, emphasizing the inter-relationship of the quality goal and the effective achievement of access to justice was an appropriate bridge to move from justice to quality, in part because I'm not sure that there may not be

diminishing returns in terms of further discussion of justice, but I -- you know, that's up to you. You're the moderator.

MR. ARANGO: When you're happy, I'm happy. Tom.

MR. EHRLICH: Only to underscore, I think, what Bill McCalpin was really elaborating on Mary's point, the implications -- I agree with him very strongly, and I think the implications in terms of the Corporation are probably the most significant of all that have been made today, because of the notion, which I think is absolutely right, that we have not only opportunity but some obligation to try to improve the legal system, in terms of helping poor people, can call for much more aggressive and effective efforts than we've done, by the Corporation.

MR. ENGELBERG: May I just comment on that quickly? You know, the problem with that, I think you would agree is that, again, it's the old -- it sounds great in theory, but it depends on who the lawyer is, who the Legal Service lawyer is, and what you're doing.

For example, you know, the old "plaintiffs pursue and defendants delay" bill -- any lawyer knows, and I'm sure any Legal Service lawyer knows, that there are many times when you can benefit your client by taking advantages of the inefficiencies, delays -- I am thinking more in a narrow litigation context.

I am not even sure that even that -- obviously, in

the long run, Bill, certainly the Corporation should be concerned with the improvement of the legal systems, but does that mean that you would improve an eviction procedure so that people who don't pay rent are lickety-split on the street?

There are some -- good Legal Services lawyers use the delays and the inefficiencies of a typical big-city or even small-city landlord-tenant system. You know, I don't know -- I think I'm concerned -- and it gets back to the whole question of quality lawyers.

Certainly, Bill, you would agree that you are a Legal Services lawyer and you've got a client that is going to get evicted, your duty is to keep that -- I think -- to do everything you can to protect that client's interests, which may mean taking advantage of all the --

MR. EHRLICH: But it may also mean pressing for a change that would require a Certification of Habitability, filed in court, before you can be evicted.

MR. ENGELBERG: It is not the role of the Legal Services lawyer, when a client comes in, about to be evicted, -- there's no real defense; the place is reasonably habitable, though it's not -- we are not talking about housing code violations -- I would think that lawyer should keep the person living there as long as he can. That's what I would do, in private practice. I would hope the Legal Services lawyer

would do that.

MR. MC CALPIN: Steve, let me say that I guess what I was really thinking is not so much improve in the sense that you picked up the word, but making the system work for the Legal Service client.

MR. ENGELBERG: Sure. But that may mean improving and it may mean leaving it with its imperfections.

MS. BOURDETTE: Maybe a good way to phrase that might be, too, that we would have as a goal some responsibility for ensuring that the legal system is responsive to poor people.

We not only want access and think we have responsibility for gaining access, but it's a system that is meaningful or responsive in that way. Is that something you'd agree with, Bryan?

MR. STOPHEL: Yes, I just feel that 50 percent of the people who get access don't feel that they get justice, because a lot of them lose.

(Laughter)

MR. STOPHEL: And I hesitate to use the word "improve". I agree with Bill, that you use the system. I agree with your term, I think, making it responsive. But you line up the people and somebody is going to be unhappy. Getting access, getting in there, making the system work is what we're about, as I see it. I don't try to define what

the decision should be, because I'm not the decider.

MS. BOURDETTE: No, but you do say "making it work", and I think that is what we're getting at; it's not only that there is some access, but it's a system that is rational, that is, you know --

MR. STOPHEL: Could be an impartial hearing.

MS. BOURDETTE: -- perceived as fair, whether one won or lost.

MR. CRAMTON: To some extent --

MS. BOURDETTE: But we have the responsibility to the system.

MR. ENGELBERG: See, again, I have a quarrel with that. I mean, you know, again, I hate to be stubborn about it, but I am not even sure -- at times, lawyers want irrational -- irrationality of the system.

For example, let's say -- take that landlord-tenant thing, and there is a judge who will never evict people -- irrationally will never evict people. It's that lawyer's duty to get before that judge and take advantage of the irrationality. Lawyers do that every day.

They take advantage of the irrationality of the system, so I -- I guess I'm sort of trying to --

MR. SACKS: John, it's ten to twelve; we have -- we've just touched on quality; we haven't done anything about the others. I just call that to your attention.

MR. ARANGO: Yes. I'm not going to, obviously, insist that this afternoon we switch to strategy, until we feel that we've gotten something out of the other goals. That was only a very general layout. You're right.

MR. CRAMTON: One area in which the Board has discussed is the question of furthering justice, and I just mention it for some of the nominees from Newport members, has to do in connection with the issue of: on what proposed Federal legislation should the Corporation or the Corporation staff take a public position?

And, in general, the position of the Board has been more along Steve's kind of conservatism on this than it has to more expansive statements that we are in favor of law reform and good things and we define what they are and state what they are.

And the more you move it away from something that is a procedural legislation which clearly deals with Legal Service programs and projects and their operation to the legislation that's concerned about the rights of poor people and the administration of justice and then legislation that really is concerned about the justice system generally, and then, finally, legislation that's concerned about the substantive distribution of goods, like food stamps and health programs and so on.

There has been a kind of clear agreement on the

Board that the last was clearly out of bounds. We never would take a position. Probably the next was -- and all of the area of dispute has been about the kind of closest category in, and a clear recognition that the Corporation ought to take positions on legislation that affects directly the delivery of legal services for the poor.

MR. ARANGO: Mary, I have a sense that we really drifted away from your point and I just want to be sure that you don't feel that.

MS. BOURDETTE: No, I don't think that.

MR. ARANGO: Because some people picked up on the nature of the kind of de-lawyering issue that you raised, the sense that more and more you have to turn to attorneys to settle things that previously you did not have to, and that maybe stopping that flow was at least a part of your recommendation as a possible goal for the Corporation.

I think Tom mentioned a couple of times, also, that, in different ways, that same idea -- and as we got back to your point, that one got lost, more in the sense of already being in the courtroom and whether we want to improve that, without stepping back and seeing whether in some way we want to stop getting into the courtroom so often.

I just wanted to see if anybody wanted to talk about that.

MR. SIMON: I want to argue with it head-to-head.

The de-lawyering thing belies my entire experience as an attorney, and I feel that, if you look at the cases that we have won for poor people, but also that have been won, most cases are resolved on procedural issues, use of processes, use of technicalities.

The courts are not going to come out and make big substantive statements. And I would be concerned, sort of along the lines Steve said, I think, that a de-lawyering, although I am in favor of the clients getting more involved, would tend to simplify the system for the poor. The problem is that the poor rarely have other poor people as their adversaries; it's usually the Government or someone who is represented.

So, therefore, a simplification would take away a lot of the procedural things and technicalities that we as their lawyers rely on. I think that argument can be overplayed, but I think we have to realize that in most of the disputes that we represent poor people, they are not on equal footing with their oponenents.

In most of the disputes that we get involved in are not one poor person against another. When they are involved with people that have -- you know, people that made the regulations and are represented by counsel and the government, it's important, I think, to think about that side of it, that a streamlining or simplification could be really

be dangerous, because that's what we rely on, as technicalities.

And that's certainly what other people, lawyers or anybody representing, rely on.

MS. WORTHAM: As far as I am concerned, Roger made the really useful sharpening of the point. I mean, the thing is that the person who is daily battered around by a lot of forces, comes to think -- what should the Corporation do about it?

As we all know, this very issue is not at all without controversy. Exactly on the basis that Ron suggested, in the past, where there were some specific substantive issues, it was suggested the Corporation might take a position.

The position that was toward de-lawyering was in fact opposed by a number of Legal Services lawyers, for just Ron's point, that a simplification of the system often means second-class treatment of people.

That is, in fact, why I think Roger's point about which of the Corporation -- is it a goal the Corporation can do anything about, is a very important one.

MR. CRAMTON: We could lost our credibility by spreading ourselves too thin on these things and other people may have more to say.

MR. KANTOR: Yes, but that raises a point that we have not discussed. Is this a full-employment program for lawyers or is it a program that was developed because of the

needs in a certain community. You know, if you look at this as a full-employment program for lawyers, then you're right, and we ought to keep the system exactly what it is; we're doing just fine.

But I tell you, if you -- the thing that -- one of the things that I think a lot of Legal Services lawyers -- and I think they would disagree with you, Steve -- would like out there is things that would -- systems outside the court that could be controlled by and involved with poor people that would take a lot of the grievances out of the courts and out of these kinds of formalized proceedings, where the communities themselves can make the decision to have some sense of -- I don't want to use the word power -- some sense of involvement in their own lives.

And so I think Mary's right. I think that is -- and there are a lot of other people talking about that outside the Corporation. It's a large movement.

The Department of Justice has programs going. We may not want to get into it, but if you look at this program as a program for poor people, and that's why we are here, then the fact is that that's a legitimate goal, but one we might say that we should only be involved in in a tertiary way, not in a direct way.

CHAIRMAN RODHAM: Well --

MR. ENGELBERG: Can I just respond to that? I'm

not -- I wasn't trying to address myself to the de-lawyering issue. Again, I guess I'm trying to look at it somewhat more pragmatically, and I'm just uncomfortable with a lot of the -- I know what we're trying to do, but I'm still uncomfortable with a lot of sweeping statements, and I think -- I mean, take your point, Mickey.

You think realistically you are going to take -- and I just focus on landlord-tenant disputes, which as I understand it, is a big part of what this program does.

I'm not -- nor was I making an anti-law reform statement. There are other --

CHAIRMAN RODHAM: What are you saying, Steve?

(Laughter)

MR. ENGELBERG: Are you suggesting that you are going to take the landlord-tenant disputes, in the foreseeable future, out of some sort of judicial system?

MR. BROUGHTON: I don't think we ought to bore everyone with that discussion; I think it is an alternative that ought to be explored -- maybe not by us, but by someone.

The Department of Justice is doing it right now in Venice, California.

CHAIRMAN RODHAM: Suppose we talk about this.

MR. KANTOR: That's right -- Earlin Vallery's book; that was the whole point of it, outside the courts.

CHAIRMAN RODHAM: Suppose we try to combine the two

goals and, you know -- we have talked about access to the legal system or access to the system of justice and the effective use of it by and on behalf of the Corporation clients, because I think that covers what much of us want to see, without throwing away, you know, the baby with the bath.

We are talking about access to the system and combining it with its effective use and then going on to say "by and on behalf of the clients", we have covered the two areas of representations that we want to see joined, because there are going to be people working on behalf of clients -- not all of whom are lawyers; some of whom are lay advocates, some of whom are paralegals, some of whom are social workers, or whatever else.

But we are also talking about the effective use by clients, which means not only the existing system, but whatever variations may spring from it.

And also, I think, with the word "effective", it gets into the quality issue. Because I kind of -- I don't know what quality is. I kind of prefer "effective", to some extent, because, you know, that gets into what Steve is talking about. I mean, you know, the Legal Services lawyer who is defending a client by taking advantage of the imperfections of the sytem, may not in some people's eyes be perceived as a quality lawyer, but may be perceived, begrudgingly so, as an effective lawyer for poor people.

MR. CRAMTON: Don't you also have to add the other word that ties to resources, that is also in the statute: "effective, efficient" -- get in the cost and --

CHAIRMAN RODHAM: That's good, Roger.

(Laughter)

MR. CRAMTON: That bridges it to resources.

CHAIRMAN RODHAM: One other point that I thought of --

MR. CRAMTON: -- which is going to be critical.

CHAIRMAN RODHAM: -- after, Mickey's reading of the statute about people access to the system of justice, I don't know if I want "equal". I mean, to some extent the people that we represent need more than equal access to resolve their difficulties, and I prefer to keep just the word "access", because I think that provides more of an opportunity for the kind of flexibility and creative use that we're talking about.

MR. CRAMTON: So you want to change the Act.

(Laughter)

CHAIRMAN RODHAM: No, I'm -- I want to make a compromise with Mickey. If he'll take out "equal", I'll take out justice.

MR. KANTOR: Then we can all go home.

(Laughter)

MS. DANIEL: The Act talks about providing access

to those who can't afford private counsel. And the Corporation has properly, in my view, seen as its primary goal, almost exclusively until now, seeking to provide counsel. But we'll never succeed in providing counsel for all who can't afford private counsel.

I think that's -- acknowledging that there will always be a vast number of unrepresented poor people, helps for me to focus at a difference between Ron and Steve's point on the one hand and Mary's on the other.

Those who have a lawyer want to be able to manipulate the system that exists; with all its imperfections, we can make it work for our client.

But acknowledging that there will always be poor people without lawyers, then we really have to, I think, consider Ramona's point, too, about self-help, for the person who wants to be able to have more control over his or her own life, be able to enforce his or her rights.

The legal system means more than the poor, but all the ways that our society provides to enforce rights, and we probably should be working for development of more mechanisms for doing that without lawyers, because we will never be able to provide lawyers for everybody.

MR. HENNINGTON: We -- picking on Alice's point, and also the distinctions that Roger is drawing, we seem to have been heading away from distributive justice or social

justice, partly because they take on particular issue connotations, whether in housing, health or food stamps, but I think within the legal system itself there is a question of fair distribution, and it's more than equality, perhaps.

I wonder if we could plug in the word "adequate" to state the goal as "access to adequate legal resources and their efficient and effective use". And "adequate" would also pick up the concept of self-help, because I think, at root, what we are in business for is really to redress a problem of redistribution.

MR. TRUDELL: I have problems with Alice's statement in terms of acknowledging the fact that all poor people will not be -- or will not receive some form of legal service. I just can't accept that; in fact, the Corporation received a substantial part of its budget to provide minimum access and I hate to see any deviation from that.

I have real problems with the philosophical aspect of the discussion, for the simple reason we've never taken the time to examine the delivery vehicle. You know, when you start talking about law reform litigation or whatever, there are a lot of groups that need that, but at the same time, when you start to shift the attention of lawyers, who I view strictly as technicians for poor people, moreso than telling them what their problems are and we're going to solve them

for you -- the fact that they have had very little control over lawyers, very little control over programs, bears that out.

And I would hope that we would spend more time in terms of examining the delivery vehicle. You know, what are its shortcomings? Maybe I feel this way because I feel the Corporation is at a much different stage -- you know, the spigot has been shut off a little bit and the funding is just trickling out.

Yet there are a lot of people out there that have never had access, and have been told to wait or they don't know that there is money available. And I would question the way we communicate what we have and what we can do, you know.

Because we can all disagree on the philosophy of what this Corporation can do in terms of law reform or whatever, and some people are totally against and others are totally for it, and we are going to spend a lot of time just agreeing or disagreeing and -- I guess it boils down to the role of the Board members.

I think that some of us have felt that somebody else is going to tell us what our responsibilities are as Board members and to -- only react or discuss as broad policy and then leave the meeting and go back to suburbia or go back to your private practice, and just dabble with the problems in the abstract, once a month or quarterly or

whenever.

So I would hope that, during this retreat, that we take a close look, you know, at the delivery vehicle. And if it's not doing an adequate job, or if there are a lot of complaints coming from the field in terms of the role of the central staff, the Board being -- what are some of its policies or goals or what-have-you.

I know we are trying to set some of them. But the only reason I say this now is because half a day of this -- half a day of this two-day retreat is gone and I would hope that the majority of us will still be here tomorrow afternoon.

MR. CRAMTON: Didn't we really start talking about quality when Hillary put forth that alternative formulation? And it seems to me Dick's comment is a statement of a goal or objective in the quality area. And if what -- the Board ought to direct itself to that.

MR. ARANGO: We may also direct ourselves to the fact that it is twelve.

CHAIRMAN RODHAM: Yes.

MR. ARANGO: The schedules calls for supplementaries activities during lunch, with just the Board meeting by themselves. And perhaps what we ought to do, since we seem to have played out a good many of the arguments, except, possibly, that Alice has some thoughts that we can come back to in other contexts.

It might be good to break now and then pick up in the afternoon, focussing on the quality --

CHAIRMAN RODHAM: The Board is having lunch in the Garden Room, which is gotten to through the dining room.

Get something to eat in the dining room and go to the Garden Room. We are going to be back here at 1:00 -- 2:00? Why so long?

No, I don't want to wait until 2:00; let's be back.

(Whereupon, at 12:10 p.m. o'clock, the meeting was recessed, to reconvene at 1:00 p.m. o'clock, this same day, Friday, January 26, 1979.)

AFTERNOON SESSION

MR. ARANGO: We probably should move on to talk about the quality goals and institutional and resources. My sense is that, since we seem to be very clear on what a goal and what a strategy is, that we may be able to move considerably faster.

The one thing that started to happen a little bit towards noon, that I think we want to be careful about, is the sense of trying to write one all-encompassing statement that includes everything.

I think that we'd be better off, at least at the moment, to end up with three or four or five separate goals than to try to take one statement and add a lot of qualifiers and extra words to try to cram too many concepts into one single statement.

The difficulty then is that--that you really get into trouble trying to qualify or modify which word, and which one is really important and which one isn't. So in preference to continuing to add to "effective use of the system by and on behalf of clients" and adding "adequate" and "efficient" -- well, efficient is in there -- but if you are adding more and more to that, I prefer, at least initially, that we make separate statements and then, towards the end, if you want, we can combine things that seem to be saying the same thing.

CHAIRMAN RODHAM: Can I ask one question, John,

which we are talking about during the lunch break.

Is it your conception of this process that there can be such things as sort of "evolutionary" goals?

MR. ARANGO: Yes.

CHAIRMAN RODHAM: And short-term, long-term?

MR. ARANGO: Absolutely.

The broadest possible statement is that it can be anything you want. But that's clearly, in planning things, the one of the things that we can do.

And again, without getting into very complicated discussions as to whether a short-term goal is an objective under a long-term goal. We don't need to get into any of that, just -- if you can state and idea that we want to get, in roughly a certain period of time, that's great. Okay.

Where we are is, that this morning we had various members of the Board and nominees read through the list of examples of possible goals for the Corporation and suggest topics that they would like to discuss. In a minute, as we get into this, I will kind of try to give a brief summary of some of the ideas we talked about this morning, which had to do with a heading that became "justice" and the discussion largely dealt with access.

And we're now going to go on to talk about quality and institutional resources, which are just some words that we used to group some ideas that were suggested as possible

goals for the Corporation.

Please feel free to throw in new ideas, if you like, or obviously you can get into the discussion, but there are -- up here, if you do not see something that more or less, you either want to talk about or you'd like to hear someone talk about, feel free to throw in new ideas, even though the rest of us may be planning to limit ourselves to this list.

MR. ORTIQUE: The main thing you don't have up there is how do you get rid of a lawyer.

MR. ARANGO: We talked about that, too.

MR. CRAMTON: We talked about that for quite a while.

MR. ORTIQUE: Well, it's not up there -- I didn't see it.

MR. CRAMTON: It's on the chart over there.

MR. ARANGO: I think we're going to come back to that, because during lunch -- I won't give you all the observations I got, but there was a very good point that was made about that, that we can come back to, about a sense -- well, we won't get into that now.

MR. ORTIQUE: When I mean get rid of them, I don't mean shift them to Washington, or send them to another program

MR. ARANGO: Right.

Under "Quality", we have: "Develop high quality legal service projects", a really different concept, which is: "High quality legal services for the greatest number of

potentially eligible clients", "Quality legal services for the poor" and a subcategory there, "How to define and identify quality legal services for the poor", and then, what was really an opening up of this concept, "How to develop high quality lawyers and high quality projects to provide high quality service."

Obviously, the train that runs through there is high quality. I guess the question is to what extent you want to make those concepts more precise now -- or do we all agree that it's high quality and leave it vague, or break it down in terms of greatest number, and anything that people would like to get into.

MR. CRAMTON: One of the problems about the word "quality" is that it conceals in it a lot of the disputes and differences of opinions that we started talking about this morning, in terms of how aggressive the advocacy, how the clients could identify it or formed or organized, and the relationship of attorneys and clients, as well as a lot of other questions of improving where we are now, in terms of, you know, having offices that not only have the lawyers who capable of providing an adequate level of representation but have the resources that are available to do such simple things as take depositions.

MR. ARANGO: Okay. Now, just to tote that up, if you look at the examples of goals and strategies for the

Legal Services Corporation, the first goal, "Develop high quality Legal Service projects", contains two alternatives which were, essentially, a kind of fancy way of saying two what seem to be frequently discussed views of what an ideal Legal Service ought to be.

The first one contained the concepts of -- maybe I shouldn't try -- somebody's put this -- "Office B", from Leah's memo, which is the first one that is listed, contains within it: The concepts of priorities established with the client community, a staff that can basically use any strategy within the legal system -- the concept of a legal work; that is, defining certain kinds of goals that are to be achieved and then directing the resources of the program towards that end.

The concept of developing the ability to advocate for the poor in the political decision-making process. Assisting projects to develop effective working relationships with client groups, and so on.

"Office A" is essentially one which is greatly simplified cases as they arrive at the door and provides good lawyers. Now Leah's contains that in a narrative form and this contains it in another form.

We may -- essentially, the question was, what is the view of an ideal legal service program. I mean, there are two possible definitions of what quality means. The way

it gets played out here is in the notion of the strategies that the Corporation would pursue to cause that ideal program into existence.

MR. CRAMTON: But not to cause, necessarily, one or the other; that is, the Corporation can take either of two positions. It can have a firm commitment to one of those models and try to lead and force all programs into that model, or it can say, you know, there are several respectable and legitimate models of quality lawyering and we don't -- we are neutral on the question of which one is adopted.

That's up to a local community and there's some virtues in diversity and all we say is, you have to go to one of the models of quality of lawyering, but which one you go to is up to you. So the federalism issue comes in on the quality question as well as everywhere else.

MR. ARANGO: Just to hook that up with the materials, too -- I don't want to spend too much time doing this, but on the possibles goals for the Legal Services Corporation, on that little chart, essentially we laid out four possible goals which, I think, have to do with this federalism question.

When we wrote on this other pages that has the various boxes that, starting with the notion of high quality legal assistance and -- these are sloppy definitions, okay -- we're talking about that meaning, execution, and effective execution strategies that deal effectively with client problems.

And we could figure out four possible options that the Corporation could take on this, the first one being the notion that the Corporation would leave projects as its grantees free to identify problems and to select the strategies that they're going to use to deal with the problems.

The Corporation role for that would be essentially to provide for support to projects that would be required to ensure that the problems are identified, then effective strategies are used.

Then, basically, we keep adding as we go down the line, greater Federal intervention. The second option; that is, where the Corporation develops a strategy and the projects identify the problems, is very to the model that was used by the OEO, at least around 1966, where the local projects were told, as it indicates in the note down below, that there were basically six strategies that had to be pursued and that they were free to apply those strategies to any kind of problem that they wanted to, but when they got the evaluation manual that the OEO used it contained within it a statement that, basically, programs were to do law reform, were to do community education, were to do the things that were mentioned down there.

The third option would be where, in effect, the Corporation identifies the problems, but then that the projects are free to develop their own strategies, and that

would be the notion of having an effect of some kind of goal which deals with something about the nature of substantive problems.

And then, within that, the projects were free to develop their own strategies.

And the last one was more a logical consequence than anything else we talked about, and that is the notion that the Corporation would identify both what problems were to be dealt with, and the strategies that they were to use, to effect the kind of central, single, gigantic law fim with many, many, many, local offices but all dealing with the same problems, knowing the same strategies.

I think that was, at least, our attempt to make more precise this concept of talking about how far and in what way would the Corporation issue instructions to programs as to the quality of the service that they are to provide.

And still, I -- I mean I think you are right, and we may all be assuming that we have already decided that it's going to be "high quality" and moving immediately into the strategies. Does anyone want to argue that it shouldn't be "high quality"?

MR. ORTIQUE: I don't want to argue that, but it seems to me that we have got to make sure that we understand the -- out in the field -- the difference between pursuing certain objectives for the purposes of improving the measure

of justice that poor people receive and the capability of the staff to deliver that type of quality.

And when you talk about making certain that you include one type of service as opposed to another type of service, that's fine. But if the personnel is not capable of delivering that, once they run into the problem, they are still not getting very much.

MR. ARANGO: I have an answer to that, too, but I don't want to give it, because I think I'm talking too much, so let's just go on. But we do have something worked out, and maybe we can come back to it a little bit later, that shows a possible process within a program and then give opportunities to simply tinker with it from the Corporation level. I don't want to talk any more just yet.

MR. CRAMTON: There is an implication of the emphasis on high quality that sort of says, "Spend more and more to do less and less all the time", and that, I don't think we want to fall into the trap of, if that's what high quality means.

In other words, you can't -- I think -- discuss quality and effectiveness without discussion of resources as well. And I'm not sure that we do want a model of, you know, Rolls Royce and Mercedes Benz justice for the poor.

We want Volkswagen justice.

(Laughter)

MR. CRAMTON: No, I'm serious. We want good quality, but we don't want frills, luxury, and the like. We want a good, solid job at a moderate, reasonable price per unit of service delivered.

MR. KANTOR: What would you -- how would you differentiate between Volkswagen justice and Mercedes Benz justice, just to use two foreign cars.

(Laughter)

MR. CRAMTON: I think there's a question of the amount of resources that are put in on claims; that's a very serious question, that is of some substitute for the rationing that is provided in every other field of justice for the economic amount that's involved or the party's willingness to pay.

And, you know, there is a point at which, as a practical matter, I'm not going to devote endless resources to relatively minor and trivial or unimportant matters -- or do everything that might conceivable be done, in terms of making arguments, defenses, causing delay, and so on, in matters that are relatively routine and not all that critical

MR. ORTIQUE: I don't think that has to do with the justice.

MR. STOPHEL: This is quality legal services, which is --

MR. ORTIQUE: I would have no problem with that.

The only thing that I am afraid of is that we want to give poor people something less than we would give to a paying client, and since 1964, I have been opposed to that.

MR. CRAMTON: Yes, but do we want inevitably to give them more? Because, certainly the small business man who has to buy a lawyer is influenced by the market rate and how much he does, by what it's going to cost.

He doesn't have the lawyer spend -- he doesn't spend more on the case than the case is worth. Now, do you want to give poor people much, much more than other people?

MR. ORTIQUE: I want to give them much, much more, because I am not sure what much, much more means. But if the small business man is getting short-changed on justice, then I think that that's a problem that's going to have to be eventually addressed.

My conern is that the poor person gets what he needs to have, high-quality justice. And I don't think -- now, that does not include the -- taking the lawyer out to lunch or dinner at the Plimsoll Club, and it doesn't include frills that have nothing to do with justice, and I certainly hope our programs would not spend money on that.

But when we are talking about delivery of justice, I would be opposed to letting the notion come into the picture that we are going to give poor people something less than -- because that doesn't help them too much. That's

what they've been concerned about all the time.

MR. ARANGO: Tom's been waiting.

MR. EHRLICH: Two sets of questions, I think that are closely related but not the same. One, resource allocation questions and the other are cost questions involving quality.

I like, particularly, the way Leah's paper looked at the quality issue, because it defined high quality in terms of the program as a whole, and said it meant no matter would be turned away on the ground of ineptitude or inability of counsel to handle the problem.

It didn't say -- and that's an important aim and goal, I think, for the Corporation in terms of what we do -- it did not say in terms of allocating resources among kinds of problems -- given that quality, how it ought to be done.

MR. ORTIQUE: Given that --

MR. EHRLICH: I believe that's the job of the program.

MR. ORTIQUE: Okay.

MR. KANTOR: Two things. One, at least, I would agree with maximum local control within the rubric of quality legal services, the maximum possible. That would be number one, at least. I would agree with that.

And number two would be that the Corporation provide as many options as possible for the local programs to provide quality services. Now, I know that's a little

vague, but to allow the program to choose among and between many -- look, there's so many priorities, no program will ever fulfill all of them.

But if the Corporation could provide at least the resources to give options and let the local program and the local client community decide within that -- and that gets to what Lee was saying -- if you are able to handle all those, within that, what are your priorities?

It seems to me -- and even historically, not just the Corporation part of it, that was always a major priority, to allow the local programs to make those choices, but to given them the resources to have the options -- maximum options.

MR. ARANGO: What we seem to be into is figuring out what quality means. We have three working on right now: "No matters turned away because of ineptitude of lawyers, maximum possible local control, Corporation provides resources to execute as many -- create the possibility of executing as many options as possible".

MR. SACKS: I don't think I'm necessarily prepared to accept a proposition, "maximum possible local control". I go back to the Program A and Program B models that you referred to, and which appear on page four of this memo that we got in advance of the meeting.

It seems to me that there's a lot to be said for

Program B and there's a lot to be said against Program A.

MR. ARANGO: Program B is the one that basically uses a number of different strategies, right? You may want to explain --

MR. SACKS: Well, Program A involves -- defines its mission as responding to the demands of clients who come to the program and achieving the results desired by these clients.

And since legal needs exceed resources in every area in the country, programs are required to set priorities and to involve the client community in setting these priorities.

The priorities set under Program A are stated in terms of types of cases accepted and types of cases excluded.

In contrast, Program B defines its mission as "using its resources to achieve the maximum benefits for all the potential clients in its community" and "decisions on how to allocate resources are made on the basis of an assessment of the problems in the community and an exploration of alternative strategies to produce the maximum effect with a minimum use of resources," which, translated, as far as I can see, means that we don't simply look at the people who walk in the door and decide which ones you can take and which ones you may not be able to take, but you look at the entire community that you are serving and try to figure out, with the aid of your clients, which are the most important

problems and what's the best way to achieve progress toward meeting those problems.

It seems to me that since there's so many accidents that might determine which clients walk in the door and which clients don't, that Program B will give you better results.

MR. STOPHEL: When are they clients if they haven't walked in the door?

MR. SACKS: It says, "potential clients".

MR. STOPHEL: I know, but you used the term, "clients". A potential client is anybody.

MR. SACKS: Well, anybody who is indigent and qualifies.

MR. STOPHEL: Yes.

MR. SACKS: As I understand Program A, it deals with people who are actually appearing and asking for a particular kind of service, so that you don't go allocating your resources on a local level of what might come in.

MR. STOPHEL: Well, Program B suggests that, if you have a -- you may have a situation where the people who tend to walk in the door, because of geographic easy-access, have a lot of problems A and B, but there may be people who are further located away -- located further away -- who have a lot of problem C.

MR. CRAMTON: One of the reasons we have stuck to

the more neutral high ground of saying we want the local programs to develop their own model and their own priorities and leave them free to do so is because we have been unable to reach agreement on which -- whether Model A or Model B is better.

(Laughter)

MR. STOPHEL: Well, the way I see quality, and I've tried to come up with something like this, because we have been struggling with it, undoubtedly, the whole Legal Services community has -- what do we mean?

And in every -- every one of us, who ever deals with lawyers or is a lawyer, if we were given a city and were asked, "Which is the best law firm in town? Which are the better law firms?", generally, if you know anything about the city, you have pretty well identified the firm, and you have a concept of "What does that firm do in that community?"

That doesn't mean that it's the same, that if that law firm were in another city, that it would be ranked the same. And as I see it, what we're trying to do is have these firms, in whatever mode they practice, whether it is judicare or staff program or whatever way they are choosing to practice, provide the services that are needed in that community by the people who qualify for those services, in terms of income.

And I think they do it in an effective and efficient

manner. It doesn't mean that they accept every case or take every case on appeal that they take or even accept all of the clients that come in, but they have to allocate those scarce resources, but they do an efficient and effective job of lawyering in that community.

And this is why I think we have tried to go away from us saying what every one of them looks like.

I was the chairman of a program at a time when we were under the OEO strategies and every program was supposed to look exactly like every other program, and that was a mistake. We just couldn't do it that way. It wasn't good.

MR. KANTOR: In fact, it didn't happen that way.

MR. STOPHEL: We tried.

MR. KANTOR: There was wide diversity, yes, but there was wide diversity, even at that time. No one was ever able to enforce that.

MR. SACKS: But I don't think you can say that Program B suggests that every program throughout the country is going to be the same. It doesn't, by any means.

MR. STOPHEL: I wasn't suggesting that; on Program B the potential clients -- that gave me some -- I think we need to serve our clients, and as a matter of realities and practicalities, we have more clients than we can serve without going and looking for potential clients that may have problems.

MR. KANTOR: You each represent the -- at least --

the old argument -- neither of you would disagree that a local program, at least -- when that determination is made, the client community and local program ought to make that choice.

In other words, you could follow either strategy -- either is legitimate and rational. Would anyone disagree with maximum local control, feasible with, you know, running the program and so on?

Is there any disagreement with that?

MR. ARANGO: How it started -- and I think your thinking was a little bit different -- in a sense -- we were defining the boundaries within which the program could make the local choices. I think that was --

MR. KANTOR: Yes. But I mean, within that. Assuming those modes were open -- we could get to that -- but --

MR. SACKS: The difference is that I am suggesting -- I'm not sure that I am committed to this, especially after what Roger said, but I'm not sure that I would allow a community to choose Program A. I would allow a community to choose Program B -- any kind of Program B they want.

MR. KANTOR: Yes.

MR. SACKS: So, in that sense, I don't believe in local control. I may be dead wrong, and I'm prepared to be --

MR. ARANGO: Is the critical part of your disagreement whether the program responds only to the clients that

arrive at the door, as opposed to the needs of the entire client community, whether they have arrived or not?

That was an issue that -- maybe we ought to -- let's play on that one for a while, unless you want to talk about something else.

MR. EHRLICH: Only as an operational matter. Do you have any questions?

MR. TRUDELL: I think Mickey is right, in terms of the way you said it. If the question is, "Are you going to require one" -- it's inconceivable. It is not at all inconceivable, though, that a variety of kinds of encouragements, as Leah's paper suggests, could be given to push B over A, or I suppose A over B, to do.

And that could happen very easily, and that's a big set of questions, whether it ought to happen. But I think to mandate one or the other -- we could mandate it tommorrow; I don't think anything would happen to make it very different; that's my real point. We could not mandate but have a --

MR. KANTOR: Well, when you set up a system of back-up centers and reporters and training programs and Reggie programs and you fund them and you get into sub-sub areas of the law, in fact, you are beginning to define for those persons who are dealing with the local program, not only the Boards, the client community and the lawyers, define

where they're going to be, just by doing that.

MR. TRUDELL: That's the reason I suggested this morning, in terms of examining the vehicle. Because I think, in terms of, you know, Mickey's concern about local control stemming both from the staff of the local program and the client community, is extremely important, because I hate to use, in any situation, an example.

But you take what is happening on the Navaho reservation, for instance. You have problems emerging every day and people coming to D&A's door, saying that "Exxon's out here trying to execute some kind of exploration lease for uranium -- what do we do?"

And you've got the tribe involved as well as individuals. And they need to have that control and decide to shift gears or do what they have to do.

And then you may have a particular area, and it probably goes to Indian programs more than some of the others; you may have a hostile, you know, State government because of a natural resource issue, and they're not going to really assist that community in any way.

I think that's being borne out by what's taking place across the country, regarding the Indian issues. If those programs don't have the control to do what they feel is necessary, you've got a problem. In putting together all these support centers that have been in existence for quite

some time and have done, I'm sure, commendable work many times, in a sense you're telling those programs what kind of things they're going to be doing, if you're going to defer to those national support centers all the time.

MR. ARANGO: Do we want to talk a little bit about this problem, that I think Howard raised, that is which programs -- which problems does the program address; those that are brought to the Board by clients and by potential clients, or those that exist in the community?

Once this issue is settled, then he probably would be happy with the notion of maximum freedom of choice in the program, but on this issue, he has some questions, if people want to talk about it.

CHAIRMAN RODHAM: John, the way you presented it there, it makes it sound as though those are two mutually exclusive categories; I don't think any of us would imagine that's true.

I think that there are a number of ways of recognizing how they overlap. More problems are brought to a program than any program can handle, in the priority setting and resource allocation decisions, it should be determining which, perhaps, are most representative of those in the community.

They may also suspect that there are unmet needs, unrecognized needs in the community and that it would be

appropriate to do some legal education in educating people about their rights.

But if you have outreach and education, then I believe that a poor people's -- if it is really a poor people's problem, it will in some way or another come to your door. And if it doesn't, maybe it isn't really a poor people's problem; maybe it's a lawyer's idea of a poor person's problem.

MR. STOPHEL: It goes with the perception of the client community.

CHAIRMAN RODHAM: Yes.

MR. STOPHEL: And we must have the -- my view is, we must have the clients telling us what their problems are, rather than us saying, "You've got a problem and you don't recognize it."

They just -- some things that we don't think are their problems are the things they want us to handle. And we must do that. To me, we must not say, we can't handle that problem this week, because we are handling this problem, which we see is a bigger one.

Now, that goes for the client involvement and several other things, which are the mode of internal operations within a local program, but I see that as a problem with defining "community".

We have heard in Board meetings, several times,

where the client community was brought to us but the client community spoke with two voices, because there were issues there that they weren't in agreement on -- both of them eligible.

MS. DANIEL: Well, I think that Roger crystallized fairly well the feeling that -- when he said that in the past one has not been able to resolve whether we favor A or B and we probably -- I mean, in the paper, essentially what I was trying to do, I think, was to separate the proficiency issue on which probably -- I think -- everyone does agree, from the discussion of A versus B on which people don't agree.

And I think either one can move forward. Unless one can get people to agree on -- I know that staying on this point and defining it so that it's more muddy and people sort of seem to agree isn't going to get anybody anywhere.

MR. STOPHEL: What is implied in your proficiency argument or your proficiency statement is the fact that every Legal Services lawyer -- every program, because there are more than just lawyers in the program, should be fully capable of providing all kinds of services, from the most mundane to the most sophisticated, in order to permit -- to present to the -- for the client, really, the largest range of options possible. That's where we want to get, isn't it?

MS. DANIEL: Yes, and that --

MR. KANTOR: Since they don't want -- see, the problem with comparing it with the private bar is that even the small business man has a range of law firms that he or she can go to. To the client community there is only one -- it's a monopoly.

So when you have a monopoly, that monopoly has to be able to afford, it seems to me, the full range of options so that he can then decide, out of all those options and that limited resource, what is he going to choose -- and the Corporation only ought to open up those vista or to allow freedom of choice at the local level or provide all those options and then let the local community decide, in all of that, what's available.

MR. STOPHEL: Excuse me, that assumes a staff program being the method of delivering legal services.

MR. ENGELBERG: No, I don't think so. I mean, I think, as Mickey says, the Corporation should offer that -- open that up and it would seem to me you could do that through a variety of different methods.

MR. KANTOR: I didn't limit it to anything.

MR. ENGELBERG: Well, I'm sorry, but you dichotomized between the choice that a business man has and a choice that a poor person has, and one method of delivery would be to give him the same choice, by one of the methods being used in our delivery system study, which gives him the same choice;

that is, a method of doing it.

MR. KANTOR: I don't want to get into that discussion; that would presume that the second method would provide quality legal services, which I think we are taking way outside the boundaries, because I don't think it would. But that's -- the question here is --

MR. STOPHEL: But I thought your assumption was that the business man gets quality service.

MR. KANTOR: Oh, yes, he does, because the lawyers he goes to are trained in his problems.

MR. ENGELBERG: Well --

MR. KANTOR: They're not trained to handle --

MR. ENGELBERG: Yes, but Roger's right, Mickey; I think that -- I mean, it seems to me like he's right, that there is a different level of justice that people can afford. Some of the business men in your gigantic firm operates -- represents may -- no, seriously --

MR. KANTOR: All too few, Steve.

(Laughter)

MR. ENGELBERG: -- with high-paying clients, can have a different quality of service than a firm that -- a smaller client with a smaller budget can affort.

And that doesn't mean -- you know -- sometimes the smaller budgeted lawyer can whip the big-budgeted lawyer, but there are more resources. You know, the Covington-Burling

have more resources than the three-and-four-person law firms. And that could affect, you know, the outcome.

So, you know, the same problems, I think, exist in the private sector. People have to choose, and they may be limited by what they can pay.

MR. CRAMTON: The inner quality of resources and lawyering, I think is usefully talked about in terms of the differential, not between the rich and the poor, because in fact, once you've got a legal Services Program involved, the poor are in a very different situation.

I think it's best approached from talking about the one-shot participants and the repeat players, and the one-shot participants, when the individuals came for legal services themselves, and therefore the value of the claim is a critical matter, are severely prejudiced in our system, as against the repeat players, for whom what's at stake is not just the $50 claim that's involved with this individual, but maybe hundreds of thousands of claims, because they're similar in nature.

So they are willing to invest much, much more resources. Now, the -- but then we have a -- there's that problem. The one-shot and the repeat player, and what Legal Services is, automatically put the poor person whose case is taken into the, really, into the repeat player category, in which the resources are not related to the amount of the

claim, but are related to what the program thinks can be accomplished by the claim, which is really the position of insurance companies and defendants or plaintiffs that, you know, that have a stream of cases.

And, you know, this can work ideologically on both sides. It can be the ACLU or the NAACP as an institutional plaintiff that's selecting cases or it can be a prosecutor or institutional defendant on the other side that's trying to prevent law change or some.

But it -- our system sometimes allows people to put in a much, much higher amount, worth and quality of legal services than the particular case really is worth. And those people, whoever they are, have enormous leverage and enormous advantage aginst the one-shot players.

It seems to me the whole argument about Program A and Program B is an attempt to convert, make sure that every case, every use of lawyer services by a Legal Services office puts you into the repeat player category, so you maximize the leverage, and you really raise hell with the one-shot defendant, the small business man, the landlords, the local companies, that are in the situation of, you know, really not being economical for them to defend to the amounts that are put stake.

MS. DANIEL: Something you said just then -- I think we all more aware of those cases in which Legal Services are

representing the plaintiffs, but I suspect that if we looked at it, we would find the overwhelming number of cases we are representing are defendants.

I read something recently that said something like 97 percent of all plaintiffs win. Generally, we are defending people -- we are proposing a model that is sometimes used by Legal Services programs but is an ideal, even for those that agree with. It's an ideal that's rarely achieved.

I don't know of any Legal Service program that has adequate litigation fund, so that the balances -- you're right -- change somewhat when Legal Services comes into it, because the poor person -- the one-shot poor person may have some of the benefits of being a repeater.

At least he'll have a lawyer who may have a broad perspective, but chances are that they won't have the money for discovery, they won't have the money for depositions, the client may not be able to play the waiting game that the corporate repeater plays.

I think that, you know, some of us believe that it's a very good thing that occasionally the odds get shifted, because Legal Services come in, but you're suggesting that that's really much more customary --

MR. CRAMTON: I was being empirical; I was talking about models and trying to change the terminology in which we talked about it, because I think the usual way of talking

about it, through the rich and poor, doesn't make any sense. It's the one-shot participant in the legal system and the repeat player, and the repeat players have an enormous advantage.

MS. DANIEL: Yes, but most people, for example --

MR. CRAMTON: Program A's -- or is it Program B's -- well, anyway, whichever program it is, if it really did follow that strategy, you are making it per client that they are not able to follow that strategy, or they don't, and that may well be true.

MS. DANIEL: Not only that, the overwhelming thing -- I've seen some statistics recently that were just -- sometimes 75 percent or more of the cases in the State courts are landlord-tenant and consumer credit cases.

That doesn't mean it's 75 percent of the court time; a lot of them require judgments, and are settled without going to trial. But in almost all of those, poor people are defendants. Now plaintiffs --

MR. CRAMTON: But you can be a repeat player as a defendant -- if a landlord is forced to sue every damn tenant in order to collect his rent, and he can't evict the people, I mean, you have rendered the guy virtually helpless.

I mean, he's not getting any income from his investment, the legal system's got him totally tied up.

And he's forced to spend an amount of money that

just becomes unthinkable. I mean I -- you know, you at least have -- at least, that's theoretically possible.

So it's the accumulation of claims and the fact that the same issue is maybe involved with 200 people or 300 people -- it's not plaintiff or defendant; it's the repeat aspect of it.

MR. ARANGO: Let's see if we can relate back, and I'm going to do an obviously unfair thing, but let me just see if we can get back to the notion.

Is your -- this is the unfair thing -- you are not arguing, I gather, that you ought to limit the possibility of poor people becoming repeat players because of a policy within the program to take the issue as far as we can take it -- or are you?

MR. CRAMTON: No, what I'm suggesting is that the Corporation, up until now, in terms of policy, has let the question of how aggressively and with how much leverage against particular malefactors, as some would say, or in -- more neutrally, their oponents, the -- this repeat player leverage is used by Legal Services programs.

Some have used it; maybe most have not used it very effectively. I know, Gary Bellows says they really haven't used it very effectively, and that's your point. We have left that to them.

Howard has expressed a preference; maybe we ought

to encourage them and we have encouraged them somewhat by all this Reginald Heaversmith and -- but encouragement only -- no mandate, no requirement.

And encouragement has really been quite slight. And it seems to me part of the question is how much we want to encourage, push, try to structure the Legal Services program system, so that it maximizes that repeat-player leverage that the repeat player has.

MR. ARANGO: I would say, coming back, even to an earlier thing, which started this whole thing off, that it's the Mercedes versus the Volkswagen. Are you arguing that we ought to draw the line at the, maybe, Ford level?

I mean there's a certain place, and you'd prefer that all -- that the possibilities stop, or do you want to have infinite possibilities -- you could have the Mercedes but you don't want to establish that as a minimum standard.

MR. CRAMTON: I guess I think it's self-correcting. I think if the Legal Services programs around the country ever effectively utilized, on a very large scale, in every geographic area, the leverage of their repeat-player power, there would be a -- just a tremendous political onslaught on the program and its appropriations would immediately stabilize, if not the client.

MR. ORTIQUE: In other words, poor people are forever obligated to some standard that's less than.

MS. DANIEL: I think that our discussion reflects an implicit recognition that resource allocation questions and quality questions overlap, but I think analytically it might be helpful to separate them, for purposes of our discussion, and we really have been talking about resource allocations a lot of times, rather than the quality.

Maybe it's -- I would like to -- I think quality can be identified; it's hard to do. As Glenn says, you ask someone what's the best law firm in town, and people know.

Maybe they mean -- or they think they know. Maybe they're wrong. Maybe they mean these are the richest clients; maybe not. But when you begin to get a reputation--you know which firms miss deadlines, which firms are thorough or aggressive, have -- you know, I mean -- I think that I have sort of reduced to the kind that we feel that we know when we see it -- I'm on an ALI-ABA committe that's trying to work up model peer review standards, and maybe I'll have something helpful to report to you at some time in the future.

But I think that we do have to address questions of quality, of every client within the amount of resources that's allocated to his or her case should get good representation.

MR. ARANGO: We're -- I think what we're doing is, we're trying to define where the boundary lines are, and I don't want to characterize that much, but it seems going against the stream, that basically Roger is more or less

saying that there -- that, given the total range of possibilities, he wants to back off of the top one a little bit. Howard wants to move up from the bottom one.

Basically what I'm trying to do is to push them a bit, to see if they will take a hard stand, or whether we're really back to maximum possible local control.

But then Steve's issue -- I mean, Mickey's issue becomes important, because the ineptitude of the lawyer -- I mean, that's a tricky question, just to bring it right down to the strategy level.

Here I am, I'm the Director of Training in the Legal Services Corporation, and I received a proposal from a training center to train a group of lawyers to do a technique which is only usable in the highest level what's been called the repeat player.

I want to spend $4K on a conference to teach a technique that's used only way out here someplace and the question is, do I approve it or not?

It seems to me that at that point, the definition of, you know, what kinds -- what we mean by this becomes very important.

MR. SACKS: Do we have any experience -- are there many projects that operate on a Program B model, and any that operate on Program A model? What do we know about it?

MR. KANTOR: It's not that simple. When you've

been out there, it's just not that simple. Most programs find themselves in the position of doing both. And never answering the question, because, as Glenn pointed out quite correctly, the client community -- I don't care where you are -- never speaks with one voice, nor should they.

You can't expect that. And so what happen is, you try, with limited resources, to accomplish both, and that creates enormous pressures.

On one hand, the Board and the lawyers, or the lawyers of the client community might try to become complete repeat players, as you say, Roger, and it may be, at least from a theoretical view, the most effective, but the truth remains, a large part of the client community is not going to stand for that -- is not going to allow you to carry that out.

So that's why I raised the first -- I'm not sure that we can -- and I've heard this argument before -- I'm sorry, I've heard it in previous, in previous -- eleven years, twelve years, thirteen years --

MR. BROUGHTON: Since 1964.

MR. KANTOR: You were there before me. The argument will never be solved -- we will never solve it. I think all we can do is set up a system where we train the lawyers and the program directors, so they can provide the maximun option to maximize the client's ability to utilize the legal

or system of justice, whichever we've agreed upon, to the fullest extent possible.

Now, if the client community wants to somehow cut back from that, or the Board does, or whatever the forces at work, then that's the way it's going to be.

If a certain community wants to go to the full range of that, and, Roger, if that's where they want to go, we just may well have to take the heat politically, but I think that's up to the client.

This program is for the clients in those communities, not for the lawyers and not for the Board, and it seems to me we ought to be providing those options and not dictating where they go.

MS. SHUMP: You cannot talk in terms of worth and quality -- you know, you cannot discuss the two in the same tone. The worth of a case, to a lawyer, as opposed to the worth to a client, is vastly different.

You know, my divorce, to one of the lawyers in the office, might not mean a thing, but it might mean a great deal to me; it might mean the difference between whether my children grow up to be emotional cripples or that they grow up to be juvenile delinquents, or whether they grow up to be respectable young adults.

How can you sit here and measure the worth in the same tone as you can the quality? The purpose, at least

insofar as I have understood to now, up to now, is to ensure that the clients are allowed and are given the opportunity to receive the best possible defense in whatever has brought them into the offices of the legal aid.

Otherwise, what are you wasting time for?

MR. ENGELBERG: Let me -- Ramona, let me ask you this, because I guess it goes back to what Mickey said is the age-old problem.

What happens in a community where you've got, let's say hypothetically, a fairly decent system of client involvement -- you know, in the board. And yet, in that client community, which I assume -- in my experience, and I assume you would agree with, you do have divergent views, and that is, taking the divorce issue, which I know is a classic problem, you've got strong segments of the client community who want, you know, divorces, want the program given normative resources, to give anybody that comes in a divorce.

There are other equally strong segments that want to focus on law reform -- or, you know, whatever it is.

How do you -- how does that program -- the local program decide that? Do you just say that the majority vote wins?

MS. SHUMP: I think that they each have to be looked at individually at the local level --

MR. ENGELBERG: I'm talking about the local level.

MS. SHUMP: Right. At the local level, you know, if you've got something that involves a great number of people, and it is a vitally important issue, one that can benefit a great deal of people, then by all means, all resources that are available at that local level should be used and, at least in one instance that I am acquainted with personally, were used.

MR. KANTOR: But we know --

MR. ENGELBERGER: But what happens is, the people, the individual clients in that community who desperately need divorces and are not going to get them -- you know, just focus on the divorce thing -- and as you point out, may have very detrimental impacts on their lives, basically, they are just going to lose out for the time being.

MS. SHUMP: No, that is not at all what I'm saying; what I'm saying is that you've got to take each case individually and that what you've got to allow the local level to do is to use their discretion, to use their knowlege, their education to determine how best to spend the funds that you have allocated to them in order to provide the service that is vitally needed by the client in whatever instance.

MR. ENGELBERGER: Yes, but if we accept limited resources, somebody is going to lose out in that client community. And that's, I guess, what is really the most troubling -- and certainly, I think we all agree -- I feel

strongly that this Board, this national Board, shouldn't make that decision.

I think the concept of local control is pretty strongly -- it certainly the only way to do it, given the structure of this program.

I guess I'm even asking the more basic question, given the limited resources. Is there any way you can deal with the problem of somebody losing out, or is somebody just going to lose out, however the decision is arrived at locally -- I'm assuming an open and fair decision, basically.

MS. SHUMP: Well, I don't think that anyone is going to be overly upset about losing out -- you cannot take a divorce action and look at it as opposed to a case that involves a great number of people that is not furiously detrimental to an individual of that community.

In other words, if I were being sued by a landlord, for back rent, I would hope that, if there was a lawyer that had a divorce case at the same time, in which there was a possibility that the children or the spouse might be battered or emotionally or physically crippled, I would hope that he would take care of that one instead of mine.

MR. ORTIQUE: And you feel that clients are able to make those decisions at the local level instead of somebody --

MS. SHUMP: I would hope they can --

MR. ORTIQUE: -- instead of somebody dictating to them.

MR. ENGELBERG: I don't think we have a quarrel -- in other words, I don't quarrel with that reasoning, but I think it's a little more difficult in practice, because somebody -- we could pose a lot of hard choices that client members of boards would be trying to make for the communities they represent, and I -- it just seems --

MR. ORTIQUE: I think, though, Steve, it goes to the basic question, and that is, far too many instanceslawyers think they know more than the client what's best for clients and what's best for poor people. And I think that was -- when, under the old OEO, when we made a mistake in terms of law reform, it was not because clients had picked a bad situation; it was frequently because lawyers had decided this was the are that was most serious.

MR. ENGELBERG: I think the problem is more serious than that; it's not just a question of the lawyers thinking they know better than the client; I think most of the lawyers in the programs do think that.

But they also, even though they may say the opposite in terms of client participation and the like -- but this is a lawyer's program, and we're trying to recruit and train lawyers. And that means, in order to provide good professiona opportunities for growth, or making an attractive

professional scene, there has to be a situation in which the lawyers do, in a certain sense, what they want to do, or else they are going to leave.

And so that the -- I think it's an inevitable kind of long-term problem, that in truth a large amount of the decision-making in Legal Services is going to be made by the lawyers and it's going to be made on the basis of what it is that the lawyers want to spend their time on, rather than what it is that the -- you know -- this amorphous body of clients that you are -- even in the form of potential clients, that haven't even been identified, come in the office, might conceivable want them to do.

It's not easily overcome.

MR. ORTIQUE: One of these days, we are going to have to really sit down and meet that problem, Roger, because I honestly believe that we defeat our purpose when we insist that because lawyers have certain needs that must be met -- what happens in the private community when I, as a private practitioner, attempt to impose my solution onto a client?

They get another lawyer.

MR. CRAMTON: No, usually the lawyer persuades the client that doing what the lawyer wants to do is in their self-interest, in their best interests.

The same thing happens there, too.

MR. ORTIQUE: What happens if I'm giving advice to

a board of a Savings and Loan Association where I've got a piece of the action, sure. But when I'm talking head-and-head to a client and --

MR. CRAMTON: My point is, it's more complicated than just saying, you know, power to the clients -- let the clients do the -- the truth of the matter is, we are operating a system in which we have to attract and retain competent lawyers -- in fact, the clients realize that.

They want competent lawyers. They want lawyers who have opportunities for professional growth, professional advancement, doing -- having a degree of autonomy and freedom -- that's one of the reasons people go into law, anyway, to have some control over your own career, essentially, as distinct from being part of a bureaucracy.

I say -- all I say is, the dilemmas are to some extent built in and the solution's not going to be an extreme one or the other. Lawyers do exactly what they want or clients just a totally in the saddle, but a kind of compromise that's effective and is mutually a kind of trade -- a degree of the tradeoff that's mutually beneficial.

MR. ARANGO: Did you want to say something? Go ahead.

MS. LERNIER: My name is Muriel Lernier, and I'm here on behalf of some clients in the client community. I've been listening to Mr. Cranston, what he said. I

definitely don't agree with him. If he is serving -- a lawyer is serving a client, and he has his mind, from what I gather from what he's saying -- his mind is made up when the clients walks into the door and is going to go in the direction that he sees fit, my feelings is, if you don't listen to hear what the client has to say and the decision is made in your mind before the first complete statement is made, then the client's case is lost to start with.

Getting into the part of what he's saying, all the time, when a client comes in and is poor, they have other things, the problem on their mind, and how they're going to deal with the problem, wondering what the outcome is going to be, when they enter there.

And if the lawyer does not hear the client through, then he will not make a proper decision all the time. Speaking on the part of divorce cases, one is setting priority -- a lot of times when clients come in for a divorce, the divorce stems from a lot of other things that's involved with children, juvenile, home situations, living -- landlord-tenant situations, and so forth, and getting on to the part of you speaking about the landlord that comes to the court and the part about clients -- well, the landlords, most of them that comes into the court are slum landlords, they're achieving the families out of money -- you are paying over the amount of rent, that the house is not worth what you're

paying to start with and they're living fighting rats and roaches and everything else.

There are some places tenants live in is not really fit for a dog. But they have to take it because they have nothing else. You do not find in landlord-tenant courts landlords--there's many landlords that have housing that is suitable for people really to live in.

Most landlord-tenant cases are slum landlords and the rents that clients are paying is too much to start with for the place. And when they come in to seek legal help, all of this is piled upon them, along with other things.

And if a lawyer do not hear the case through, to aid -- to decide what to do with other things along with the landlord-tenant and all, then sometimes he does not make the proper decision.

You have to hear the client out, the problems, if you are actually there really to serve the clients and not just there holding a position.

You have to have the feel of what it's all about and have to know what is happening within this family to arrive to certain decisions.

And I just don't go along with the fact that, you know -- the clients, because they are poor, they're ignorant and don't know what it's all about, you're in the position a lot of times you would make certain decisions, you would move

in certain directions, but because you don't have the money to take care of these things, then you have to take what comes from persons that you don't want to think of all the time.

And I think all these is to be given consideration. I mean, if you have never been hungry, if you never had and you don't no more than a person telling you, how can you make a decision what is best for me, if you've never been there?

You have to have the feel; you have to hear and know to be able to make some decisions.

MR. ARANGO: Can we try out -- I think that we are kind of elaborating on some of the ideas and I just wanted to back and test out where we were on some of the things that were initially suggested and possibilities for quality.

I guess we may just decide that we don't agree. The first one was a kind of re-phrasing of Leah's concept, that nobody was turned away from the program because of the ineptitude of a lawyer.

Is that a concept that people generally buy, as certainly a part of a high-quality delivery?

MS. DANIEL: Neither turned away nor lost.

(Laughter)

MS. DANIEL: No, seriously. I think that they take cases and lose them because --

MR. ENGELBERG: Is this statement, though, being

made on the assumption that -- without regard to resources? Because, I think, John, you had pointed out, summing up Roger's argument -- I mean, I agree completely with that concept as an ideal, and if that's what has been stated, that's fine.

If it's something we have to live with this budget, and the next few years' budget, then we do have some problems that -- whoever gave the example of training -- you know, do we spend -- does the decision-maker make a lot of decisions, spend a lot of money to train for what may be an important highway into the service, but one that is just "not cost-effective", which is a decision being made without regard to resources right now. I mean, it is on this debate.

MR. KANTOR: Yes, I'd like to modify that. Instead of saying, "no matter turned away" implies something that I'm not sure a lot of us would like to imply.

"No option unaddressed because of the ineptitude of the lawyers" -- in other words, that implies there may be -- there's, God knows, how many problems there are out there, but "no option unaddressed because the lawyers can't handle it" -- that would imply that either Column A or Column B might choose, might provide the choice mechanism as to which option, but no option -- "no matter turned away", it seems to me that anything that walks in the door is going

to be taken, no matter what the situation, whether the community, the board, the lawyers, anybody who wants to take it, it's going to be taken.

I don't think we want to say that, because that, then narrows the choice to strictly Column A and I don't think anyone is saying that's what we ought to do.

MS. WORTHAM: I wrote it; I mean --

MR. ENGELBERG: Well, what would be wrong with that, in a program, you know, with no funding limitations?

If you could do anything you want, take any case, no matter how big or little, then that would be fine. That would assume unlimited resources. I think it's a waste of time to develop goals assuming unlimited resources and I, like Tom --

MR. KANTOR: That's why I said "no option" --

MR. ENGELBERG: Okay.

MR. CRAMTON: I like Alice's just one word, "proficiency", as being -- I mean, while we are talking about that aspect, we are talking to a very wide range of -- maybe verging on total agreement -- is that of course we want highly competent, proficient lawyering.

And that's the most important and central aspect of quality and we ought to struggle by all kinds of studies, factual gathering and data collection, of policies -- to set up procedures and systems and policies which result in

high-quality lawyering being provided. And I -- but I think we, very quickly then, we can talk for days about what it is -- what is a compentent lawyer; what is a high competent lawyer, and so on.

But at some point, we do run up against some severe problems, those of: do we define efficiency and high quality of lawyering in terms of kind of total agressive pursuit of "a client's interests", even though the society, generally, as well as the opposing party, is generally prejudiced?

What is the lawyer's responsibility? And then you get into all arguments about, really, what is the lawyer's professional responsibility, in terms of representation, questions that the ABA Committee is considering now, and it raises the kinds of issues minoral freedom has raised, about, you know, is the lawyer supposed to lie and cheat and do all kinds of things in order to further the interests of the client, or are there some limits geared by the interests of a broader society on representation and aggressiveness and zeal?

And that's one kind of limit, certainly, in terms of the resources that you put into individual cases, and what you do.

But then, the question that I was getting to, and which -- I think Ms. Lernier's point doesn't address, because she was talking about a different problem -- of course, when

you take a client, you have to listen to that client to know what the client's problem -- give that client adequate servicce.

But I was addressing a question -- we need a system which produces these lawyers who not only are not inept but who are high quality, and that means they get some satisfaction and professional zeal and development of the kinds of jobs that they have in Legal Services.

Some of that is going to be because of the joy of serving and helping poor people. But they are going to want to do other things involved -- imagine the situation in which the clients in a local community said, "We think divorces and family law problems are the most important priority and we want two-thirds of attorney time in this program to be spent handling divorce cases".

They could say that, but how long would it last in terms of attracting and retaining high quality lawyers in that program?

I think not very long. The lawyers would say, "Well, you know, they can do that, but I'll be damned if I'm going to spend my time just becoming a divorce lawyer. I came here to do something else."

So there's got to be a trade-off, in a sense, between the interests of the attorneys and the well-being of attorneys and the professional goals of attorneys as a

practical matter, and the goals and priorities and interests of the client.

MR. ENGELBERG: I can't leave that -- having handled a number of divorces in my day -- I really disagree with that, Roger, for this reason: see, I think -- because I think it is an important point, but, you know, I think a lot of lawyers would, given that hypothetical client-community decision, would be very challenged, and I know -- I've seen lawyers in Legal Services -- how to structure a quality domestic relations unit; in fact, that's what the program was.

And I -- I think you are being -- I think you are oversimplifying, Roger. Your notion of what lawyers want may not be exactly accurate -- I agree with you compeltely that, realistically, if you confine lawyers to essentially totally non-legal tasks, you would lose a lot of people.

Certainly, providing any legal services a challenge of doing whatever it is, I think we could attract quality people.

In other words, I think your point about keeping -- trying to keep the program creative is important and I agree with that, but I think there are a number of ways to do that, most of which would be consistent with, you know, local control -- in fact, all of which would be consistent.

So I disagree with your sort of example.

CHAIRMAN RODHAM: Let me just raise a point of

choice in the kind of -- original structure of what we talked about during this afternoon, which was to state, and the question of what you want to do about it at this point -- I feel that -- I have no problem at all with the way that Mickey reformulated what I was attempting to say, in I.A about proficiency or -- the way he stated it was, "no option in address because lawyers can't handle the problem."

The issue was really technical proficiency of the people who work there. What we had envisioned about -- to do this afternoon was to take some statement about goal, and essentially he did what we expected to be done -- it to reformulate it into a better statement and to assume that that would be one thing on which there would be agreement.

I think Roger was correct that Program A versus Program B in the past, there has not been agreement on in the past, and there may not be in the future, either. We are assuming that there would be agreement on some statement of that as an important goal, and to see if we could then use that as an example to disucss different kinds of things the Corporation could do, both because that is an important objective that I think a lot of people would think was important, just in itself, but also, too, that that would illustrate the range of options the Corporation has: the poor versus regulation versus support centers and on.

And to then raise some of the questions about

appropriate roles the Corporation has, and in the context of a concrete example, illustrate some of the federalism-local control questions that we have been wrestling with, and that would -- the notion that why we would take this goal statement which I'm perfectly with in the way Mickey has reformulated, and John sort of developed a model, drawing on some of the Next Steps materials, of different suggestions that people made over the course of the summer, of different kinds of interventions and different strategies.

So, I'm just letting that out as what we talked about doing, if that seems to make sense to do that.

I think it does make sense, because I think that until we start talking about the strategy for achieving that goal, however it is formulated, of which there seems to be a consensus about as being a goal, we are going to continue to avoid a lot of the difficult issues that the strategy requires us to meet, such as the role of representation and self-help and all the rest.

I would like to see us move into that and try to be more concrete and strategic in our thinking about how we are going to come about getting this proficient, no-option, unaddressed kind of quality service.

MR. ARANGO: Anyone object to moving into that, without necessarily saying that we wouldn't come back to this later on, if you wanted to, after a while?

(Pause)

MR. ARANGO: This is a kind of idealized presentation of something that will occur during the Next Steps process in a variety of different ways, trying to put it together. Let me just run through here.

At this stage, we're back into sloppy language, so we may -- we change some of the concepts now. The notion that -- the things that agreeing on desired outcomes, things we would like to have happen.

It seems to me that what people said in the Next Steps process was, "We'd like to have competent new attorneys coming into the program; we'd like to have managers in programs that have the skills required to manage the legal work, and we'd like to have experienced attorneys who, as a group, have the skills required to leave no option unaddressed." Those seemed to be three outcomes that people were saying ought to occur in the development of attorneys in a program.

Now, this is only one line within the whole notion of staffing. You have a paralegal line that would produce something like this: you would have a legal worker line, secretarial support staff that would produce another line; just to keep things simple, we though we'd focus on attorneys, because we'd need to paper the wall all around the room with these kinds of crafts.

The black things represent strategies within the local programs, things that are going on to try to move from -- first, produce from whatever you've got to producing competent attorneys and then moving across the board to get your experienced attorneys and your managers.

And I will just quickly run through some of the things that were mentioned. This is clearly not an exhaustive list.

One notion was the notion of internships and there are a whole variety of levels. People in law school coming into Legal Services programs get familiar with poverty law and practice and get training and options before they actually enter the bar.

Another one was the notion of joint clinical programs in which law schools would have clinical programs in some kind of concept in cooperation with local Legal Service programs, producing more people.

Another one was active recruiting by the Legal Services programs -- actually going out with a list of criteria, hunting for people that are competent new attorneys by their definition.

Another one was the whole notion of affirmative action, with some other -- basically saying that one criteria for a competent attorney would be that the person -- there are a variety of descriptions that were made -- that the

nature of the group of attorneys and the entire staff are similar to the nature of the client community for -- that, as a minimum and working up from there, in the sense that the program had a responsibility to go way beyond that, but that was certainly one thing that was mentioned.

There were a whole variety of -- well, let's just leave that.

Now, that clearly wouldn't be enough, but those are some of the things that were mentioned. The notion then was of a new attorney coming into the program and going through a kind of Phase I of career development, which allows intensive training and guided work.

A lot of people said that walking in on the first day on the job and receiving 75 cases that dealt with 40 different issues was unfair, and that you basically needed to go to a discipline in which, as you came in, you would immediately get into training that would develop the proper practices within the office and that you were given cases which gradually would expand your repertory of ability to work with different options.

At the end of that, you would come in to the sort of mid-points, which I have made in blue. Ideally, minimum competency in one -- not strategy, in this case we are calling them options; that is, if you are a good -- you can do one thing that lawyers do, well, that your value skills and

orientation are matched to the job; that is, that within the many, many different kinds of jobs within the Legal Service program, you have a good match of person and skills for the job and not somebody that essentially -- as Roger was saying -- that doesn't want to do divorces in the divorce office, but instead someplace else which meets his or her needs.

And that the person that -- another thing Next Step said was that the person is integrated into the organization, that it feels a part of the program is receiving the support from experienced attorneys is joining teams that are working on issues is not -- that basically, the concept that was contained in here is that the Legal Service office is not a house for solo practitioners, but there is some kind of coordination of work between people and -- getting people into that kind of practice is something that's important.

Or, another outcome is that the person drops out of the program, which would basically be ascribed to a failure of recruiting, if after that little bit of training, a person drops out, something went wrong back in here.

Then they talked about a career development Phase II, which was basically less intensive training and less guided but a lot more work; that is, at this stage in your time within Legal Services, you would be doing much more work and less having someone tell you what to do and that that in turn would be guided to develop either minimum competency

in several options and/or high competency in one option, but there seemed to be, at some point, you had to decide, for example if you were going to be a legislative advocate, that that meant that there were certain other things that you simply could not learn within human possibility unless you were exceptional, or that you could become, basically, a generalist in several kinds of things but that might limit, to some extent, the options that you would be working on in the future, or out again, which would be a failure of training or failure to integrate into the organization and match values and skills.

There was a talk, generalizing very much, about a kind of career development of Phase III, which was a period of very intensive work, basically getting a lot out of your attorneys; that for certain people in the organization, you would then begin intensive management training for people that were suitable and willing.

There was a notion that, rather than getting in what many people described as a situation where you not only had new but inexperienced people taking over the management positions, then you would have new people but that they would be trained in management before they got into the position.

Typically, what happens in Legal Services now is, you get into the management position and then you receive the training and the thing that was said to be desirable in

Next Steps was that you received the training before you got into the position.

So at this stage, you would take your people who had been on, probably now we are talking about more than a year, identify those who are suitable candidates for management training, and give them the training.

And that you also, since this model presupposes that the experienced attorneys are doing the training in these phases for your new attorneys, that someone's going to have to train your experienced attorneys in training and in supervising new attorneys, which would be different than managing the programs.

That is, providing supervision to young attorneys under you is something that a lot of people would do and very few would actually be managers of programs, in the sense of having a title of Managing Attorney or Directing Attorney or something like that.

At this point, you would get three possible outcomes: A pool of trained, potential managers, and they -- two things could happen to them. They could actually become managers or they could go into the pool of experienced attorneys who as a group have all the options necessary.

I think the notion here was not that every attorney could do every single option, but that every program had to have enough attorneys, some of whom were generalists, some

of whom were highly specialized, to be able to exercise the options.

Or, three, out, which at this stage was desired. That is, since not everybody could join this pool, that basically, the model that a lot of people talked about was a kind of in-out and for a certain percentage, out, to go into private practice or something like that, but that this period of intensive work basically led to a sufficient pay-off for the investment in training that was done at this stage.

That, as I say, was an idealized version. Now, just to give you one example, there's several things the Corporation can do in terms of intervening in this kind of a model. And I'll just lay out very quickly some of the options.

The first is that it can create a -- can directly somewhat direct actions. It can cause to be created a pool of competent new attorneys by, for example, getting involved in law schools, the Reggie program, anything you want to think of, would be intervention at this level to create a larger pool of people who could go into Legal Services as competent new attorneys.

It could set standards in the sense of doing research and then telling programs what a competent new attorney is, and you could say, after looking over all the people that went into Legal Services last year, examining them, and then following them for a course of two years,

these are the things that you ought to look for, because people that have that, succeed.

It could give support at this stage, in the sense that it could provide manuals and training materials and things which would help get people through this intensive period in guided work.

It could examine what goes on in the very best programs in the country and create models that other programs could adopt, so that they -- so that every single of the 340 programs would not have to basically develop their own methods of intensive training and guided work.

I don't think I need to go through all this, but basically there is a kind of -- there is a research phase to identify what you mean by good management.

You could identify how many experienced attorneys, what are the options, what kinds you could work backwards to. But there are, basically, I guess, there's direct action, there's establishing standards, writing regulations, and then there's support, which is a more indefinite kind of a thing, which is helping each of the programs execute each one of these strategies to understand better and in a more precise way what these desired outcomes really mean.

Does that -- is that helpful?

It's a kind of a combination of the idea that there is something going on in the local programs right now.

Some programs have something almost as fancy as this and some have absolutely nothing. I mean, you arrive and -- good luck. And we don't know how many there are in each one of those categories.

What the Corporation has available as an option is to intervene in this process in some way, lightly, heavily, through standards, through support, through research, or actually doing things directly.

But, and I'll get to ths point and then shut up. The final thing is that the Corporation's goal, you should have no options unaddressed because of the ineptitude of the lawyers, has a very significant impact on this last phase.

So what you set as your goal has a great influence as you get towards the end of this line.

MR. CRAMTON: There is one thing about these discussion that's a little unreal in the way the private practice operates, and that is, most law firms, even large firms, do not purport to have the kind of goal of proficiency in handling every conceivable matter.

And they recognize that there are some things that are going to come along which do require specialized lawyering of a kind which they have not developed in even their 150 lawyers.

But that they know when that comes along, they are

going to go and hire a specialist and refer that aspect or bring a specialist in.

We've never thought sufficiently -- of course, the support centers are supposed to do that, in some limited areas -- we never really thought sufficiently, it seems to me, about the potential utility of all of the private bar and all of the thousands of former Legal Services attorneys who have highly specialized talents in areas which our particularly Legal Service programs, couldn't and probably shouldn't develop specialized competence, because it's too small a specialty, of having the funds and the availability to refer and bring those people in, if their services seem to be required, to use a part of our analog.

MR. ORTIQUE: I agree with you there, Roger. I think Glen raised it earlier, that the assumption in much of this is that we are talking about permanent, full-time staff attorney operations, with no leeway for pro bono or any other resource that might be available in the community, because when you talk about "out", it may not be necessary to "out" somebody but rather to reach somewhere else in the community and find the person who would be capable of performing those services.

I know that this is not exactly on point, but one of the things that I think that this Corporation is going to have to be concerned about, raises this question in my

mind, as we move to minimum access, we ought to make certain that our eyes stay open to the potential of other means of delivery other than the establishment of a staff operation.

We can get -- we are hearing already some noises -- though Tom has left the room -- about a program that we just opened up in South Louisiana, where the Government is going to get involved because the local bar association has for years been providing a limited service there, and the staff operation is limited -- doing the same things that had been done there for years, except now the Federal Government is now paying for it, as opposed to the bar association doing it.

Of course, the operations have been limited and they have not gotten into anything that is unusual -- they are doing the divorces, separations, landlord-tenant, the things that persons have referred to as mundane operations.

MR. BROUGHTON: Has the local bar interest been phased out altogether, or has it just been restricted?

MR. ORTIQUE: They have phased out altogether. I mean, that's what's gotten them upset. If the new program had come in there with some other things that they were going to do, I don't think the Government would be --

MR. BROUGHTON: As a supplement, perhaps.

MR. ORTIQUE: As a supplement --

MR. BROUGHTON: Rather than as a replacement.

MR. ORTIQUE: -- than as a replacement. I said, we've got to be mindful of that at the national level.

MR. ARANGO: Howard.

MR. SACKS: John, I think that's a very helpful series of diagrams, because it points out all the places that we might intervene, and the various kinds of things we might do. I would like to ask you a question; if you can't answer it, maybe somebody on the staff can.

It occurs to me that there are other organizations with comparable problems; that is, other legal organizations that have vast numbers of lawyers spread out over large geographic areas, and they face similar problems.

I wonder, are we studying their experiences? Let me just list some of them; some of them may not be helpful at all:

I start with Army JAG. Now, they may have a completely different kind of operation, but it would be worthwhile finding out. And I would go to organizations like the SEC, which apparently, over the years, have been able to maintain high quality legal representation in various parts of the country. The ACLU.

Those are three; I'm sure you can think of others. Have we studied their experience in dealing with this kind of problem?

MS. WORTHAM: I think that the answer is mostly no, although I think the larger point that it illustrates may be, too, which has to do with -- in the handout on possible Corporation roles, it's kind of useful to look at this list, a long list of possible things the Corporation could do. Because I think that the larger point what he's suggesting is, up to now, the Corporation has played a very limited research role, period, outside the delivery sytem study, that that is not something to which we have devoted a lot of resources, studying any particular question like that.

I mean, Ron can answer the question with regard to legal --

MR. CRAMTON: It's not only study, Leah, one of the aspects of it, as we have had advisory committees and so on, that have worked on things like the advisory committee to work with the Reginald Heaversmith program or with out training programs and development programs.

We haven't drawn on individuals who have had enormous experiences in the recruiting, development and supervision of lawyers and their professional careers, I think, adequately.

This point has been made in the past, but it's not only studying what they do, it's identifying individuals who have had a lot of experience that could contribute a

lot, and the notion that we always compose these groups solely of Legal Services attorneys and clients with kind of fixed notions of race and sex distributions. It doesn't necessarily produce the groups that can contribute most to the problems at hand.

MR. SACKS: May I just add one other to the list, and that is, we see emerging now national law firms, with headquarters in Washington but branches in various parts of the country. They must be experiencing the same kinds of problems; maybe we could learn from them, I don't know.

MS. SHUMP: But we have the empire builder himself on the Board.

(Laughter)

MS. SHUMP: He's off, yet, colonizing a new territory instead of being here.

MR. STOPHEL: You know, one of the things that comes to my mind in looking at the career development, is that quite often good lawyers are poor managers -- I'd say more often than not, and that perhaps we're sending the good lawyers in the wrong directions when we get them to that point, and perhaps we need a parallel career path for managers.

They start out going toward managers, the lawyers start out going toward chief of staff, or something of that category, rather than the manager, because we get them up there and we take them out of the thing they're best at,

lawyering, and we put them at management, which is a very time-consuming task, that takes him away from what he's best at.

MR. ARANGO: I tried to show this one as being a source of managers from somewhere else, but what you may be saying is that this one should be real wide and this should be teeny and --

MR. STOPHEL: Yes.

MR. ARANGO: I think there was a feeling in a lot of the Next Steps meeting that your idea is correct.

There was very strong feeling that creating a system in which this did not exist, in which, in order to remain in the system, you had to become a manager, was insanity -- nobody agreed to that.

There was some dispute as to the percentage of total managers to be contributed by other tracks or by the lawyering track.

The absence of this category, in many programs altogether, everyone recognized as a very serious problem.

MR. STOPHEL: The way I am looking at it is very similar to a hospital where your administrator is here, your chief of staff is here; the chief of staff is making more money than the administrator who is running the place; it's because of his professional qualifications that he's in that position, and I'm looking at a senior lawyer as being the

same way, looked up to and is very helpful in training these new lawyers that come in, because that's what the partner does in a private law firm. He spends some of his time just giving up the benefit of his experience.

MR. ARANGO: Again, my sense is that sometimes I'm just pushing you; if I am, just say so, but I want to come back to the point that I think Roger raised, which was the notion that, basically, he was not happy, but he was looking at the notion of "no option on address", in a somewhat different way, which was to say, is that really a desirable goal, or would it be better to, in effect, say, "at the project level, 75 percent of the options and 25 percent of the options at something called, let's say, a support center, or somewhere, something else, which would then have its own track to produce people that had great grasp of a limited number of options, which would then relieve this track of producing every single possible option.

That may be the kind of thing --

MR. CRAMTON: That's kind of the implications of what I said -- that's exactly what I meant. I guess I think that from the resources side, the resource implications are going to be such that the notion of 100 percent qualification to do anything that's conceivable that a lawyer might do on every project, including relatively small ones, with a limited number of attorneys, is an inconceivable and would

be much too expensive a goal.

And then going on to talk about competency to do most of things that ought to be done, plus the most important competency of all, competency to recognize what you can't do well and therefore have to get other people to do, and then a mechanism by which, by State support, by support centers, by funds that are available, to get specialized assistance in particular matter, we assure that the system as a whole provides the client with what the client deserves; that is, quality on every matter.

MR. ARANGO: Again, I don't mean to press, but the point is that somebody has to decide, and really, you have three options, at least as I hear them right now.

You can have this system, which produces all the options, you can make some reasonable division between one system which would do some and one which would do the other, or you can create a parallel system, in which you're trying to do in this system everything and have another system that does some things.

It seems to me that that third one is not so hot. There was, at least, again, in Next Steps, that in the absence of straightening out who does what to the system that's being supported at some level by Legal Services, that you may be headed towards duplication, and that was why we wanted to raise -- that a clear strategy issue and a

clearly high level one is who does what, because channeling limited resources then would enable you to avoid duplication.

When you consider, specifically, what support centers are going to do, knowing what this system is supposed to do is essential, it seems to me, in deciding what it is that the support center is to do, and vice versa -- having decided that this is a support center because of historical reasons and everything else, it seems to me that you at least want to consider the ramifications of that existing institution in terms of what kinds of objectives you are going to establish for your local programs.

MR. CRAMTON: Well, that's consistent with what I said; that's right.

MR. KANTOR: One example of that might be, Roger, and I agree with you, that we're talking about a whole community, and how you provide all those options that -- and I don't know this to be true; I'll just throw out a hypothetical, a State support center might engage in the legislative advocacy arm for -- in that State for the community and you wouldn't replicate that effort in every local Legal Services program.

Those problems that were statewide would just go right to the support center and would be worked on from that level rather than being worked on at the level of the local program. I think that's what you're saying, and I would

assume that that would be fairly effective. It would be certainly more efficient than trying to do it in each of the -- it's like hospitals, now.

Everybody has to have a heart-lung machine, everybody has to have a full-body scanner; everybody has to have -- and we've found that hospital costs have just gone out the window -- obviously we can't -- and shouldn't -- get into that business.

We have an opportunity, I think, to rationally, at least, approach some of these problems and divide it up in some meaningful way.

MR. SACKS: In the private practice of law, I think one problem that lawyers have is, they fear to call on specialists for specialized assistance, out of fear of losing the client. That would not be a problem in the Legal Services operation, but at the same time, the lawyer that's handling a lot of divorce cases and gets a really interesting law reform problem might say, "Gee, I don't want to go to the support center for that, because here's my chance to do something really exciting."

Is that a problem?

(Laughter)

MR. KANTOR: It's a classic.

MR. ARANGO: The classic is even worse when, because of the structure of the program, the program has, in effect,

made a decision that certain kinds of options would be presented at the neighborhood office and certain kinds of options would be centralized in a central office, and there we do law reform and some things like that, but out there we do individual service cases and the more we produce the better.

MR. SACKS: When the regional office sends a monitoring team to the local offices, do they ever look in files and see whether or not this kind of thing goes one, or is that considered bad form?

(Laughter)

MR. ASKEW: They do review cases, but there is a confidentiality problem; obviously, that has to be done very carefully, but monitoring teams do review cases with individual staff attorneys.

And the issue about the sensitivity of law reform, the old law reform lawyers and programs, which really don't exist much any more, taking cases away from the neighborhood attorneys, was a very real problem years ago.

I don't think it's as much a problem now as it used to be. Mickey was in a program where that was a major issue, I think, at one time. But the cases are reviewed, yes.

CHAIRMAN RODHAM: Is it not a problem because there aren't that many cases around, or is it because attorneys do not perceived them or don't want them? I mean -- why --

MR. ASKEW: There are very few law reform units and programs any more, as a general rule.

MR. EHRLICH: Most project directors, by the way -- not all, but most, would say the best way to have those cases handled on the one hand, and motivate our lawyers to stay in the program and to keep doing the work, is to ensure that they do some of all kinds of cases, that the "law reform" cases grow out of their regular practice.

They see one case, they see another one, they see five of them and decide the way to deal with this, other than just keep on going.

MR. STOPHEL: Aren't we approaching this with our State coordination efforts, however? As I understand, what we're doing, basically, is if a particular problem comes up and one of the programs in the State has a person who is expert at this, they kind of associate him, but at the same time this trains the local lawyer, which is what is really needed and what is done in private practice, where you associate with somebody helping you, and the next time, you ought to be able to handle that thing, with a pretty good degree of competency.

You learn from it. This was done early in the product liability cases, malpractice is a major area where it's done, and that sort of thing.

I think that the State coordination is getting toward

helping with keeping the local lawyer handling the case, which he wants to do, and getting him the expert help he needs.

CHAIRMAN RODHAM: Well, let me ask another question. Given this model of lawyer development, and I'm sure that there are differences in it and changes that each of us might suggest, what is it that the Corporation is now doing?

I don't mean this to be a naive or a simplistic question, although it may be -- what model does the Corporation now have, if any, for the training of attorneys? And how is that model, if at all, conveyed to the local programs, to do with as they wish?

What do you do? Suppose -- I mean, I started a program, you know, with Bucky's help and hand-holding, and then left it --

MR. ASKEW: And money.

(Laughter)

CHAIRMAN RODHAM: -- and money. I thought I could have dressed it up a little. And the -- as far as I know, I think it's a good program; it's been evaluated favorably and all that stuff, but as far as I know, there was never any model of attorney career development given to that program or shared with that program other than through a kind of word-of-mouth, anecdotal, meet-you-at-a-meeting, what-are-you-doing, calling you on the phone, saying, "How

is it done somewhere else?" -- I mean, is that wrong, is that the wrong impression?

MR. SIMON: That's historically accurate. I think that we're directing major intentions in that area. For instance, my efforts, I think this year, have been focussed a lot around what we're calling sort of management of legal work, and the supervision of legal work, and taking a lot of tacks; for instance, probably a lot of people are familiar with new lawyer training we have done.

We have obtained a major shift in emphasis this year --

CHAIRMAN RODHAM: But I'm not -- I'm not clear at all --

MR. SIMON: But what we used to do in the past was, we would bring new lawyers to a site and run them through a mock case, and they would do an interview and have a critique and do a deposition and negotiation --

CHAIRMAN RODHAM: Every new lawyer.

MR. SIMON: Every new lawyer.

CHAIRMAN RODHAM: How long has that been going on?

MR. SIMON: That's been going on since the early '70's '71, Cathy just told me. We used to bring lawyers from all over the country to those events. We made two shifts this year, both of which are important to understand.

One is that I am not going to run those events

myself in the future, the reason being the following: when I would run those, that would take over half of the budget to do that, and we would get every lawyer to these conferences and it was very difficult. The other is just in terms of spending the amount of money.

Other problems that we came up against were these: one, it is very difficult to do follow-up. I could run a great conference in Denver; some lawyer may come from Salt Lake City and I knew the teaching there for three or four days was good, but there was never any sense of what happened after the person left -- no model, as you said, supervision, or what's going to happen.

We're trying to go -- so this year, we're taking a different model, which is essentially to train people from local programs to deliver and run these locally, so that their own supervisors, more in the Stage Two and Stage Three, will be the actual teacher and try, then --

So, basically, we are shifting the delivery model with a goal towards the career development. The second sort of major tact change I want to discuss is that we used to run people through a mock case and the sort of teaching would be, "How do you do a deposition?" or, "How do you do a negotiation?" and basically, sort of theoretical discussions of it, videotapes of them, and then you do it and we critique how you do it.

This year, we're trying to talk about it in a slightly different context, which is how the negotiations or depositions happen in your office. And that's important for a number of reasons:

One is, let's say I watch a one-on-one interview and we have a really excellent person there to critique it, and then after the critique, you say something, "Well, gee, I interviewed 20 clients a day, so that that critique was all very interesting, but I'm sure how that fits into the ten-minutes I have for an interview."

The problems on -- now, that's an extreme example, but that kind of concern that the actual teaching, although it is very concrete, is not connected enough to the day-to-day practice, so what we've tried to do in the teaching model is provide people with the materials that they can use back home, small groups that relay questions about how law is practiced, and also discuss explicity supervision models.

We send people materials, first of all -- one of the questions that would fit in is what sort of supervision models do people have in programs?

Well, a number of programs now have developed case supervision models, and we send people copies of those materials so that when they get there, they can become aware of comparing what sort of supervision and training they get to what other people get on paper.

Now, again, that may be different from what they get in reality, but beginning to expose some model, we also hand out materials this year called -- we give people, before they come, a thing to evaluate their own competence in their own supervision and then suggest little workbooks on how they can improve it, because one of the problems that we are having in programs, as probably people know, is that a lot of programs don't have attorneys with a lot of experience.

That's particularly true in expansion area, where we are trying to teach people ways that they can address that problem in their own office.

We did a number down South where there is a lot of expansion. I was in Memphis this Fall, and most of the attorneys -- the most experienced lawyer in their office was a year and a half out, and I think John can tell you that was true when we went around the country this summer; that there are a lot of inexperienced people.

So what we try to do, then, is have models -- how can people begin, essentially, to learn from each other -- and there are a number of ways.

I mean, teams -- two people who don't know very much can sometimes help each other because they may be strong in other areas. We're providing manuals and checklists which will begin to help them.

So the answer is, we're beginning to sort of get

at the question of supervision now. Tom really hurt my efforts to get at this, because this Spring, I had an agreement that Bea Molton, who was a person who worked with us, was going to work with me and develop a whole series of models of supervision for legal work, and that was going to be a training program we were going to have ready to go in September.

Well, he hired Bea to be my boss now --

(Laughter)

MR. SIMON: -- he really messed up --

MR. HOUSEMAN: You're going to do it for her, then.

MR. SIMON: Now I have to do it for her, I guess. I think the answer, then, is -- I see that as the really key issue in terms of legal training, really -- supervision of the work, and the major philosophical thing we're trying to get at by decentralizing is essentially that people have seen -- in the past, we have run these training events, and although there have been some political disagreements about whether they should be national or local, most of the people who came to the events were really quite pleased with them.

The problem that I see, in my job as Director of Legal Training, is that, in fact, even if the events were good, the performance of the lawyer is obviously more affected by what happens back home, what sort of supervision they get, what goes on day to day in the office.

If I train someone to do a deposition, if no one in that office has taken a deposition in five years, well, maybe I whetted their appetite, but it's a very difficult problem.

We're trying to get people to think about training more from the perspective, along those lines and a sense of using whatever models of training events we have to draw those out; essentially to raise those kinds of questions for people and get people thinking about them.

It's a long-winded answer, but I could go into more specifics if you have any questions. I'm sorry for taking so long.

MR. ARANGO: But there's more, too, in the sense that many of the things that Alan does and State support centers do and the national support centers do, intervening in these places, which maybe we want to talk about. I'm not sure.

A lot of different people have a piece of this work, for many different reasons. Did you want to say something?

MR. HOUSEMAN: Well, I'll say it, but I'm not sure I'm fully in tune yet with everything.

MR. ARANGO: Only in a sense that, you can ask, I suppose, that the broadest point possible to be growing out it a kind of direct intentional inputs in this and then there are some that are -- that have the effect of moving this

along, but are not conceived of as training, but nevertheless are events in which experienced attorneys get together to talk about a particular issue, that have the effect of doing some of these activities and moving into this kind of category, and that is a lot of the stuff that Alan does, in terms of -- I mean that's, I would assume, one of the purposes of the clearinghouse.

MR. HOUSEMAN: May I make just one comment on what you said, though, putting aside the clearinghouse.

One of the things that I think interrelates to the very last point is, even if you have an experienced attorney and knowledge, you may not be able to address issues that the resolution of which would require Federal legislative or administrative work; you may not be able to address even issues that may reuqire State legislative or administrative work; that's one sort of cut.

And the other kind of cut is, it may take more resources for a particular issue than a local program has, and more expertise than any one local program could ever develop.

You may have a -- I mean, you can pick on a number of types of cases, but if you are into a very complicated piece of litigation, which is the only way you can resolve a problem, you may have to look to outside resources that have that expertise, whether it be in Legal Services or

outside of Legal Services, to assist in resolving that problem, should you so choose to utilize your resources on that.

They are very obvious points, but they sort of give a little different flavor than just looking at it solely in terms of a local office and how you address the problems that the clients in that community have, the other levels to those problems that they have.

CHAIRMAN RODHAM: Gary.

MR. SINGSEN: There are two things that are probably very obvious: one is that there are other tracks to at least the two right-hand goals, from the ones that are here, not spelled out.

The simplest one to mention is hiring an experienced attorney from somewhere else, instead of training him yourself. If there is package -- private firms do this regularly. If there is a package of skills that the firm discovers it needs, it has to option of developing somebody internally; it has the other option of finding somebody with those skills and bringing him in at the far end here.

The second is that, of course, there are many factors involved -- on this particular track now which will affect that; the obvious one that I'm thinking about is salary levels.

This track is locally, as long as your people don't

leave. If all of your people perceived themselves to be drastically underpaid, they may take your training and leave after two years, and you will still not accomplish your objectives here.

So that this is -- as is obvious, I guess -- in terms of long-term objectives for quality services, this is only one piece of a more complicated kind that gets into many of the other questions that we always have in front of us.

MR. CRAMTON: I have an empirical question. A year or 18 months ago, we had a great deal of discussion and quite a lot of dissemination of information to the Board about the retention rates of attorneys and the alleged turn-over and the reasons why, and so on.

I wonder whether there have been any updates on that, and have the efforts that have been taken, in terms of support and the start of the Loan Program and so on, started to have any perciptible--and just the stability of the Corporation's program, in terms of its growth of funding and the like, started to have some effect in terms of the reduction of the high rates of turnover and a larger portion of experienced attorneys and the like -- and if that's so, I think members of the Board would -- and particularly the new members might appreciate both receiving some of the old data on that, but also updated to what the kind of most

recent situation is.

Have we got something planned? Have we got that?

MR. EHRLICH: We certainly can supply both the old -- the study that was done and the new material. While the old one looked and found program management, lack of good management in most programs, salary problems and so-called burn-out, wear-out, as the three dominant concerns, the only one we know has changed, somewhat, although not enormously, somewhat, is the salary line.

We have, in the budget materials that you have, received probably today, some material on salaries, where they are now compared to where they were.

But we also have materials, a fact book for use of Congressional hearings, on turnover. The problem with all that is that it doesn't indicate yet -- we haven't broken out what shows how many lawyers have been in Legal Services less than a year, but most of lawyers are going to the expansion area, and therefore I can't tell you which ones are -- whether the turnover rate within existing programs have changed, and if so, how much.

But I'll see if we can find a way to find out.

MR. CRAMTON: Part of this management by objective, if we do establish some goals or have some notions about reduced turn-over and more experience, would be to establish some "objectives" and then, over time, to measure whether

the various steps that are being taken are achieving any results. It's good to ask the empirical question; it's a good question every now and then.

MR. EHRLICH: Gary, of course, in both of the points he made, one of the problems in terms of taking experienced lawyers is, usually, where does that experienced lawyer come from but from another Legal Services program, because that is where, on the whole, the experience is, in the areas in which the programs are looking for specialists.

MR. ARANGO: I think it's time for a break. So maybe what we ought to do is take a break and have a -- kind of regroup on how, essentially, where we go from here.

We could explore this more, we could go back to the goal, we could pick up the other goal, we could do a whole bunch of things, and maybe one of the things we ought to talk about over the coffee pot, assuming we still don't have 20 agenda items left over from this morning we must do, would be, kind of, where we'd like to go from here, because we have about an hour and a half remaining.

So let's take a 20-minute break, or something like that, and then spend another hour wrapping things up.

MR. EHRLICH: Also, recall that tomorrow we are going to focus on future funding options for the Corporation. You all have received Gary Singsen's paper on that. It will be the backdrop for his discussion and our discussion.

If you, for any reason, don't have a copy and want another one, we'll find you one.

(Whereupon, at 3:38 o'clock p.m., a recess was taken.)

A F T E R R E C E S S

(4:05 p.m.)

CHAIRMAN RODHAM: What we'd like to accomplish before the afternoon is over, now that we've laid quite a bit of groundwork, is some feeling that, however we might articulate one or two or more goals in somewhat different ways, that we will have a better idea as to how the Corporation is, if at all, moving to achieve those goals and what should or could be done to better achieve them through our efforts and direction.

We've heard from Ron Simon about the training program for attorneys, and whether or not we think that fits that model or whether we accept that model, at least we have an idea -- and for many of us, a better idea as to how the Corporation staff is proceeding to accomplish lawyer training.

And I think that we need, as much as we can in the next hour to an hour and a half, to be as specific as possible and try to translate our discussion of goals into more concrete understanding of what we are doing and what we could or should be doing.

John, is that appropriate?

MR. ARANGO: I though what we might do, just so that we don't end up talking about specific things that the Corporation is doing or could be doing that are -- that we decided at the end we didn't want to hear about, would

would be to just make a list at random -- and nothing has to relate to anything else, but the things that the Board members would like to hear about, whatever, and then, towards the end of the afternoon, after we get what information we like, we will see if we can tie in into some of these goals, objectives, strategies, that we have been talking about.

Anyone want to name something you would like to hear more about, or talk about, or --

CHAIRMAN RODHAM: John, one thing that I'd like I think is an issue that is on many people's minds and it's something that we need to have an opportunity to discuss is going along with the training and functioning of attorneys to achieve access and to have it be effective access is also the training and functioning of other people within the Legal Services community; in particular, the staff people, paralegals and clients, and I think that it would be appropriate to hear about the training and functioning, insofar as the Corporation affects either of those, of the paralegals and clients, so that we can fit their information in with the training information we received about attorneys, and have a better idea as to how we are fulfilling our roles in each of those areas.

I'd like to hear about that.

MR. ARANGO: Anyone else have something they'd like

to hear about?

(No response)

MR. ARANGO: Why don't we start with training roles of non-attorney staff, paralegals, legal workers, and clients, all of whom happen to be done, at least for the time being by one person, and after that, we can keep talking of such topics or whatever. Cathy, do you want to say something?

MS. JERMONY: Well, I didn't come particularly prepared to make these kinds of status report. I do have one available, to talk about what the unit is doing together.

Our unit is responsible for the training and career development of paralegals, and the training of community legal education workers; that is, those people who provide community legal education directly to the client community, through a part of their job functioning, and for providing client board training -- that is, for the demonstration projects and for the developing and implementation of that training.

What we're primarily doing in the area of paralegal training, and not yet to build career development, is something very similar to what Ron Simon just described for lawyer training.

I'd like to begin by talking about the method with which we envision our total training package. Initially, the things that we had done were linked to the career

development of paralegals, so that our training is not particularly done in a vacuum, separate from looking at their overall development as paralegals with the legal services.

What we have been doing is providing for local programs information on recruiting, orientation and supervision of paralegals, initially. We provide them with some guidelines, some written guidelines, on how to orientate new staff paralegals to the community as well as to orientate them to the Legal Services program as a whole.

Some general information about supervision; we've also set up a series of seminars for project directors, called "paralegal utilization seminars", to help them work through some of the problems of recruiting paralegals, providing supervision for them, and how they can tie their training -- our training directly into their on-going training.

We see the training provided by the Office of Program Support for staff as supplementing the ongoing training that has to occur at the project level, so we begin, just like the new lawyer training, with something called, "FAS"; that's the fundamental adequacy and skill training program, which is available to every paralegal who either has been with the program less than a year or has had no formal training whatsoever.

One of the basic requirements -- and kind of the

only requirement for that is that the person has some kind of orientation, and we provide this material for the programs, and most of the programs have made themselves -- have some kind of informal or formal kind of orientation for the community as well as for the program.

This training program emphasizes skills at a very beginning, basic level. There's a lot of emphasis put on their role and their responsibility in the delivery of legal services, their relationship with clients, their professional responsibilities, as well as the skills necessary to start from a case from the beginning and take it to its logical conclusion, at a beginner's level, which is to negotiate or settle that out.

We teach about informal presentations, how to deal with administrative agencies, and the basic kinds of case preparation skills essential to represent a client before an administrative -- before the administrative agency at a non-hearing level.

From that, we have developed some kind of models in which the paralegals usally go. They either go into an administrative representation track, which is, they represent clients directly before either administrative hearing agencies, tribal courts, or some other agency, at a hearing level, either at a disability, which is a more complicated, complex issue or at, say, a welfare or public housing, and so forth.

We have various tracks that a paralegal, once the career development plan has been made with the paralegal on the project, they move through our first level of training to the next level of training.

We have developed training at an advanced level that is administrative representation, tribal court advocacy training, and advance skill/Spanish, which our foreign language training, which is offered for paralegals who practice in those particular areas.

We have not yet completely developed what is called our "general practice training series". One of the basic reasons for that, every year we get a new influx of people the emphasis changes on what general practitioners are practicing in.

Every year in April, we do something called a "training assessment" and every year, there is such variable differences, what ought to go into a general practice session, why we vary so, that we have had to look over and over again at what we could put in that particular series.

And we've had limited funding, so that we have not been able to actually carry that particular series on. WE are now also involved, as I said, in the disability representation; in some of the other substantive areas we are providing joint training in the area of health and rural transportation, which is a new area which we are involved in,

and we're doing some other joint substantive law training and skills training with the Legal Training Unit.

Now, that takes care of the paralegals and a little bit about their training and development. Our community legal education program, which is directed at persons, paralegals and lawyers and other staff members, whose primary job responsibility it is to provide community education in forms of group representation or what-have-you.

We are developing a program to train those persons, provide them with the basic skills and tools so that they can do a more comprehensive job of preventive legal education in the field.

That program is not completely designed; we've been working on it and our best efforts have been in the way of assisting programs and looking at the information materials and doing some research on what already exists in the field.

There are a number of local programs that have already attempted to develop community legal education proponents. What we have done is set aside some money to assist in that effort, to help them in their development of this program and the implementation of carrying that out.

We are trying to find some ideal persoms who are new beginners and provide a level of training for them.

I'm trying to be brief, because I can talk all day, too. The third category of persons we are involved in

training would be the client board members. The Corporation made a decision that client board training would be provided in-house; that is, that we within the Office of Program Support would be given the responsibility to design and develop and implement client board training.

So far, the following activities have occurred: we put together what is called the Client Board Training Advisory Committee, consisting of -- there are now seven region representatives from the client community, the NCC members and other members from the client community who have sat down and spent two days in coming up with an initial 57-component training program.

The next task is for us to take 57 components and to fit them into a four- or five-day framework, in order to be able to deliver the training.

That's one of the activities that happened during the meeting. Prior to that, we did a survey, needs assessment survey of the current client board members. We got about a two-thirds response, which is a high response for a questionnaire, very rapidly, where 46 of the 57 things that were identified by the clients and other members were identified as essential training need elements.

What we have attempted to do, we had -- as I said, we had a two-day meeting, where we conducted something we called a "nominal group exercise" in order to get the

information from the clients and the other participants as to what the training needs for clients would be.

We are now in the process of summarizing that information and putting that into kind of a block or schedule of time, so that we can see how those programs would work.

Our plan is to provide training for 400 client-board members during this fiscal year, through our direct training mechanism, and to provide for client board training for other clients in the -- of the 1500 clients, through local training grants process, by whatever means that is.

We are providing also some assistance to programs, local client groups or what-have-you, who want to develop or who have the capacity and want to develop local client board training.

We are in the process of helping them do that. We have what we set up as a developmental grant system, where we will provide resources and expertise to those people in helping them develop their own training programs.

And that's kind of a summary of where we are with the three divisions of our unit.

CHAIRMAN RODHAM: Are there any questions? Howard.

MR. SACKS: I wanted to respond to John's request for questions.

CHAIRMAN RODHAM: Okay.

MR. KANTOR: Well, I had a question about this, particularly. In the client board member training, how much money is allocated to that?

MS. JERMONY: Well, we have roughly $187,000, which is close to $200,000 -- well, that's clear -- and $187,000 has been allocated for providing direct client board training, which takes care of 360 people and there are 40 additional persons who do a joint project with Field Services in the Region Number 8, that we are doing some training there, from a -- that's some leftovers from --

MR. KANTOR: What is the total training budget? I don't -- I'm sorry to be -- what's basically the training budget, including lawyers?

MR. HENNIGAN: Approximately $5 million, five and a half million, this year.

Mr. Ehrlich: And the amount for lawyers on the one hand, versus clients -- lawyers is $2.7, clients-paralegal is $2.1, $2.2 million.

MR. KANTOR: Wait, wait, wait. I'm trying to differentiate. I thought it was $187,000 for clients.

MS. JERMONY: That's the direct expense related to the division of the training; that does not include the staff, the development, the materials, the postage, all the other expenses related to that. That is the direct cost for providing the training -- that's the transportation, the

housing, the stuff that's related to the delivery, not the development and the other kinds of stuff that goes in it.

MR. KANTOR: Yes, but that doesn't get up to $2 million -- part of that is paralegal training, right?

MR. JERMONY: The biggest part of that is paralegal. And there's also community legal education; there's also the local training grant money, which is not counted in that $187,000, nor is the money that's been set aside, which is approximately another $100,000 which has been set aside for developmental -- that is, to help people to develop their own local capacity to deliver training.

There is $100,000 for that.

MR. KANTOR: And out of that -- we're talking about $187,000; how many -- what are the -- how many client board members are there in Legal Services programs; I guess it would have to be one --

CHAIRMAN RODHAM: There should be 1500 by the end of July. Most of the problem that we've found in our survey is that a number of people were being elected like right now. I mean, there are board meetings that are taking place and elections and selection processes that are involved right now, especially like on the West Coast.

MR. KANTOR: Assuming 1500, how many clients could you train with the $187,000?

MS. JERMONY: Four hundred, roughly. With the kind

-- addressing ourselves to the kind of components and the kinds of requests the clients themselves have made, as what they have articulated their needs in training are.

MR. KANTOR: Yes.

MR. ORTIQUE: Along that same line, have you found local programs able to put some money into training -- that 25 percent -- without any difficulty?

MS. JERMONY: We haven't really had a lot of "proposals" in relationship to the whole local training process.

I would find that programs who don't have -- already have some kind of ongoing training capacity might have some difficulty, initially.

One of the things we hope to do with that whole process is help them identify other kinds of resources to help us to supplement what it is that we are trying to do, but I would think, initially, if no one -- if they had no training experience and no developmental experience at all, they would have some problems understanding and locating those resources.

But that's what we are supposed to help them do.

MR. ORTIQUE: But if they run into that over a period of a year, and they might have a whole generation of board people who have not had any training at all.

MS. JERMONY: No, that -- I don't see that; I don't

-- we don't have enough money to train 1500 people, at this time, and I'm saying -- I'll say that. We have not set aside enough money from the paralegal training unit to be able to train all 1500 people at this time, through our regular, direct training process.

We will train approximately two-thirds of the number of people who will already be on board. All the people -- all 1500 -- should be, based on our regulations, be on board by July. Based on our experiences, and the numbers of "waivers" that programs are asking for, and the number of program delays, those people are just not there yet.

We plan to try to train them as fast as they get on those Boards. There will be programs that we can run simultaneously; as well as what we provide direct training for, there is availability of resources to help local programs, local groups, and others to do direct training themselves, on a local basis.

MR. ORTIQUE: That's not -- I'm not -- I don't want to get anything, defense or debate or anything like that. What I'm trying to find out, as a practical matter is, this Board, through its regulations, says that you must have 50 percent clients on the board.

MS. JERMONY: That's correct.

MR. ORTIQUE: Obviously, the programs could decide

that they are not going to do that right now. Are we running into situations where they are not, because the Corporation is saying that we don't have the money to train those people?

If we don't have the money --

MS. JERMONY: I don't think that is the reason. I mean, that's just my "guess", but the Corporation, in the past, has not been providing the client board training.

So it wasn't available for them anyway. I mean, there have been clients on board for years, and the programs choose to have clients on board for a number of reasons.

MR. ORTIQUE: You're debating this. I wanted to -- all I want to know is, did we do something impractical when we mandated certain numbers to be on those boards?

MS. JERMONY: No, I don't think we did anything impractical.

MR. KANTOR: Hillary, I -- you know, I don't know how deeply you want to get into this, and maybe -- I don't want to speak out of line, since I'm not on the Board; I'm only a nominee, but I -- it seems to me that we need some sort of information, in terms of -- in light of the goals we have talked about, and in light of the fact that we require and should require clients to be on boards in certain numbers.

It seems to be self-evident we ought to provide the kind of resources necessary to make -- to afford the

clients the opportunity to be as effective as possible.

That being the case, it seems to me we ought to try -- at least staff ought to come up with some sort of report to us very quickly what that would cost and how that would be done, and so on, so the Board can make a decision as to whether it wants to go that way, in light of the goals we are talking about here today.

CHAIRMAN RODHAM: Well, I think that there's been some discussion of that and some decision made, and Tom's going to address that.

This is -- you know, this is not a new issue, and it's --

MR. KANTOR: No, it's not.

CHAIRMAN RODHAM: -- and one of the problems that I think we have to face and are beginning to face, is how to do what it is that Catherine's been talking about.

It's going to be a difficult and complex process, as well as an expensive process.

MR. KANTOR: I would suggest the Board is at least turning over with new members by one-third --

CHAIRMAN RODHAM: Yes.

MR. KANTOR: And there might be a substantial -- I don't know if there is or not -- I have no earthly idea, the substantial sentiment going in a different direction on this particular question. It seems to me that it might be

helpful, as long -- Catherine, going along with the planning and I don't want to put any more work on the staff than is necessary; it seems to me that it's -- as far as I'm concerned, personally, it's a critical question and it would be helpful to have that kind of information in order to at least review it for the next time we have a chance to get together.

MS. JERMONY: Are you asking what the cost is?

MR. KANTOR: Cost and implementation and methodology and so on.

MR. EHRLICH: I think -- the question I was going to raise, in terms of all the things you've said and the things you're trying to do, what do you feel about the capacity to do all those things?

I guess the question is, you know, how big is your staff; trying to develop the curriculum, test it, implement it, you know, is a lot of work.

MS. JERMONY: Well, I think initially the planning for the staff was in the allocations for the number of people when we first -- for the 1979 training, basically, was based on us doing paralegal training and a little bit of career development, and the two other components were added.

We do have one additional staff person, whose initial responsibility was going to be to do both community legal education and client board training, and we don't have

fully implemented numbersof things we'd like to do. But that's because of the number of restrictions that are placed on the entire Corporation. I mean, that's a problem for all of us, that we're faced here with.

What we're trying to do, what I've done, is conduct something like a staff development, where we've taken the staff and looked at the enormous amount of work that we had to do, and all of us cried for a while, and then we looked and tried to divide it up to see just how much we could possible get done.

It's going to be a very hard job, and we are really trying to get as much of the material and as much of the stuff developed and get as much of it out there -- but one of the problems we have in paralegal training, and in community legal education -- and we know we have in client training -- we just don't have anybody out there already, with the major kind of capacity to deliver.

We're trying to identify people who can take some of this -- we'll give them some money and they'll do some of the development and implementation of that training. We've been running into that kind of problem. And it makes it very difficult.

MR. EHRLICH: One more comment, or question. What's being done in terms of evaluating this vast training, you know, once it's delivered. Is there any kind of mechanism

built in to give you that immediate evaluation --

MS. JERMONY: We have a process evaluation, say, for FAST, okay? One is, on-site, immediate evaluation of the trainers, the training -- I mean, each trainer is evaluated for everything they do, immediately.

Then, they are -- the whole section is evaluated. Then there is some review and some feedback through questionnaire mechanisms, and actually talking to -- because we get the people again, because FAST is not the only thing we do.

Like, if we get them in administrative representation, we talk about with them the impact of what the first training was. Plus we have a two-day kind of mechanism that we call "trainers' prep". Part of that is devoted to the reassessment by the trainers, based on the comments from the previous training and from their own personal critique of their performance as well, as ways in which we can imporve the training.

From time to time - and not at every single conference, because I don't have the resources to do that -- we have outside persons whose primary purpose it is to come in and evaluate, to sit and go through processes, to look at them, to talk about how they can be improved.

Also, on a yearly basis, we have something called, "Training for Trainers", where we take our trainers, our corps of trainers and our product and open it up for total critiquing, so that we are kind of building and changing and

improving our product as it goes.

I mean, if you went to a training -- to a FAST program the first part of the fiscal year, and you went to that same program in another part of the year, it may be changed, basically, to meet the needs.

Although we call it national training, it is not national training, because: one, for the last two years, we have been trying to build a regional capacity. We call the trainers in from the region, we adjust some of the law, the other information to meet the needs of that region.

Say, for instance, if we were giving an overview of public benefits, we would bring the information in about the States that are involved.

We try to gear our practice, our level of presentation, towards the practice in that particular region. The program doesn't look the same in the South as it does in the North or East. It just can't look the same, because the process is not the same.

We've got a corps of trainers who are able to, in their delivery, because they have done it enough times -- some of us have been training for four or five years -- they're able to do that.

We are constantly trying to improve the product.

MR. EHRLICH: Let me, if I can, supplement, particularly in terms of Mickey's questions, because it may be

as a specific example of a broader kind of process that we go through -- not adequately, in part, but we're learning.

When the amendments were passed requiring a one-third client on the boards, a number said, and most particularly Bernie Venny, "We've got to have more training of those board members", and pursuaded me, among others, that was absolutely right.

The Corporation did not, up to then, have any kind of separate item, focus. That isn't to say there wasn't client training going on; indeed, the National Client's Counsel has a key and critical role in doing that, a good deal of that in hand, fortunately, but all of a sudden we were talking about 1500 clients on board, some of whom had a good deal of background and experience, others who didn't, and would, of course, be turned over and shifted.

The realization came too late, to me and others, but it did come. It came, of course, when a budget -- the 1979 budget -- had already been submitted to the Congress. The Congress acted by giving us less than we asked for.

We did, nonetheless, take a share of the training budget, the overall Office of Programs Suppot training budget, and said some of that ought to go forward in '79, even though there hadn't been a decision beforehand, for client training, as we discussed with the Board.

In this area, like any, the first key decision for

us, as an entity, is to find the person who can best think through where that training ought to be going and see to it that happens -- as a secondary issue, how it happens; see to it what the plan will be.

We are fortunate to have what I think is the best person in the country to do just that, in Catherine, who is extraordinarily able, in a great many ways, as you will come to see.

Much of the effort in design and aim for '79 is to design those plans for '80 and '81 -- on into the future. Some of it also, and that's what Catherine was focussing particularly on, was the actual deliver of training in '79, and the more and the faster we can get to do that, the better.

There are some models to look at and some experiences to use. Different people have very different views. It is clear to me, and I think it is clear to her, too, that until we know more, there isn't any "single best approach".

And one of the things I know -- because she's told me -- that she wants to be careful to do, is to be sure we have a sense, in terms of what Dick was asking, how well different approaches are working in different kinds of communities, because some communities have different kinds of approaches that will work better.

I am sure, over time, some of the funds will be allocated, in effect contracted out for the training. Some

will be done inside. It will done in the way we can have the most effective training for those client board members, given what I think is a realization on the part of the Board members and staff that that kind of effort is an important one.

And over the year, I think we will learn -- this year -- and be able to sort of, by the end it, have a very developed set of plans and aims and specific details for the 1980, with a longer projection -- not a blueprint for those future years -- but a longer projection of how it will go and --

MR. KANTOR: Well, let me just ask this -- there's a 1980 budget.

MR. EHRLICH: Yes.

MR. KANTOR: Well, how much has been set aside or planned and set aside in that budget for client board member training?

MR. EHRLICH: I can't give you the exact figure off the top of my head; I can give you the total figure for the --

MR. HENNIGAN: The total for client for client and paralegal training -- Catherine, check me -- the total is $3.4 million, and I believe, Catherine, you have $350,000 for direct board member training?

MS. JERMONY: Yes, but the major --

MR. HENNIGAN: And another $100,000 for --

MS. JERMONY: Development; what's called developmental. One of the things I hope --

MR. KANTOR: Excuse me, Catherine; if it's $350,000 -- it's $187,000 now, that means you're still not going to be able to train with fiscal year '80 money, as its presently planned, 1500 board members.

MS. JERMONY: Next year, I don't want to have to "try to do it all in house". Physically, it's not possible, with the number of people who we are going to have on our permanent staff, to be able to carry out that kind of schedule.

I mean, we're doing 60 training events this year. I don't ever want to do 60 training events, myself, again, within our office.

So, therefore, more than half -- probably -- at least two-thirds of that training will be done locally. I mean, that is something that has to happen. I mean, it's almost a -- it will be a physical impossibility.

This year, we hope to help people develop; we're spending money to help them to develop the capacity to be able to deliver. That's why there is $100,000 versus some other money, set aside just to help people to develop the capacity, help them define the expertise, to learn how, to look at some of the other projects and other models of

delivery, citizen participation training, which is very similar to client board training.

MR. TRUDELL: I guess my feeling is, having had some experience with training, in terms of lawyers as well as paralegals, it's just an awesome responsibility, when you try to handle everything, from developing curriculum to testing it to being concerned about logistics, and being concerned about being able to offer enough training.

Once you give them the primer, if they're really into it, they're coming back, asking for more training. And I know we're talking about, you know, trying to shift some of the training responsibility to the local level. "I don't know what you mean by local level"; in terms of the Corporations policy about their thinking.

But it is a real concern of mine that we really begin to discuss how you spin some of this training off, because I think most of us will realize that, or admit when we are in law school, the most effective teachers were the people who were really into what they were teaching.

When they did a good job of it, you really appreciated it. The same applies to paralegal training or training of clients. And I, you know, I'm kind of amazed at the amount of money we do have for client training.

You know, $180,000 -- and we've put on training sessions for, say, 24 paralegals, and we have spend as much

as $25,000 for a one-week session. And if you're really going to do the job that you should do, I would hope that the -- one of the committees -- the Committee on Provision of Legal Service is most likely -- would begin to put this on their agenda and begin to really assist the staff -- you know, make some decisions that, hopefully, will spring loose more money for training.

I mean, in terms of a program like the Loan Forgiveness Program, I'd just as soon see that money go to the training area.

That all happened before I became a Board member, and I'm not saying it was right or wrong, but, you know, the amount of money you have is really inadequate.

I know you're trying to balance that against -- another concern of mine, I guess, you know, the minimum access thing; I'm still very locked into that, because when you start talking about small groups being told to wait, sometimes it's the same groups that are being told to wait and wait and wait.

So, in terms of trying to strike that balance, I know I'm putting myself on the line, but I would hope that, you know, in the future we would really --

MR. BAMBERGER: I think it would be helpful if we were to give Catherine a chance to give you a written report on this. I can tell you, from having read them, that I

have known Catherine for a couple of years, and I know what kind of job she's doing. I'm not questioning her abilities or, you know, the planning and work that's going into it. We could use a few more people like her.

CHAIRMAN RODHAM: Yes. Wish we could put her through a xerox machine; we'd be in great shape. I've know her a long time, too.

(Laughter)

CHAIRMAN RODHAM: I think that this is the kind of discussion that, you know, we need to have. I mean, that we are aware that we do accept the responsibility and want to see it met, of training client board members.

We are also aware, at the same time, that that -- putting more money there means taking it from somewhere else. And that's -- those are the situations that we are going to have to start making consciously.

MR. ORTIQUE: It's part of our responsibility.

CHAIRMAN RODHAM: That's right. And -- you know, the problem is, though, that there may be, unfortunately, a kind of infinite number of things we would like to do, in the best of all possible worlds.

MR. EHRLICH: Let me add one more point, because I -- one of the many things that we haven't done, as a staff, that we could have done, is give a longer-term projection of the training effort, in terms of the rationalization between

lawyer training, paralegal training and client training.

Alan and Judy Riggs' work has laid some conceptual basis for some of that, but one of the reasons, I think, Bea Molton will be as good in the job as director of OPS, as I think she will be, is that she will help us and help the Board in thinking through that issue.

The truth is, when we have come to you in the past with budgets and breakdowns for those offices, we haven't come with a full conceptual model of why it is that lawyer training is $2.7 million and the other is $2.3; you can't push that too far, but you can, I think, and we should and will come up with a better set of issues, so that the Board can resolve them. And that's when I think we will be able to --

MR. TRUDELL: I think this is the first time we have really discussed this; it makes a good backdrop for our discussion on quality -- if you don't have the money, how can you have quality -- as well as this turnover. If you're not the job of really providing necessary training, you're going to continue to have a very high turn-over figure as well as a burn-out figure, I guess.

CHAIRMAN RODHAM: I wanted to get back to Howard, who had another question, postponed.

MR. SACKS: I have a couple of questions. In the report in the Next Steps booklet, I think it's Krister's

report, he talks about the difficulties of local grantees in setting priorities, and I would like to hear more about that. And then, I think it's in the same report, he talks about augmenting services provided under our funds by involving the private bar to a greater extent.

On that, I don't want to ask a substantive question. I just want to ask kind of a procedureal question. Do we have an expert on that on our staff? And the second part of the question is, do we have a newsletter or some other device that we communicate regularly to the field, with all the good ideas? And third, do we have a missionary that goes out and --

CHAIRMAN RODHAM: No, we need a missionary -- we need a couple of missionaries.

MR. SACKS: Because it's not enough just to put an idea in a newsletter. It may not get read, or if it gets read, it doesn't get acted on.

MR. EHRLICH: Let me take the second one -- the factual question, in reverse order. We do have, in fact, some who spend part of their time as missionaries on that issue. One, Harriet Ellis, spends a particular amount of time focussing on the private bar and on the involvement of the private bar.

She has worked, especially, on a variety of pro bono models and pro bono efforts and, indeed, is having a major

session with bar leaders from all over the country on Tuesday, to focus on just those questions and issues.

At the same time, we do have a delivery system study going on with 38 different models of using the private bar and Leona Vogt, who heads that under Clint Lyon's direction, is an expert on what those models are showing, vis-a-vis a variety of staff attorney efforts.

The priority process of what's going on has several parts, one of which is with Clint Lyons and his staff looking at what programs are doing.

Another is with Alice Daniel and hers, in terms of the General Counsel and the regulations that the Corporation has issued. Maybe Clint wants to talk about what, in fact, the programs are doing in the priority setting process.

MR. ORTIQUE: May I just pose another question, Tom? How much of this is a communications problem or an involvement problem, as opposed to real substantive issues?

It seems to me that, when you talk about priorities and you sit across the table and you start saying, okay, if we add $300,000 to this budget in order to meet this standard, that we would like to meet immediately, that you get into a communications question of whether we can balance these and work something out.

You've got all of these forces pressing this Board, to provide the fund to do many, many things, and I am sure

that reasonable people can sit down and set some priorities that will -- may not satisfy everybody 100 percent, but will satisfy people for the moment, especially within the family.

I think that when this Board gives its word to members of the family that they're going to do certain things, that we ought to try to do them as best we can, recognizing the balancing act that we've got to do.

And I'm just wondering whether this entire matter should not be aired, not in a hostile environment, but rather or as opponents, one against the other, but as to a realization of the total effort that this Board is responsible for.

MR. VENNY: I just want to take a moment of the Board's time. You've got my paper, and I presume you did look at it sometime.

You've talked about the issue of client board member training and where the money's coming from, and I'd just like to read something that came, first of all, to the field, and then to Catherine. It's from the Center for Law Education.

That Board, of that Center, which is by regulation two-thirds attorney, has said, "In order for the Center for Law and Education to conduct training, it shall be mandatory that there be client participation. This means a good-faith effort by local programs involved with the training to obtain 50 percent client participation.

"The Center will offer to assist local programs in making contacts with clients or client groups." And then a letter that Bob Pressman, the Director of the Center, sent to Catherine: "This is in response to the materials on local training grants, dated December 8, 1978, which we have received.

"Part II of the criteria for local training grants, identifying persons whose training may be supported by training grant funds excludes eligible clients except for client board members.

"This policy needlessly inhibits the number of client participants in training. I strongly urge that you modify this policy so that programs who seek to provide meaningful client participation and training may receive funding for doing so.

"Our views on client involvement and educational training and the Center's policy was set forth in page 3...." and that is what I just quoted to you.

I think this Board has to take a look at what its policy is, not only in terms of where it's going to get the money for client board training, but in terms of all that you heard during the Next Steps process, which said one of the things that you are being asked by the client community to do is to provide skill-level training for them.

And in point of fact, all this discussion of quality

and justice and institutional concerns, all those are very real. But in simple point of fact, just as Glenn was saying earlier, as the local problems -- as the local programs should be listening to the client community, this Board should be listening to the client community.

I very deliberately stayed away from all but the last of the Next Steps meeting, regional meetings, and the national meeting, and I did that because I didn't want it said that that's Bernie Venny orchestrating the clients.

What you heard was the client community, some of whom hated the hell out of client counsel, many of whom had never hear of client counsel, many of whom didn't know who I was, saying to you, you as resource in a particular area, this is how we want to use that resource.

Your statement earlier today, Hillary, around client expectations that Legal Services could do everything -- client community knows very well that you are just one tool that they have to put into their tool belt, and they want to use this tool to the fullest extent possible.

But as they are using this tool, they will go over to HUD, and over to HEW and Title I and all those other places and those use those tools.

Because we recognize you can't do everything. We don't even want you doing everything. But in simple point of fact, we want you doing more than you have been doing and

all of this conversation around quality minus what you heard at the Next Steps process, around client education, client traing and skill building and empowerment of the client -- gee, I gotta wonder what's going on.

CHAIRMAN RODHAM: Well, Bernie, I really appreciate that; I think that it's well stated. I went to, you know, one of those Next Steps meetings and also to the national meeting and read all the stuff, as I know you did.

And we heard a lot of wants, you know, and I think you would have to agree with that, obviously, that the client's wants as well as the lawyer wants, and well as everybody else's wants, and that's what we are attempting to try to do and have been, not just today, but in the past, to try to separate out all those wants and to say, given the fact that we have X amount of dollars, to do whatever it is we can do, where do we spend it?

And we have decided that we will spend some of it to fulfill our responsibility to those people who are assuming positions on client boards. We will also spend some of it to do the kind of community legal education that we are going to attempt to implement.

What more we do is something for the Board to still consider and to debate. But I think it's -- I think it's a kind of -- maybe -- I don't know -- not unimportant and not useless and not anything else, but sort of a

mischaracterization for you to try to put us into a position of saying that we are not doing what we have been requested to do, because we have been requested to do a lot of things.

The issue is, which and how much of our resources do we spend on all of these things? And you know that.

You, know, we have a minimum access program to complete that's going to require a lot of money. We have salaries to pay for a lot of people who are doing out there already.

We have a lot of things that require the kind of limited resources that we can give to them. And, you know, it's up to this Board to decide how much more we are going to do in the area of client education and client training.

And that's what we are attempting to do. It's unfair, I think, of you to say "people said, 'We want this'," because people have said they wanted a lot of things.

MR. VENNY: But, Hillary, this is the first time that the Corporation has ever said that its money could not be used to support anything other than the training of client board members. This is the first time.

So that, instead of stepping forward, or at least standing still, for the client community, this is a step backwards.

Clients, client board members, have been trained

alongside paralegals, alongside attorneys, using Corporation money for support.

And I just want this Board to make a decision that that is a policy that it finds acceptable. I'm not sure when this Board ever discussed that or made that decision. That's all I'm suggesting.

MR. ENGELBERG: Bernie, for my enlightenment, when you are talking about client training, outside of client board training, what -- specifically, what are you talking about?

MR. VENNY: Well, we had a dream, Steve, at one point in time, that would allow the client community to be involved in something more than sitting back and carping and criticizing the local program, but in fact helping the local program reach some substantive goals.

It is interesting to me that Catherine pointed out that the community legal education training that she is doing is going to be geared for attorneys and paralegals, as though clients could not, in fact, provide -- with proper training -- some level of community education training, so that when the lawyers, after two years, decide to split and the paralegals move onto other things, in fact that residue of information and skill would still remain in that community.

That is not to say that some people aren't going to

get jobs and move out of that community, but that is to say that certainly, far more of the community residents are going to stay in that community, and if they've got the skills, we've got far greater capacity to have that preventive legal education passed on where it is, in fact, needed the most, within the client community.

If that training can't be done, that training will not be supported by the Corporation, then I think we've got a major problem.

MR. STOPHEL: But aren't we training board members in just what you've said, Bernie?

MR. VENNY: No. The training that Catherine's providing the board members, as I understand it, will, for the most part, talk about their role as board members and provide some measure of leadership training. I think that's an accurate reflection.

MS. JERMONY: That's part of it. Part of it is their relationship to the overall client community, and some other aspects of their representation of that community.

MR. VENNY: What Bob Pressman was talking about, in terms of the Center for Law and Education, was dealing in the substantive areas. How can clients best be involved in helping to monitor, helping to provide change, in relationship to the education system?

Several of the other support centers have indicated

a willingness to do exactly the same kind of thing. The Housing Support Center, the Welfare, the Health, the Senior Citizens Support Centers.

They are certainly not going to be able to do it: one, if they can't use any Corporation money for non-Board members, and two, if they are going to have to get the 25 percent, which is, again, another new criteria established by the Corporation staff,

MR. ORTIQUE: None of this is buried in concrete, is it, Tom?

MR. EHRLICH: No.

MR. ORTIQUE: I would hope not. We've never -- I know this Board has never buried it in concrete, and I think that it calls for sort of an exploration and further refinement and even after we have refined it, I think that we ought to be able to back off and do something else, if what we see needs to be done.

I think that, at this point, without going too far into any type of commitment, I think that that's expressed as what this Board ought to be doing.

MR. BANBERGER: Let me just correct you. There is no policy that restricts client training only to the training of client board members. One of the things that we are trying to develop, by the local training grant, is training to be done by Legal Services programs and there we thought it

best to use the limited resources that will go into that kind of thing for them to train client board members, but, as Catherine has said, and it will be true with other units of OPS, there will be other kinds of training that will be available for people who are clients and there will be training of trainers to provide other kinds of training for clients.

And I think it is difficult to see the whole picture unless Catherine or somebody can lay it all out to you, because you are talking about first, this -- the $200,000 that will be used for direct training for clients. There is also money that will be used in the local training grants to programs for them to provide client board training and then there --

MR. VENNY: But Clint, that money can not be used for any other than client board members, and the program has got to come up with 25 percent of the money.

MR. BAMBERGER: Exactly --

MR. VENNY: The programs have never wanted to do client training, anyway; that's why we had to come to the Corporation and use the mini-grant system. We could not get the project directors to provide skill-level training to their client board members, because they don't want them to know. They don't want them to know that they're supposed to do certain kinds of things.

That's been the problem all along.

MR. BAMBERGER: And there is a half million dollars in the National Clients' Council, some part of which I don't recollect, is used for client training.

I suggest to you that -- I guess this is -- I think it would be helpful, if you want to address this subject, for Catherine to have the opportunity and others involved in OPS, to put together a report to you that tells you what's going to be done this year and what is proposed in the 1980 budget.

And I would suggest to you that you are moving away from an opportunity that you seldom have to think about some issues that go beyond this year.

MR. CRAMTON: We'd all suggest that that's done; that the report come to the Provisional Legal Services and then, through it, to the Board.

CHAIRMAN RODHAM: I agree. Betty, how about following up on Howard's questions about priority setting?

MR. SACKS: I don't want to insist on that, because other people may have things that are more -- I don't have any sense of what the major issues are, and we've only got limited time, so --

CHAIRMAN RODHAM: That certainly is a major issue.

(Laughter)

MR. SACKS: Let me just give you a brief overview

of our priority-setting areas. As the current Board members know, and as the nominees may want to know and may need to know, there has been a recent change in the Corporation's legislation around the area of some amendments to that, specifically, mandating that we do some assessment of needs, particularly the elderly and the handicapped.

Our regulation around resource allocation and priority setting was amended to incorporate that change. And priority setting falls in under the old regulation and under the new regulation which ask us to take in consideration any needs assessments of communities, some consideration of the needs of the elderly and the handicapped.

We amended the regulation, and Alice can talk more about that, if you like, to incorporate that change. What we've done, and I'm working on the report now for Tom, is to look at the effect of our efforts under the old regulation and where we should be going with the revised regulation.

I have completed an initial draft of that report to go to Tom and to be returned to us with some more specific directions as to the areas of inquiry that we should pursue with respect to that regulation.

We looked at the priority setting process and resource allocation process from the point of view of what it has done. We know how many programs, based on our

grant applications and some other data coming out of Alan's shop. We know how many programs have been engaged in the priority setting and resource allocation process.

We know what those kinds of processes look like. And we have been trying to reassess those processes in terms of any deficiency or in terms of any new directions we should take with our revised regulations.

As we complete that report, I'm sure we can get copies of it to you, but it is an issue that the Corporation staff has been addressing over the past several months, and I do have an initial draft of the report completed.

MR. STOPHEL: What's the sense of your office as to the involvement of the total community in the priority setting that is taking place or has taken place since last year, when we adopted the change in regulations?

MR. LYONS: Well, the problem has not been so much the involvement of the total community of persons, particularly clients, in that priority setting process. The problem, as we see it, is whether or not that process yields any specific direction in terms of the developing of playing it, as to how the resources are going to be allocated for the program itself to work with, in terms of getting something done.

What it appears that was happening is that, in fact, staff, board members, community people, eligible clients,

did in fact come together to talk about the problems in the community and how to set priorities for the program.

We are looking at that and trying to assess whether or not that goes far enough in developing specific plan of operation for that program to allocate its resources, in terms of achieving some specific goals.

And that is sort of the focus that we're into right now, trying to chart a new course in giving programs some specific guidelines as to what we would be looking for, in terms of workable plan or some standards that would indicate that they are meeting the requirements of the regulation.

CHAIRMAN RODHAM: John, do you want to add anything to the Next Steps?

MR. ARANGO: I don't know. Any other things people want to talk about?

CHAIRMAN RODHAM: Yes, Howard.

MR. SACKS: We've got this whole mass of documents here, in which an enormous amount of effort has been invested, and we've touched on, I would guess, three, four, five, six items.

In the March meeting you go back, I guess, to the regular agenda. What happens to all these items?

CHAIRMAN RODHAM: Well, that's one of the reasons why we wanted to have this, so we could bring all those things out, so that they would be kept in mind as we begin to make

all these decisions, because, for instance, the discussion about the kind of training that is going to be going on in the Office of Program Support and how that all ties in is going to be, you know, very relevant to both the Committee on Provision of Legal Services and the Appropriations Committee, as they begin to design whatever budgetary request we are going to have, as they begin to make allocations of whatever budget we get from the Congress.

I'm hoping -- one of the things that does happen all too often in groups is that a lot of issues that are of concern to people become buried under the day-to-day press of just going on, and I'm hopeful that, you know, that all the Board Members, at least, will have kept a lot of these ideas in mind and will have questions to ask about the various proposals that come to us from the staff or any of the other groups involved in Legal Services, as to how it fits in with any concept of quality service or access or whatever.

MR. EHRLICH: May I make a suggestion?

MR. SACKS: Go ahead.

MR. EHRLICH: There is a good deal that's in those papers is going forward, and what any staff, I believe, and certainly this staff, has to do vis-a-vis the Board, is say to you, "Here are the basic plans that we are undertaking. You see things that ought to be different, by all means point them out and we will stop and then focus on them."

More generally, when we see issues that we think are major kinds of critical ones, budget most obviously but not just budget, we will try to bring them to you in a way that gives you both sides of the issue, so you can resolve it.

But there are a great many others, and it's only fair to say that we are just moving forward on them until somebody --

MR. SACKS: Would it make any sense to ask the staff to go through this mass of documents that has cost so much effort and sweat and to prepare three papers, one for each of the substantive committees that we talked about earlier today, and not more than two or three pages, just to identify major issues, with references to the places in the documents, so that when these committees come together, hopefully, they will read this and they will then have a background of their own against which to judge all the day-to-day issues that are coming before them.

MR. EHRLICH: I think we can go through with you -- and indeed that was done, for the provision in terms of the support issue. It took more than two or three pages, in honesty, but I think we can show that regulations and audit and appropriation, and let me -- I think it would be worth if if we spent some time together, going through those, to --

MR. SACKS: I mean, I as an individual committee member, but I think all the Committee members ought to have this, because my fear is that as you present to the Committee these day-to-day issues, that some good idea or some major problem is going to get lost.

MR. EHRLICH: I understand. The problem is that Regulations Committee and it is the substance of the regulations that we have, and Audit and Appropriation, it is the budget that we have.

It is the Provision Committee, which in some way has the broadest, deepest, most important mandate in the sense of the guts of Legal Services, that has seen and, I think, will continue to see, a good many of these issues and that's the one where it may be possible and helpful to prepare that kind of index of where the stuff is.

MR. SACKS: Thank you.

CHAIRMAN RODHAM: You know, we've been trying to talk about goals and all that, and I would like to ask each of the older Board Members, the senior Board Members, if they would, to comment and to give us -- and also Mr. Bamberger -- your -- you know, any ideas or suggestions or advice each might have about some of these areas that we have struggled with and played with, not just today but for the last months. Roger.

MR. CRAMTON: Well, I have a terribly important

question and observation to pass on. And that is this: that after about eight hours of discussion, my initial question is, when does the cash bar open? Where?

(Laughter)

MR. CRAMTON: Not that the discussion hasn't been exceedingly interesting and useful, but a moment of fatigue sets in.

CHAIRMAN RODHAM: It opens as soon as you say something more important than that.

(Laughter)

CHAIRMAN RODHAM: That's a carrot, Roger. But if you have nothing to say --

MR. CRAMTON: One thing I could say, that quality that we had up there, just to kind of complete it, it seemed to me that two or three of the things under institutional, we had in fact taken about 30 seconds to discuss and dispose of, because they are so generally accepted.

They are included in the statute, in the first place, and everyone accepts them -- the notion that one of the special responsibilities of the Board and the Corporation is to assure more adequate funding of Legal Services, is one thing that we have all agreed on from the start, and until we get to the one-billion, five-billion dollar level, we don't need to worry about whether too much has been provided, and we won't start having differences of opinion on that, at

least right away, so I put that on off for the future.

The other one on that was what is also so clearly expressed in the statute and what the Board was very concerned about from the very beginning, and that is playing a -- taking a very, very important role in terms of protecting the program from both the twin dangers of political interference by the political process, which overrides the attorney and other judgments inside local programs, and also from the political use of taxpayer money by the programs for political purposes, which is also stated very clearly in the statute.

We've gotten very clear agreement from the field on the first side of that, but must clear agreement on the, it seems to me, from time to time on the latter side, but the Board itself is in very clear agreement on the importance of both.

So I thought we could have probably disposed of those kind of goal questions as, you know, just generally agreed on.

This is part of what we all accept and agree. The resource side, we are going to spend tomorrow morning on, I gather, and it seems to me the kind of critical question there, in my view, and a very, very tough question, is as we face an inevitable period of probably forever, of inadequate resources to do all the things that ought to be done

and would be desirable to do.

How does one go about making intelligent, consistent, fair rationing decisions, which in terms of geographic areas, in terms of segments, of the people who need and want service, in terms of -- well, you could -- in terms of the kinds of issues we were talking about, of Type A programs as against Type B, whether you call it my repeat players against the one-shotter, or whether you call it law reform as against client individual service or whatever your terminology is, as to how do we go about allocating resources or nudging, or do we leave that up to local option and lay the money out there and they do what they want?

And those are the issues. I gather Gary is going to lead the discussion tomorrow. And we won't leave anything we've talked about today, because it will all creep back in.

CHAIRMAN RODHAM: Glenn, do you have anything to add?

MR. STOPHEL: Not a great deal. I have -- I think the thing that Board members coming on and many of you are aware of these things, but the perceptions of some groups in Legal Services -- there is the perception of the field.

That has always intrigued me, being a farm boy. With cattle around, I know what lies in the field.

(Laughter)

MR. STOPHEL: But your perception of the field, I

think, will come -- and it becomes very focussed and very funnelled in upon you and that is gospel unless you know something about what really happens in the field.

And so I think that your perception must be honed by your own experience and by what makes sense, not necessarily by what somebody tells you.

Not that those are always divergent, but sometimes they are. The client community kind of fits the same kind of thing, and I said that this morning, in that the clients are individuals; they're persons with specific and indidivual problems.

It's a divorce case which, to that family, is of immediate urgency. And we must keep that it in mind, that we are rendering legal assistance, in terms of the Act, for individuals, persons, and the client community is no more a monolith than one of these other things that I have a perception of, and that is the private bar.

Sometimes we have had the staff, the field, and the private bar, and rather than use coming together and working toward a mutual goal, we have taken adversary positions, I think, and unnecessarily so, in many respects, and I think that that has deterred us.

Now, frankly, I'm not sure that much could have been done in these four years toward bringing that together any more, because we were, like Mickey and I were discussing

in the practice of law; we've been discussing fighting fires and trying to get the money to do something with, and there hasn't been enough, and everybody has been kind of understanding of one another.

But you're going to be faced, in many respects, with harder decisions than we have been faced with, because this thing is going to peak and it's going to level out; there's just no question about that, and you're going to have to involve these groups in a common goal.

And the adversary things are going to have to quit and it's going to have to be all for one and going out there and serving those clients.

That's my perception of it.

The question of, "How do you get there from here" and the strategies that we've been discussing, and I think that we need to look everywhere for strategies, new things, innovative ways of serving.

I'm as reactionary as anybody when it comes to changing things; in church work, we always say that the seven words of a dying church are, "We never did it that way before."

And so, I think that we need to keep that in mind; as a new organization, we need to move down the road toward doing just that, keeping in mind that with the scarce resources, a wrong turn in the road can put you three years behind.

So you move with deliberate speed.

CHAIRMAN RODHAM: Mel.

MR. BROUGHTON: Madame Chairman, Glenn was talking about the -- somewhat about the private bar, and Roger is talking about cash bar, and in view of the hour --

(Laughter)

MR. BROUGHTON: In view of the hour, to start, I will just make a few comments tomorrow. Roger agrees with that, I'm sure.

CHAIRMAN RODHAM: Okay. Well, we will adjourn until tomorrow. The Board is going to have breakfast together, in the same room, the Garden Room, and then we will all adjourn back here at 9:00 for the session on resources, and we are all having dinner -- everybody here is having dinner, if they wish, tonight at 7:00 in the Meadow Room. Eleanor, where's the Meadow Room?

MR. STOPHEL: It's out in the field.

(Laughter)

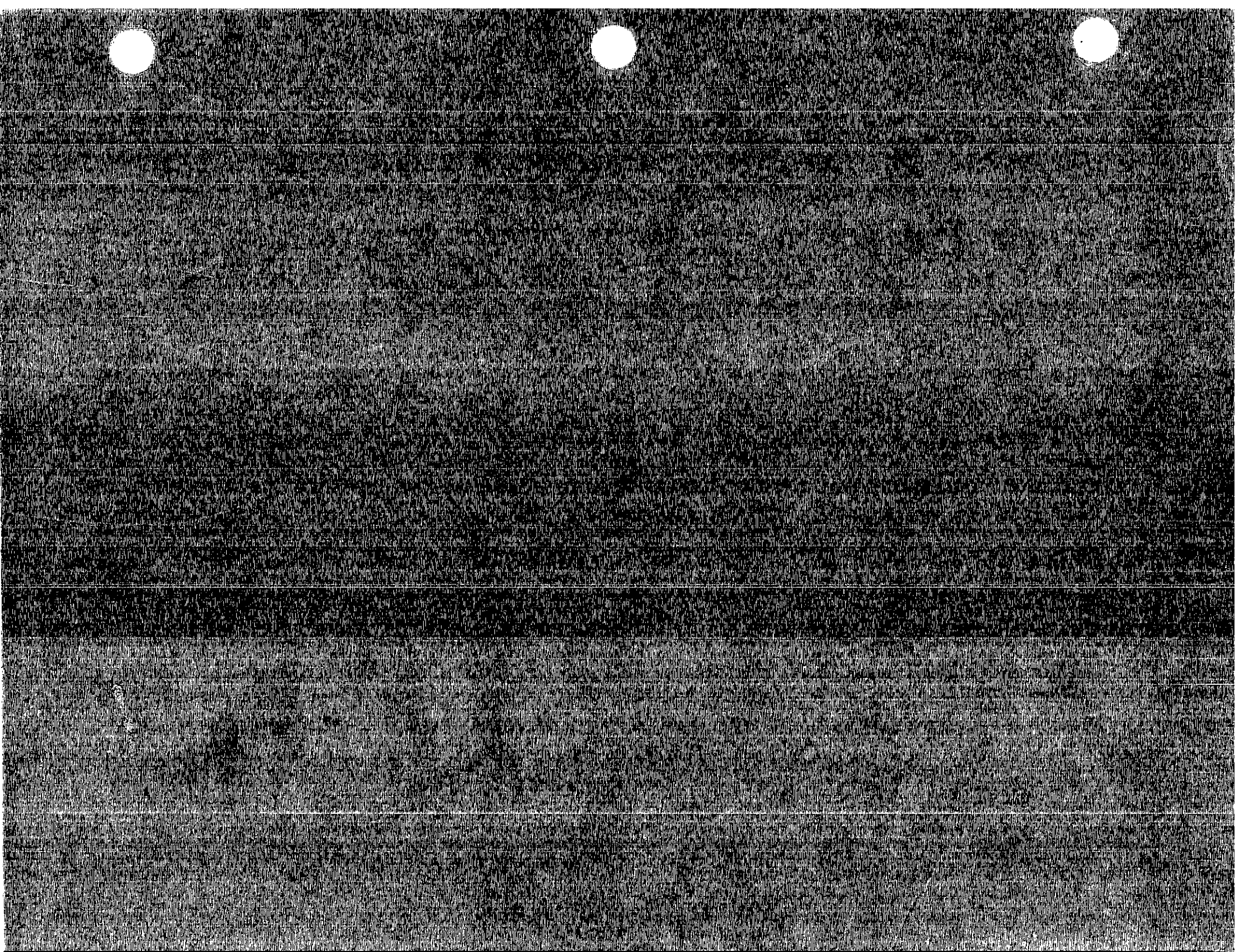
(Whereupon, at 5:15 p.m. o'clock, the meeting was recessed, to reconvene at 9:00 a.m. o'clock tomorrow morning, Saturday, January 27, 1979.)

C E R T I F I C A T E

This is to certify that the foregoing proceedings before the Legal Services Corporation, 1979 Board Retreat, Friday, January 26, 1979, were had as herein appears and that this is the original transcript thereof.

William Moffitt

WILLIAM MOFFITT

NEAL R. GROSS
COURT REPORTERS AND TRANSCRIBERS
1330 VERMONT AVENUE, NW
WASHINGTON, D.C. 20005

(202) 234-4433 (301) 261-4445