

1 LEGAL SERVICES CORPORATION

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3 MEETING OF THE BOARD OF DIRECTORS

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5 Rivermont Hotel
6 200 West Georgia at Riverside Drive
7 Memphis, Tennessee

8 Thursday,
9 May 1, 1980

10 The above-entitled meeting was convened,
11 pursuant to notice, at 9:00 a.m., Ms. Hillary Rodham,
12 Chairperson presiding.

13 MEMBERS PRESENT:

- 14 MS. HILLARY RODHAM (CHAIRPERSON)
15 MR. DAN J. BRADLEY
16 MR. ROBERT J. KUTAK
17 MR. STEVEN L. ENGELBERG
18 MR. MICHAEL KANTOR
19 MR. HOWARD SACKS
20 MS. CECELIA D. ESQUER
21 MR. RICHARD TRUDELL
22 MR. REVIUS O. ORTIQUE, JR.
23 MS. ROMONA SHUMP
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25

I N D E X

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P R O C E E D I N G S

9:25 a.m.

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3 MS. RODHAM: We had some last minute difficulties
4 come up with some of our Board members, one of whom is
5 Bill McCalphin who has to have an emergency operation.
6 He's not going to be with us, and Josephine Worthy, who
7 has to be in Court today on behalf of some people in her
8 community that she is working with, and she won't be able
9 to meet with us, and Howard Sacks and Revius Ortique and
10 Bob Kutak will all be here a little bit later.

11 So, we want to get started as soon as we can
12 corner Mr. Engelberg and Mr. Kantor; but on behalf of the
13 Board, I want to express how pleased we are to be in
14 Memphis.

15 How many people from the Memphis program and the
16 Memphis area do we have with us already? I know some
17 are going to be here later, and to let you know that we
18 are glad to be here and will hopefully have a chance to
19 visit with some of the people from around Memphis.

20 Of course, we have a lot of the old regulars
21 who are from exotic places like New Haven here today too,
22 but we are pleased to meet in Memphis.

23 Of course, the reason we did it is because it's
24 Steve Engelberg's hometown, and he's lied to us so many
25 times about who he is and where he's from. We thought

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1 we'd come and find out for sure.

2 We're going to start as soon as we get a quorum.
3 I think we should send out somebody with persuasive powers
4 like Berney to go get Engelberg and Kantor.

5 We're going to hear at some length from Mary
6 Bourdette, our staff person in charge of our Congressional
7 Relations Office about what's happening in Congress,
8 which I think will be interesting to not only the Board,
9 but to the rest of us who are here today who are concerned
10 about the future.

11 We're also going to hear from the Committee
12 on Provision of Legal Services, which is chaired by
13 Dick Trudell and hopefully we will be able to finish
14 all that business by lunch.

15 We will begin the discussion of the D.S.S.
16 Study as soon as we're finished with hearing about the
17 Section 1007 (h) Study and will probably, I'm sure, not
18 finish that. We will carry that into the afternoon, so
19 that we'll have plenty of opportunity to ask questions
20 and decide what our approach to the Study should be.

21 Starting sometime in the middle of the afternoon,
22 we hope once all our members of the Board are present
23 to begin the discussion of planning for the '80's, which
24 is, of course, the principal question on all of our
25 minds as to where we go from here and what the future of

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1 the Corporation and the individual programs will be in a
2 potentially different climate in the next decade.

3 We, of course, welcome after the Board has had
4 a chance to discuss these issues any comments or questions
5 from members of the public who are here who will be with us.

6 Well, as soon as Mr. Kantor wings his way to the
7 front, we'll have a quorum.

8 MR. KANTOR: Depending on the issue, maybe I
9 should sit back here.

10 MS. RODHAM: The Board's meeting will begin, and
11 the first item on the agenda which appears in the Board
12 book is the Adoption of the Agenda, which is set forth
13 on the first page.

14 Is there a motion that we adopt the Agenda as
15 set forth here?

16 MR. TRUDELL: So move.

17 MS. RODHAM: Is there a second?

18 MS. ESQUER: Second.

19 MS. RODHAM: All those in favor signify by
20 saying "aye".

21 (Ayes.)

22 MS. RODHAM: Those opposed?

23 (No response.)

24 MS. RODHAM: The second item on the Agenda is the
25 Approval of Minutes of December 6, 1979 Meeting.

1 Are there any additions or corrections to the
2 Minutes that any of you have caught in your review of them?

3 (No response.)

4 MS. RODHAM: If not, is there a motion that the
5 Minutes be accepted as set forth in the Board book?

6 MR. TRUDELL: So move.

7 MS. RODHAM: Is there a second?

8 MS. SHUMP. I second.

9 MS. RODHAM: All those in favor, signify by
10 saying "aye".

11 (Ayes.)

12 MS. RODHAM: Those opposed?

13 (No response.)

14 MS. RODHAM: The Minutes of the December 6, 1979
15 Meeting are adopted.

16 The next item on the Agenda is the Report on the
17 1981 Congressional Reauthorization and Appropriation
18 Process, and Mary Bourdette, whom I mentioned briefly
19 before who is the Corporation staff person responsible for
20 Congressional relations, which is more than a full-time
21 job will give us a detailed report about where things
22 stand currently in Congress, and what we might expect.

23 MS. BOURDETTE: Thank you, and let me provide
24 you with a status report on both the appropriation and
25 the authorization process as it is, now proceeding in

1 Congress, and then after going through it, perhaps we
2 could have a discussion or entertain any questions you
3 might have about the process in case I miss a lot of
4 important parts of it.

5 To begin, it really is crucially important, I
6 think, to understand the mood in Congress right now
7 both in order to objectively assess our efforts today,
8 as well as to realistically make projections or have
9 expectations for the future.

10 The mood in Congress, for really want of a
11 better word, is extremely conservative and fiscal
12 conservatism--at least that's my term for it is particularly
13 rampant.

14 The balancing the budget movement has caught on
15 to the degree that members on all points of the political
16 spectrum are supporting a balanced budget this year.

17 Perhaps, only a handful of members in Congress
18 are either objecting to a balanced budget or suggesting
19 that, in fact, we should be spending more money in the
20 future as opposed to less.

21 The only question really in Congress this year
22 is how the budget is going to be balanced; whether revenues
23 will be increased or whether expenditures will be cut, and
24 it's apparent, I think, to many of us who are watching it
25 very closely that for the first time in many years the old

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1 guns versus butter approach to government is a very
2 realistic approach, and the options are very, very clear.

3 There are, however, a range of options being
4 considered as to how to balance the budget.

5 You have probably heard of the Congressional
6 Budget Office Report that suggested, and let me emphasize
7 suggested because they were not recommendations, a range
8 of options designed to cut Federal spending.

9 One of those options, however, was the option
10 to terminate the Legal Services Corporation, an option
11 designed to save what they suggested would be about \$1.5
12 billion over the next five years.

13 The suggestion in the C.B.O. Report was that
14 Legal Services could be handled with State and Local funds
15 or by pro bono contributions by the private bar.

16 That was an early paper inserted into the
17 process in Congress and one that is looked to now and then;
18 but is only one approach to balancing the budget.

19 There are many, many others being considered.

20 Carter Administration, while they submitted a
21 budget request in January, by early March was already
22 revising that request to cut an additional \$16 billion
23 out of the Federal Budget.

24 Those cuts were, I think it's fair to say,
25 pretty much in a whole range of programs, both military

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1 spending to a degree and social programs. I would
2 describe that as a moderate approach to attempt to balance
3 the budget.

4 The administration in the March revisions,
5 nevertheless, continued to recommend a \$321.3 million
6 level, the original recommendation for the Legal Services
7 Corporation.

8 We are particularly grateful to the administration
9 and to President Carter and Vice-President Mondale and other
10 people in the administration for continuing that level for
11 us when virtually all other programs were cut to some
12 degree or another.

13 I'm not going to talk about it at any length,
14 but just to understand that there are many other approaches
15 in Congress to balance the budget.

16 You've heard perhaps about the Rolf Resolution
17 which is something that is an attempt to correlate Federal
18 spending to the G.M.P. which would require even larger
19 cuts in the Federal budget.

20 The House and Senate Budget Committees have
21 also made recommendations for balancing the budget, again
22 very much along the lines of the old guns versus butter
23 approach; some increase in Federal military spending at the
24 expense of social programs, the Senate, in fact, increasing
25 military spending substantially at the expense of social

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1 programs.

2 Not only is it almost a fait accompli that the
3 Federal budget is going to be balanced and fiscal
4 conservatism has taken rein in Congress, but I think it's
5 fair to say that there is a general philosophical
6 conservatism in Congress right now as well and some
7 evidence or some indications of that are the terrible time
8 that the Federal Trade Commission has had trying to secure
9 an authorization where business and others have really
10 attached their authority to regulate consumer issues.

11 The Hospital Costs Containment Bill is simply
12 just another example of where the vote in Congress was
13 we do not want further regulation.

14 I don't want to be too much of an alarmist,
15 but it's not exactly a year in Congress to be optimistic
16 about our appropriation or any appropriation, but with
17 that background, let me tell you where we are in the
18 appropriation process.

19 We submitted our Budget Request for \$353 million,
20 and that is now pending in the Congress.

21 Again, to explain just a little bit, the
22 appropriation process is really, in essence, a three-part
23 process.

24 Not only do we have to secure the appropriation
25 as well as getting this year an authorization for the

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1 appropriation, but we must also this year secure sufficient
2 budget authority to allow an adequate appropriation level
3 for us.

4 Let me just digress for a minute because it's
5 been in the news a lot, and it does effect us this year.

6 The budget process is something that's been on the
7 books--the Congressional Budget Process since 1974. It
8 has not been, however, in the past something that has
9 particularly effected our ability to get an appropriation.

10 Given the balancing the budget movement this
11 year, however, the budget process has gained an incredible
12 new focus and, in fact, is the focus for most of the
13 budget balancing activity.

14 The budget process requires a first and second
15 concurrent budget resolution. The whole budget process is
16 an attempt to assist Congress in controlling overall
17 spending and overall revenues, as opposed to the
18 appropriation process which does it pretty much piecemeal.

19 In terms of that process, Congress has to pass
20 a first and second concurrent budget resolution setting
21 expenditure ceilings and targets in various functional
22 categories, and Legal Services is included in the
23 Administration of Justice function, along with the
24 Department of Justice, The Bureau of Prisons and many
25 other justice related activities.

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1 The Budget Resolution, once passed--it's not
2 passed yet, will include a functional total for the
3 Administration of Justice that is based upon the calculations
4 for the various programs and activities and the function
5 and included in this is the Legal Services Corporation.

6 In the past that didn't matter very much because
7 the Budget Resolutions were, I would say, much more a
8 paper process than a real process.

9 This year the Budget Committees are making a
10 very strong attempt to have those ceilings be mandatory
11 ceilings, and to direct the Appropriations and Authorizations
12 committees to use those as mandatory ceilings in both
13 their authorization and their appropriation work.

14 Therefore, if that, what is called the reconcilia-
15 tion language passes, then whatever is included in the
16 House and Senate Budget Resolution or the final first
17 concurrent budget resolution for us may be determinative
18 of how much we can, in fact, receive or even secure
19 through an appropriation process this year.

20 The House Budget Resolution is on the House floor
21 today, and at this stage includes a \$321.3 million level
22 for the Legal Services Corporation for the 1981 fiscal
23 year.

24 I sent all of you some articles indicating a
25 major battle in the House Budget Committee over Legal

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1 Services; a battle that was really the end of the agreement
2 between the liberals and the moderates on the Committee
3 over the House Budget Resolution, and that, I think, in
4 many respects fell apart over the disagreement of Legal
5 Services Corporation.

6 There was an attempt by the Chairman of the
7 Committee to cut our budget authority by \$50 million.
8 Normally, amendments by the Chairman are given a good
9 chance of passage. We were quite lucky in defeating that
10 amendment with the help of a lot of our friends on the
11 Committee. It was a very angry and long debate on the issue.

12 While the Chairman's recommendation to cut \$50
13 million was not specifically directed toward antagonism
14 toward Legal Services programs, but rather that every
15 program is going to be cut this year, and Legal Services
16 is no different than any other program.

17 Not to quote the Chairman, but to paraphrase him,
18 that Legal Services is simply going to have to learn like
19 everybody else to tighten their belts even more.

20 There were others, however, voting for that \$50
21 cut who expressed particular disagreement with the whole
22 idea of a Legal Services Program.

23 Others on the Committee were extremely supportive
24 of the Program--extremely supportive.

25 So, that as the House Budget Resolution goes to

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1 the floor, it does include the \$321.3 million level for the
2 Legal Services Corporation.

3 There are many substitute amendments, as they
4 are called, that are being considered on the House floor
5 today.

6 In most of them, we are in a fairly decent
7 position. There are two that include termination of the
8 Legal Services Corporation. That is one by Congressman
9 Latta of Ohio and Congressman Rusolo of California.

10 I think it's fair to say the chances of those
11 passing is not very great.

12 There are chances of substantially different
13 figures being put in and further cuts in other social
14 programs that crucially effect our clients.

15 On the Senate side, there is a similar budget
16 resolution now pending before the floor. Senator Muskie,
17 who was the Chairman of the Senate Budget Committee, and
18 who will probably be replaced by Senator Hollings,
19 hopefully will guide that through the Senate floor before
20 he leaves.

21 That includes only a \$300 million level for the
22 Legal Services Corporation for the 1981 fiscal year in
23 the Administration of Justice function.

24 While, to most of you I'm sure that sounds like
25 a terrible defeat, in fact going into that Committee, we

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1 counted only four votes out of, I believe, a 15 member
2 committee for an increase of any kind in Legal Services.

3 It probably shows where I am right now, but it
4 was almost as if that was a victory for us getting out
5 with \$300 million.

6 Just before they considered Legal Services, they
7 cut \$1.5 billion out of the Food Stamp Program and
8 eliminated several parts of the CETA Program.

9 As I say, the Senate Budget Resolution is heavily
10 weighted toward military expenditures at the expense of the
11 social programs.

12 The whole budget process, while it will go on
13 throughout the year, will come to come conclusion by May 15,
14 when the first concurrent budget resolution is suppose
15 to be passed. We will know two things by that time.

16 One, what the level included for the Legal
17 Services Corporation will be; and two, whether that is
18 simply a guideline to the Appropriations Committee, or a
19 mandatory ceiling on the appropriations for us for the
20 1981 fiscal year.

21 With that background, I can talk somewhat about
22 the appropriation process. It, of itself, has not moved
23 particularly so far this year. We submitted our budget
24 early in January. In February and in March, we had
25 hearings before the Senate and House State Justice and

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1 Commerce Appropriation Sub-Committees with Cecelia and
2 Steve presenting testimony and might want to provide their
3 reactions to how well we were received by the Committees.

4 I would say overall we were received better in
5 the Senate, but I think that was because it was in February
6 and it's a sign of how quickly things are moving in a
7 conservative direction in Congress.

8 The Sub-Committees will move to mark-up in mid to
9 late May, and it is at that point that they determine what
10 their recommendation will be for our appropriation for the
11 1981 fiscal year, which it's really too early to predict
12 what those numbers will be; but I think the President's
13 recommendation of \$321.3 is the one being considered by
14 most members on the Hill as the uppermost limit for an
15 appropriation for Legal Services in the 1981 fiscal year.

16 The Administration has continued to offer us
17 very strong support, and I think we can count on that
18 throughout the process.

19 Steve might want to talk about it, but particular-
20 ly a descriptive comment by Mark Andrews of North Dakota
21 in our House Appropriation Sub-Committee was that he had
22 supported Legal Services in the past. He considered it a
23 program we could no longer afford, and he described it
24 that it would cause icing on the cake, and it was a time
25 we could no longer afford the Legal Services program.

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1 He was a Republican from North Dakota.

2 Moving on to the authorization process, since
3 our authorization expires September 30, 1980, we require
4 a reauthorization for an appropriation for the 1981 fiscal
5 year, and in consideration of our approach to reauthorization,
6 we adopted--the Board adopted the principals to guide us
7 and took a position in support or requesting a simple
8 reauthorization for three years in the amount of such sums
9 as maybe necessary.

10 That type of an authorization would have provided
11 the Board the flexibility to determine our budget requests
12 to Congress for the next three years.

13 Again, in the authorization process, it is
14 progressing simultaneously on the House and Senate side,
15 and let me start with the House side.

16 We held hearings or hearings were held on the
17 House side and Mr. Kasteimeier's Judiciary Sub-Committee
18 last September, which Dan testified, Bill McCalpin testified,
19 the ABA, NLABA, NCC, PAG, and the whole community provided
20 strong support for a reauthorization for the Corporation
21 that would provide us sufficient latitude to secure
22 additional funds in the future.

23 All parties also registered strong opposition
24 to the current restrictions in the Act, but indicated to
25 one degree or another the recognition of the political

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1 reality of being unable really at this point to eliminate
2 many of those restrictions, which many of us find onerous.

3 The Sub-Committee moved to markup, I believe in
4 February, and discussed our request, the request of the
5 Field, the request of the client, at some length and
6 various approaches to a reauthorization.

7 In the end, they reported out a Bill, H.R. 6386,
8 that was a three year authorization, but the first year
9 had a set level of \$383 million for the 1981 fiscal year.

10 That number was determined by adding to our
11 budget request of \$353 million, \$30 million for salary
12 comparability for project employees, and the Committee
13 indicated quite strong support for moving Legal Services
14 employees to comparable salaries with other employees
15 in the private and public sector.

16 The next move on the House side was a full House
17 Judiciary Committee hearing at which that Bill, H.R.6386,
18 with its simple three year authorization was considered.

19 At that hearing, which was several weeks ago,
20 April 16, Chairman Kasteimeier started the hearing by
21 indicating he was reluctantly offering an amendment to
22 reduce that \$383 level to a level of \$321.3, the President's
23 recommendation for the 1981 fiscal year and continuing
24 such sums as may be necessary for 1982 and 1983.

25 He certainly expressed his understanding of the

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1 need for greater funds in the Legal Services even beyond
2 our budget request, but that political forces were such
3 that he felt that was an unrealistic request this year
4 in \$383 and one that it could not be, he felt, supported
5 sufficiently on the House floor.

6 So, he very reluctantly offered an amendment to
7 reduce that to a \$321.3 level and such sums as may be
8 necessary.

9 There was a good amount of discussion in the
10 full committee about an appropriate level for the Legal
11 Services Corporation and a length of authorization.

12 There were several amendments offered. One,
13 by Congressman Danielson of California. He was very
14 concerned that particular numbers and particular levels
15 be set as opposed to giving us the latitude that such sums
16 allowed.

17 He suggested that three year authorization in
18 the amount of \$321, I believe, \$425 and \$525. That was
19 not particularly well received in the Committee as being,
20 they considered, too high.

21 There were other amendments offered to provide
22 us only a two year authorization. One was \$321 and such
23 sums. Another was \$321 and \$350 million levels.

24 The compromise amendment was offered by
25 Congressman Mazzolli of Kentucky--of Louisville, to setting

1 an authorization level of \$321.3 million for the first
2 year; \$380 for 1982 and \$450 for 1983.

3 As I say, that was considered a compromise
4 amendment. Those numbers had no particular magic. They
5 represented, what he considered, a fair increase of
6 approximately 20% each fiscal year.

7 The Committee adopted that amendment, and it was
8 the only amendment adopted by the full Judiciary Committee.
9 Therefore, H.R. 6386 was reported out with an authorization
10 level of \$321.3 million for '81, \$380 for '82 and \$450 for
11 '83.

12 There were, however, numerous other amendments
13 that were considered at the sub-committee level, and some
14 that were awaiting on the table, but were not considered.

15 All of them were defeated. All the other ones
16 were defeated.

17 There was an amendment proposed by Congressman
18 Butler of Virginia to prohibit Legal Services employees
19 from engaging in strikes.

20 That amendment was rather handily defeated in the
21 Committee after some discussion. centering around, I would
22 say primarily the fact that Legal Services employees are
23 private employees, not public employees, and are governed
24 by the provisions of the National Labor Relations Act in
25 appropriateness of restricting that activity particularly

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1 through the Legal Services Corporation Act.

2 There were two amendments. Well, there was an
3 amendment offered twice to further restrict Legal Services
4 activity in the abortion area to restrict any litigation
5 or proceedings except that designed to save the life of the
6 mother--the so-called Hyde Amendment language.

7 That was introduced once by Congressman Mazzolli
8 and was defeated and was later introduced for reconsideration
9 by Congressman Railsback of Illinois, and was again
10 defeated.

11 There was another amendment offered by Congressman
12 Fish of New York growing out of a controversy that he
13 perceives in the migrant area of upstate New York that
14 would have required Legal Services programs to provide
15 notice in writing to the opposing party of claims against
16 the party as well as to require the program to engage in
17 negotiation prior to filing any litigation.

18 That, again, was defeated by the Committee on a
19 voice vote after considerable discussion and even some
20 attempts to make it to some members more palatable.
21 Other members argued very strongly against it giving
22 indications of areas that that would be particularly not only
23 difficult, but not in the interest of the client being
24 represented.

25 There was another amendment offered by Congressman

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1 Kindness to restrict Legal Services programs providing
2 service to persons in institutions. It was defeated.

3 MS. RODHAM: Is it K-I-N-D-N-E-S-S?

4 MS. BOURDETTE: Yes.

5 MR. KANTOR: I thought you were kidding us to
6 see if we were awake.

7 MS. BOURDETTE: That's what the members thought
8 too.

9 MS. RODHAM: Where is he from?

10 MS. BOURDETTE: Ohio, I believe, the Midwest.

11 It was somewhat related to H.R. 10.

12 So, H.R. 6386 sponsored by Congressman Kasteimeier
13 from Wisconsin was reported out of the Committee with the
14 only amendment being that changing the level of
15 authorization for the three years.

16 We still have what we were attempting to achieve,
17 which is a simple authorization with no substantive changes
18 to the Act.

19 The next move on the House side after we secure
20 rules will be to go to the House floor, and without any
21 doubt, that's going to be the most difficult part of our
22 process this year.

23 We fully expect all the amendments that were
24 offered in Committees to be offered again, as well as a
25 number of other amendments that have been discussed with us

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1 or others along the way. Amendments, perhaps, relating
2 to restrictions on representation of aliens and perhaps
3 restrictions in the legislative area.

4 I think there is also no doubt that there will be
5 an attempt by several members to restrict us to a two year
6 authorization.

7 A number of Republicans have very strongly voiced
8 the position that they fully expect to be in the White House
9 soon, and that they want to restrict this program to a
10 two year authorization so that they can have more say in
11 its reauthorization in the future.

12 So, I do expect a strong attempt to limit it to
13 two years as well as to impose further restrictions on it.
14 As I say, without any doubt, the House consideration of
15 H.R. 6386, which could very well go on for several days
16 is going to be challenging and difficult.

17 MS. RODHAM: What's the timing on that, Mary?
18 When is that expected to occur?

19 MS. BOURDETTE: Well, that's not clear. We hope--
20 we are pushing for it to happen as soon as possible.
21 I would say probably around the end of May or the beginning
22 of June.

23 It is important that we keep this Bill moving.
24 So, it's not real clear, but I would say probably by the
25 first of June.

1 On the Senate side, the authorization is also
2 moving fairly well. We had hearings. There was a couple
3 of hearings last year. We had a general oversight hearing.
4 Dan testified just generally about the Corporation, and
5 then early this year, the Oversight Committee, Senator
6 Nelson's Sub-Committee of the Senate Labor and Human
7 Resources Committee held hearings in which Field people
8 in a number of different types of field programs testified.
9 Other people in the Legal Services community testified.

10 At that point, there was an expectation that the
11 Committee would hold an additional hearing specifically
12 directed toward reauthorization.

13 At the conclusion of that hearing, however, the
14 Sub-Committee decided they didn't need any further hearing,
15 and they were going to move the reauthorization without
16 any further hearing.

17 So, we didn't present to the Senate Sub-Committee
18 in the same manner that we did to the House Sub-Committee
19 our full explanation of our position on the reauthorization.

20 Dan did submit a letter to the Chairman of the
21 Committee including the Board's position and indicating
22 our testimony before the House.

23 Senator Nelson and nine other members did
24 introduce as 2337, which is our reauthorization Bill on
25 the Senate side, that originally provided for a three year

1 authorization for such sums as may be necessary--exactly
2 our request.

3 After some procedural problems, the Committee
4 held a markup in March and a compromise was negotiated,
5 I guess, between Senator Nelson, Senator Hath, Senator
6 Javits, who is a ranking minority member on our
7 Sub-Committee and long-time supporter of Legal Services,
8 and Senator Hatch from Utah.

9 They reached a compromise to limit this Bill to
10 a two year Bill in the amount of \$321 million for the
11 first year and some sums for the second year.

12 This is a compromise that we opposed as did
13 other members of the community. It's not something we
14 thought was either useful or beneficial or in our interest
15 at all.

16 Nevertheless, the Sub-Committee adopted this
17 compromise at the Sub-Committee level and reported out as
18 2337 with the two year reauthorization.

19 Senator Cranston and Senator Metzenbaum, for
20 instance, also expressed their opposition to this
21 compromise, particularly at this stage; but nevertheless
22 understood its function and voted for it.

23 The Full House or Senate Labor and Human
24 Resources Committee held their markup. That's the next
25 stage, in April, and S 2337 was then reported out to the

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1 Full Senate Labor and Human Resources Committee again in
2 that same form--\$321 and such sums.

3 There was only one amendment even offered in the
4 Full Senate Committee. Senator Armstrong from Colorado
5 offered an amendment that would have required the Corporation
6 to submit plans for grants and contracts to Governors of
7 the various states, and if the Governors disapproved
8 within a 30 day period, the Corporation would have to
9 reconsider its plans to make such a grant.

10 Not quite the Governor's veto passed, but
11 very similar. That was defeated in the Full Committee.

12 The next step on the Senate side is the Senate
13 floor. I would expect that could happen in the next two
14 weeks. We're going to try to move that very, very quickly
15 and are much more optimistic the Senate might achieve
16 that simple reauthorization; although, the best we could
17 possibly do on the Senate side is \$321 and such sums.

18 As we move to conference, we will attempt to
19 resolve the differences in a manner that will allow us to
20 have a three year authorization, if we still have one after
21 we get off the House floor.

22 Overall on the authorization, it's been very good
23 so far; but there are many, many signs that the difficulties
24 lie ahead, and as I mentioned before particularly the
25 House floor.

1 Part of the reason or the primary reason it has
2 come so well, I think, is that the field effort in support
3 of our appropriation and authorization effort has been
4 incredible, tremendous in every way just very, very helpful.

5 Ellen Ramsauer from Tennessee, who is here,
6 has been very helpful. Don Hollandsworth from Arkansas
7 is also here.

8 The field people from all over the country are
9 just doing everything possible to help us, as has the ABA,
10 National Client's Council, NLADA.

11 We still--not to make anyone complacent, however,
12 we still need a tremendous amount of help in order to
13 secure any increase in our appropriation this year and an
14 authorization that will at least allow us to continue as
15 well as we have in the past.

16 So, any help that you can provide would also be
17 more than welcome.

18 MS. RODHAM: Are there any questions any of the
19 Board members have or additional comments?

20 MR. KANTOR: First of all just an observation
21 that I think Dan and Mary share--Cecelia, Steve and whoever
22 else has gone up there have done a magnificent job
23 obviously, given the mood of the Congress and the concerns
24 of the Country and the direction that the budget process
25 is taking. I think you've done a magnificent job.

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1 Second, I want to reiterate and emphasize your
2 praise of the Administration for their great support in
3 this effort. It would have been easy, I think, to stick
4 to last year's budget figure and not go up \$21 million
5 of money we desperately need.

6 So, I think they deserve a tremendous amount of
7 credit.

8 I don't know if Dan or Mary or both might just
9 respond to this, and you seem to indicate it; but I think
10 it's a critical inquiry in terms of how this Board deals
11 with the question is the level of concern for Legal
12 Services, both as a concept and particular programs
13 growing in the Congress and if so, why do you think so;
14 and third, what do we need to do as a Corporation to
15 address it?

16 What do we need to do differently or what
17 support do you need from this Board to help you in that?

18 MS. RODHAM: Mary, do you want to respond to
19 that?

20 MS. BOURDETTE: Well, I've been here since 1977
21 in Legal Service before that, but not in Washington; but
22 I believe, yes, that the concern about Legal Services
23 programs is growing.

24 There is still very strong support from a
25 number of members in the House Budget Committee and Senate

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1 Labor and Human Resources--well, in all our committees so
2 far. I've even frankly been surprised by the depth of the
3 commitment and the strength of the vocal support for
4 Legal Services given by a number of members; but nevertheless,
5 there are increasing complaints about programs most of them
6 not justified. Most of them resulting from the good work
7 that programs are pursuing in terms of their cases; but
8 nevertheless, members are becoming less tolerant of the
9 controversy created, I guess, by Legal Services programs.

10 When you couple that with the fact that very
11 few of the members are willing to spend money for hardly
12 anything, Legal Services becomes a very easy target for
13 the members of the Congress.

14 We have a lot of the support in the communities
15 and on the Board, and we have a lot of support from the
16 Bar, particularly the organized Bar; not so much the local
17 level but at the State and National level.

18 That support needs to be heard now. It always
19 has needed to be heard, but particularly right now from
20 members of the establishment in your communities--but
21 people who are influential in the community or credible
22 in the community.

23 We needs to hear and members of Congress
24 particularly need to hear about the good things that are
25 happening in Legal Services.

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1 Congressman Panetta of California was really
2 effective in saying in the House Budget Committee that
3 Legal Services will always be controversial. We have an
4 adversarial system. Somebody is going to lose, but that
5 fact has to be brought up in a positive way and will have
6 to be made to understand that, I think, a lot better than
7 they have.

8 I think programs as well, if I may offer this,
9 have to be, while diligent in representing their client,
10 careful at the same time that they are not making mistakes
11 because they are being closely watched.

12 MR. BRADLEY: But Mickey, I think it's also good
13 to point out and just a quick analysis seems to indicate
14 that there's some sort of inconsistencies in maybe what
15 we've been saying.

16 I think it's also important to point out that
17 we now have the completion of minimum access in programming
18 every Congressional District in America.

19 It's impressed me especially since we were in
20 the early days of the Deep South where we only had one
21 vote, and that was Mr. Wellburn in Atlanta to do anything
22 along the lines of the OEO Program.

23 Especially the Southern members that I've been
24 calling on, many of them are very supportive of Legal
25 Services. Now, granted, it creates problems.

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1 The initiation of a program in a rural area--
2 yesterday I was in a very, very rural area in Texas and
3 we've been in operation there for about three years and
4 the Congressman is beginning to get complaints about us
5 suing governmental agencies, about us trying to redo the
6 orderly society that exists there--the same kinds of
7 arguments we heard in the early 60's.

8 Yesterday I met with the Mayor of a small town
9 in Texas. He said, "Dan, I don't object to anything that
10 you attorneys do except I cannot accept that you should
11 be suing the City."

12 I said, "Well, who do you prefer that we sue?"

13 You know, those type of arguments, but I think--
14 my prediction is, I mean, it's very encouraging when I
15 went to the Georgia Congressional Dinner Monday night in
16 Washington. All of the Congressional delegation were there,
17 and I specifically sought out five of the members, and all
18 of them assured me that they were going to support us
19 on our appropriation and authorization.

20 Three or four years ago, the same members would
21 have voted against us, in fact, did vote against us. I
22 think it's because expansion has evolved in some areas
23 very successfully. The Bar Association, the community
24 has been structured and integrated into expansion processes.

25 As a consequence, these Southern and rural

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1 Congressman, north, east, south, and west, I think will
2 probably be supportive when it comes down to the crunch.

3 My fear, I suppose, is that the general mood--
4 the budget cutting mood of Congress and the fiscal
5 conservatism that is in Washington can and will be used
6 as a vehicle to vote against us. Not in opposition of
7 Legal Services, but simply because they want to balance
8 the budget.

9 In fact, I know some of the members probably
10 and philosophically and otherwise will oppose it; but I
11 think the net effect of it especially from the South and
12 especially the Midwest where we've never had Legal
13 Services, those members now are hearing from their
14 constituents, hearing from local elected officials,
15 hearing from Bar Associations, hearing from the client
16 community.

17 I think and hope that will translate into some
18 support when we get down to the \$321 crunch and the three
19 year authorization crunch.

20 MR. ENGELBERG: First of all, thank you for
21 your presentation. Mary has done really, I think, an
22 extraordinary, high quality job involving government
23 relations. I don't know if the people in the Legal
24 Services group know how lucky they are to have Mary's
25 skill and dedication.

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1 I want to just make two points. I was going to
2 say this when you were talking about the House Appropriations
3 Committee. I did symbolically represent the Corporation,
4 and in addition to Mark Andrews, who Mary has summed up
5 his remarks, Joe Early is a Democrat from Massachusetts,
6 who perhaps was even more hostile.

7 Basically, his attitude was, "Why does this
8 program keep asking for more money? They already have
9 \$300 million. Where does it all end?"

10 My sense of what's happening is you have two
11 things. One is the problems that Legal Services has
12 politically and that is, as everybody has pointed out, is
13 part of the nature of the work.

14 I think things have been relatively quite over
15 the last three or four years. I'm not sure what the reasons
16 were, but part of it is just the normal kind of Murphy
17 amendment.

18 The other obvious part, which is different than
19 certainly the late 60's or early 70's is the funding
20 problem, and the two of those coming together; that is,
21 the normal kind of substantive concern about Legal
22 Services--some of which is sincere. I mean, some of the
23 people who have those concerns are sincere and some of
24 the people have other agendas; that is, they just don't
25 want poor people to have lawyers, and you're dealing with

1 both types of views; but when you put the two movements
2 together, it has created, I think, probably the worst
3 political climate that I've seen in the last 10 years
4 for Legal Services.

5 You know, everybody has said the same thing.
6 I just think it's important that if everyone cares about
7 this program understands what, I think, are the very
8 serious political problems that we face primarily in the
9 Congress.

10 I think it would be very wrong to be defensive
11 about it and paranoid about it, and I think one of the
12 reasons that Mary and the other people in the Corporation,
13 Dan, et cetera, have done such a good job is that they
14 have tackled these problems in a very smart political way.

15 They've been open. They've been candid. Dan,
16 I know, spends probably half his time just engaged in that
17 kind of activity traveling around the country going into
18 these troubled Congressional Districts. I think that's
19 absolutely the right thing to do.

20 As we move to the planning phase, I think that
21 we cannot ignore the extreme serious political climate.

22 MS. RODHAM: Cecelia, do you have anything to
23 add?

24 MS. ESQUER: No, not really. Like Mary
25 mentioned, at the time we met with the Senate Sub-Committee

1 the mood was different. We were very well received, but
2 I have heard from a Senator from Arizona who at that time
3 chaired the Senate Committee, and I think he's really
4 joined the balance the budget movement, and we'll just have
5 to stay on him.

6 MR. BRADLEY: Hillary, just one thing that I
7 need to bring to the Board's attention because of my
8 conversation with Congressman Moorehead of California.

9 We won't go into a detailed discussion. Mary
10 touched on it.

11 All of you are familiar with the Moorehead
12 Amendment that has been attached to our appropriation bills
13 in the past in terms of restrictions on quote, "lobbying and
14 propagandize purposes".

15 I think I can represent that the Legal Services
16 community collectively are very, very concerned about some
17 philosophical issues that have been raised about the
18 legislative advocacy and legislative representation.

19 The issue in the views of some members of Congress
20 is that they would like to restrict and absolutely prohibit
21 any and all legislative representation and legislative
22 advocacy.

23 All of us in this room know what a severe problem
24 that would be.

25 I have met with Mr. Moorehead several times over

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1 the course of the last six months trying to understand
2 his concerns and trying to address the fears that he
3 expressed.

4 We thought that in the Judiciary Committee there
5 was a possibility that he was going to forcefully argue
6 for an outright restriction and a ban in prohibition on
7 any legislative representation.

8 To make a long story short, we--Mr. Railsback,
9 a couple of weeks ago during the Easter recess, who is the
10 ranking Republican on the Judiciary Committee and whose
11 support and continued support to us is absolutely crucial,
12 we prevailed upon Mr. Railsback to personally lead a
13 overview or fact finding mission to California, where most
14 of Mr. Moorehead's concerns are generated.

15 Mr. Railsback spent almost a full week in
16 California. He met with many elected officials in
17 Sacramento. He went into great detail in reviewing the
18 legislative activities especially of CRLA, of Western Center,
19 of Los Angeles Legal Aid Foundation and all of our
20 legislative activity in Sacramento.

21 I can represent to you he came away very, very
22 impressed with what the programs were doing. He was very
23 impressed with the fact that the programs are concerned
24 and are sensitive to the restrictions that are currently
25 in the Moorehead Amendment and in that one visit, and Mr.

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1 Moorehead went with him, and they had an opportunity to
2 review firsthand some of the activities.

3 Mr. Moorehead indicated to me after he returned
4 that he still had several concerns. He stated to me
5 unequivocally that he would prefer not to go to the floor
6 of the Congress to try to debate the issue of legislative
7 representation.

8 However, he thought that the Legal Services
9 Corporation and especially the staff, but also the Board,
10 should be a little more sensitive and a little more
11 concerned about his concerns.

12 In my meetings with him, I had represented to
13 him that I would bring his concerns to this Board. In
14 the letter to him, I communicated to him that the Operations
15 Committee of the Board, and I discussed this with the
16 members of the Operations Committee and Josephine and they
17 will be having a meeting soon, that the Operations Committee
18 would possibly consider amending some of our existing
19 regulations.

20 The one that requires, as you know, the Director
21 of Programs to approve on Class Action in the fields, that
22 the Board might consider the possibility of stating that
23 legislative representation, especially a full-time
24 legislative advocate in the State Capitol, that that type
25 of a budget item or that type of activity might have to be

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1 specifically approved, either by the Board of the local
2 program or by the Director of the local program.

3 The issue, as far as Mr. Moorehead is concerned
4 is that he would like to entrust to this Board his
5 concerns and hopefully ask this Board to try through
6 monitoring, through oversight of the local programs that
7 his concerns are addressed.

8 I think that we are on the right track. Mr.
9 Moorehead indicated to me last week that he feels
10 comfortable with what we're doing. He doesn't see right
11 now any need to raise this issue on the House floor, and
12 we will bring these matters to the Operations Committee.
13 Where it will lead us, I don't know; but I did indicate
14 to Mr. Moorehead that I would make this Board aware of
15 the concerns that he's expressed to us and to express in
16 the Full Committee.

17 MS. SHUMP: Dan, while I understand the concerns,
18 can this Board and can this program actually curtail the
19 advocacy activities at the legislative level for poor
20 people?

21 MR. BRADLEY: I hope not.

22 MS. SHUMP: You know, actually in many instances
23 we're the only hope supposedly for the economic crunch
24 which is getting progressively worse with so many people
25 out of work and cutbacks in Food Stamps and cutbacks in

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1 child care and cutbacks here, there and everywhere.

2 I talked with Jo this morning, and she informed
3 me of some of the things that we would be asked to
4 consider; but while I can appreciate the fact that your
5 word is being kept in effect by making these concerns
6 known to the Board, I think personally I would have great
7 reservations about our attempting to really instruct the
8 programs to curtail their activities in behalf of poor
9 people.

10 MR. ENGELBERG: First of all, I totally agree
11 with you, Ramona. This is an issue that I haven't been
12 involved with is the original legislation--the whole effort
13 to restrict legislative activity.

14 Are Moorehead's concerns based on freelance,
15 non-client related lobbying, which the law now prohibits
16 as opposed to where you have a client or a group of
17 clients and then proceed to take over the legislative
18 advocacy pursuant to that client's interest?

19 MR. BRADLEY: It's important to clarify that
20 point.

21 Ramona, there's been no suggestion that we would
22 prohibit any legislative representation because the
23 regulation that we have now is very clear on that, the
24 legislative history is very clear on that. The concern
25 that Mr. Moorehead has is basically that many of our

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1 programs are not complying with our own regulation
2 meaning that they are doing freewill roving, lobbying
3 activity, and they are not representing their client.

4 We assure him that when we appear before an
5 Administrative or legislative body we are, in fact,
6 representing that client.

7 The mission that Railsback made to California,
8 in fact, confirmed in Railsback's own mind. He talked
9 to clients, and he talked to members of the legislative
10 body. We are, in fact, complying with the regulation.

11 So, Mr. Moorehead is not suggesting that we
12 prohibit or preclude that right now, but that we don't
13 have a lot of free agents floating at the whim and
14 caprice of those individuals, and if we assure him that
15 we are going to monitor that closely, then I think that
16 we'll address his concerns.

17 MR. ENGELBERG, Ramona, this sort of compromise
18 which historically goes back to the original law, which
19 my understanding has been fairly easily adapted in the
20 sense that most programs have been able to do in the
21 legislative matters that they've wanted because usually
22 it is based on client need because there always are good
23 clients.

24 I feel as you do that it's worth making an issue
25 about if, in fact, Moorehead's concerns were that

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1 legislative advocacies or full representation is somehow
2 illegitimate; that it shouldn't be done and I assume that
3 the President would agree with us, that we would have to
4 make it very clear to Moorehead that we strongly disagree
5 with that because I do and I assume most everybody on the
6 Board does; but as long as his concerns are in a non-
7 harassing way to insure the laws they comply with and in
8 a way that does not put a chilling effect on the ability of
9 local programs consistent with the law and the regulations
10 that are getting too much legislative advocacy, then I
11 think I would strongly support the direction our President
12 is taking to make it clear that we will do everything
13 possible to insure that the local programs will comply
14 with the law and the regulations.

15 At the same time, not giving the message out
16 that you should not be engaging in legislative advocacy
17 where you have a client or group of clients.

18 MS. SHUMP: This was my greatest concern. I
19 think we're all aware of the fact that many times clients
20 run into the problems in the field, and if this was going
21 to be used as an excuse to ignore the needs and the wishes
22 of those people, then I would hate to see it.

23 MS. ESQUER: I just have one question.

24 When you were talking about the Board approving
25 legislative advocacy activities, that would be the local

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1 Board, and is that on a case by case basis or just as a
2 general part of the general program?

3 MR. BRADLEY: It's certainly the local Board.
4 If a local Board-should the local Board have to approve,
5 and they normally do in the budget process, if a program
6 is going to have a full-time legislative office in
7 Sacramento as the Western Center does staffed with several
8 persons, and it's a major expenditure of the Western
9 Center's resources.

10 Should the Board of the Western Center approve
11 the decision to do that. That's the issue.

12 MS. RODHAM: Wouldn't they do that automatically?

13 MR. BRADLEY: Yes.

14 MS. ESQUER: Because I would have some problems
15 if everytime anybody is going to the legislature, they
16 would have to get it approved.

17 MR. ENGELBERG: I would agree with that.

18 MS. RODHAM: Any other comments or questions on
19 this issue?

20 (No response.)

21 MS. RODHAM: Mary, thank you very much.

22 The next item on the Agenda is the Report from
23 the Committee on Provision of Legal Services, and I assume,
24 Dick, you are going to want some staff people up there.

25 Is that John Dooley?

1 MR. TRUDELL: I think John Dooley reported and
2 is Alan here also?

3 MR. DOOLEY: Alan is suppose to be here. I'm
4 sorry, but I don't know where he is.

5 MR. BRADLEY: He was in Boston. He was suppose
6 to be here last night.

7 MR. TRUDELL: Before we get into John's report,
8 the Provisions Committee did meet in Denver the 28th
9 and 29th of March.

10 At that meeting in addition to the three
11 Committee members, three other Board members were present;
12 Bill McCalpin, Howard and Cecelia, and it was a full two
13 day meeting. I think we devoted better than a half a
14 day to the D.S.S. draft study report and a considerable
15 amount of time to just a whole range of issues the second
16 day.

17 Although, they are not on the Agenda, we went
18 through a number of the field program areas; expansion,
19 through the Reggie Program, through the Antioch situation,
20 and also development of standards and last, but not least,
21 expansion.

22 I think that the conclusion of our discussions were
23 on the Section of the Elderly and Handicapped Report
24 and the D.S.S. Report.

25 I'll go into some of these in more detail. It

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1 shouldn't take that long, but there was one addition that
2 the Committee came out with that I would propose to the
3 Board for their vote on.

4 MS. RODHAM: I would request that you go ahead
5 and make that report now. I'm not aware of what the
6 motion might be, and I think it would be helpful if you
7 would go ahead and give the report on the issues, other
8 than 1007(h) and D.S.S. and give us some advanced
9 warning as to what the motion might be, since it's not on
10 the Agenda. We may have some legal problem considering.

11 MR. TRUDELL: The motion that we discussed
12 revolves around the expansion area, and the motion was that
13 expansion funds earmarked for specific groups, such as
14 immigrants, migrates and the other areas should retain
15 their status and remain untouched.

16 The discussion that preceded that motion, I
17 guess, dealt primarily with the native America area in
18 terms of some of the expansion money was not gotten out.
19 There had been no commitments as far as I know, and I'm
20 sure we can all appreciate some of the problems.

21 Again, the concern is that if a certain amount
22 of money is set aside for specific areas, that it ought
23 to stay there if we're permitted--

24 MS. RODHAM: Let me ask. It's been my
25 understanding and we certainly have heard this concern

1 before and I think dealt with it that that was the policy.
2 That, as you've just expressed it, is money earmarked for
3 certain geographical areas or certain groups would be
4 retained for the eventual allocation to those areas or
5 groups, if there were difficulties encountered during a
6 certain fiscal year in actually implementing the plans.

7 Dan, it's my understanding that that's the policy
8 and that we wouldn't need, other than what Dick has just
9 done to reiterate the Board's concern about that policy,
10 any motion about it at this time.

11 MR. BRADLEY: Well, that's certainly the policy
12 and we're operating under that.

13 The discussion, Hillary, that I indicated that
14 that is absolutely the policy and we're operating under
15 that.

16 I think Revius moved to just go on record once
17 again in the Committee to reiterate and to formally put
18 on the minutes of that Committee meeting and that continues
19 to be the policy, and we welcome that reaffirmation.

20 Whether or not we take a formal vote today or
21 not, I doubt that we need to because I am personally
22 committed--Clint stated unequivocally all of us on the
23 staff are committed to completing the minimum access and
24 to make sure that that earmarked money, especially for
25 migrates and especially for native Americans, retain that

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1 character and will be used only for that purpose and no
2 other purpose.

3 MS. RODHAM: With that reiteration of the policy
4 then and the reassurance from the President, do you think
5 we need any formal action?

6 I think that we're on record and have been
7 rather continuously, and it's just a question of our
8 monitoring the situation through your Committee to make
9 sure that what the policies of the Board has set in the
10 past is actually carried out.

11 MR. TRUDELL: Well, it doesn't hurt, I think,
12 for the Board to go on record again affirming that policy.
13 I'm just making a Committee report, and since the motion
14 was made, I'm reporting it.

15 MS. RODHAM: I think that we should bear that in
16 mind in the minutes of this meeting.

17 MR. TRUDELL: I think there was some concern
18 that we also have a status report on expansion and have
19 we really achieved it, and if we haven't, where and why are
20 we lagging in the area.

21 MS. RODHAM: Could we expect a report on that,
22 Dan, before the next Board meeting?

23 MR. BRADLEY: Yes. We're going to have that for
24 Dick's next Committee meeting.

25 MR. TRUDELL: Do you want me to comment then on

1 the other areas?

2 Maybe I should because I think two of the Board
3 members who were present at that Committee meeting were
4 extremely helpful. Unfortunately, neither one is here;
5 Bill McCalpin, who will not be here at all and Howard,
6 who was very helpful with the D.S.S. draft report.
7 I'm sure that Leona appreciated some of their comments,
8 and there has been a considerable amount of work done
9 since that meeting.

10 So, let me just quickly comment on those other
11 areas for the benefit of you who were not there.

12 The REGGIE Program, which will also, I guess,
13 be on the next Provision Committee agenda that I just
14 briefly touched on, and the new Director of the REGGIE
15 program who gave us a brief report, and there was some
16 discussion.

17 Clint had commented that everything was
18 progressing as planned, according to the plan that they
19 were operating on or by.

20 Another topic that will be discussed at the
21 next Committee meeting is some kind of report on the Legal
22 Service Institute.

23 Since June 30 we have to let them know if we're
24 going to renew that particular grant and let it operate
25 the way it has been, and at the same time I would assume

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1 we would be getting some kind of progress report on the
2 progress they've made.

3 Clint just briefly commented or, I guess, led a
4 discussion on development of standards, and he had
5 discussed that as being an agenda topic at the previous
6 Board meetings.

7 Again, we'll probably be discussing that in a
8 little more detail at one of the future meetings.

9 The Antioch Issue was just briefly touched on
10 just to apprise us of what was going on. I should point
11 out there was no action taken on any of these things in
12 terms of the Committee responding in the form of motions.

13 Then there was some brief discussion or actually
14 there was a report and overview of the Regional training
15 position, I guess. The Regional Office Training Coordinator
16 for the Denver Region, who made a report to explain to us
17 how she was functioning in that role as Training Coordinator
18 for the Region, which, I think, was interesting to hear for
19 the benefit of the Committee members.

20 The main two agenda items were the discussion
21 of the 1007(h) Elderly and Handicapped Reports and the
22 D.S.S. Report, which has come a long ways, I guess, since
23 the March meeting in terms of incorporating a lot of
24 suggestions that were made by a number of the Committee
25 members and Board members who were present.

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1 That's all I have to really say about the
2 other areas. So, at this time, we can just get on with
3 the discussion on the 1007(h) reports and to entertain
4 what we should do in terms of our recommendations in
5 getting out the summary of the reports and making them
6 available to Congress and others who may want them.

7 At this time, John, do you want to bring us up
8 to date?

9 MR. SINGSEN: Let me just say a couple of words.
10 I'm here in Alan's stead until he arrives, and I am
11 going to be extremely brief.

12 MS. RODHAM: That's not at all representative.

13 MR. SINGSEN: I just want to say very basically
14 that what is being presented by John and Alan, when he
15 gets here this morning, are a series of recommendations
16 for incorporation action for the Board to review and the
17 Senior Staff hopes to adopt.

18 These are recommendations which are based on
19 the findings, which come out of the Study for which have
20 been formulated by the Senior Staff of the full context
21 of the Corporation's current activities and policy,
22 and their recommendations, as I say, for Corporation
23 action.

24 I think it's important to note that they are
25 not recommendations for what each local program should do.

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1 The Corporation's role in regard to local
2 programs is something we discuss frequently, and there are
3 many implications for local programs in this report and
4 indeed in the recommendations for action by the Corporation
5 itself; but those are not the specific subject of these
6 recommendations here today.

7 I think in terms of presentation, if it is
8 acceptable to the Board, John would like to present the
9 recommendations in each of the three areas in groups
10 seeing several of the recommendations, for example,
11 in the handicapped and then several more as going together
12 and referring, very briefly, to the findings that have
13 come out of the study that have led to those recommendations
14 by the Senior Staff to the Board.

15 MR. DOOLEY: Thank you, Mr. Chairman.

16 If we adopt that approach of presentation it
17 means that what I'm going to attempt to do is go through
18 the specific policy actions that we are recommending that
19 the Board adopt that are on--and I'm using the numbers
20 at the bottom of the page; that is, the Book I numbers
21 in the Board's briefing book, pages 23 through 25 that deal
22 with the non-institutionalized handicapped; 34 and 35 that
23 deal with the non-institutionalized elderly and 40 through
24 42 that deal with the institutionalized elderly and
25 handicapped.

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1 If that's okay, I would just start on 23,
2 starting on the handicapped and as I present a cluster of
3 recommendations that are related and I'll tell you a
4 little bit about what led to that recommendation.

5 The first group under the handicapped--this is
6 the first series of recommendation on page 23. I'm
7 actually spilling over into the top of page 24.

8 The first five recommendations deal with
9 facilities accessibility for both the Corporation itself
10 and Corporation programs to make their services and the
11 Corporation's activities accessible to the handicapped.

12 The first recommendation deals with what's
13 known as auxiliary aids, which is a term of the trade,
14 as primarily those things a program needs to do to insure
15 that persons who are sensory impaired; hearing or sight
16 or speech are able to know about the program, know about
17 the services of the programs and avail themselves of those
18 services.

19 Our perception is in this whole area of
20 facilities accessibility, known in the jargon as 504,
21 because that's the Section of the Rehabilitation Act that
22 covers these requirements, this is the area of most concern.

23 The Regulation of the Corporation covering 504
24 compliance, facilities accessibility, has the least detail
25 here. Programs don't know what to do here, and that the

1 Corporation should give them future guidance, either
2 by way of amending the Regulation or interpretation of
3 the Regulation to be more specific.

4 That's what Recommendation 1 is.

5 Two, three and four deal with trying to improve
6 overall facilities accessibility in programs.

7 Two is a technical assistance manual, which we
8 do understand will be completed on schedule and is already
9 in progress on compliance.

10 Three is a followup to that manual training
11 people in the Regional offices to be able to assist local
12 programs in compliance.

13 Fourth is looking at this in the monitoring
14 process.

15 Finally, the fifth recommendation, which is
16 that the Corporation make its own facilities accessible.
17 There is some question about whether that's legally
18 required.

19 Irrespective of whether it's legally required
20 or not, it ought to be done, in the Senior Staff's
21 judgment.

22 That's one through five.

23 MS. RODHAM: John, as we go through these, if
24 Board members have questions, I'd like to have them asked.

25 Mickey?

1 MR. KANTOR: I had a question.

2 There is somewhere in the report--I forget which
3 page--a vague or veiled reference to the Corporation's
4 legal position, which seems to be adverse to the intent
5 of 504.

6 Could somebody explain to me what that position
7 is, and why it was taken and what the status of it is?

8 MR. DOOLEY: Yes, I can give you a very brief
9 summary. If you want more detail, the General Counsel is
10 here.

11 MR. KANTOR: Engelberg can only retain it very
12 brief. So, don't go too far.

13 MS. RODHAM: For those of you who have never
14 seen it before, this is the Mickey and Steve show. It
15 goes on at every Board meeting. Don't miss the next
16 installment when we are in Washington.

17 MR. KANTOR: Well, hoping he won't be reappointed
18 and the administration will come to its senses and appoint
19 a real lawyer.

20 MR. DOOLEY: In this hearing, as in many others,
21 the actual legal requirements are written in terms of
22 Federal agencies, and it has been the Corporation's
23 historic position that it is not such a thing. So, it's
24 a matter of a quirk.

25 It simply says in the law that Federal agencies

1 shall do something, and the Corporation isn't one.

2 Actually, there is two laws involved. One law
3 relates to what recipients of Federal funds will do and
4 what those people who give them those funds will do.
5 That is in terms of Federal agencies, and the thing is,
6 we are not one.

7 Then there's another that deals with Federal
8 employees and facilities which, as I understand it, has
9 been interpreted not to apply either. So, what you get is
10 the Corporation, as a legal matter, not having the
11 responsibility vis-a-vis its grantees; nor under the other
12 law, an independent responsibility because it's not a
13 Federal agency to comply itself.

14 That has nothing to do with the wisdom. That's
15 only a question of narrow, technical and legal question.
16 That's my understanding of what the interpretation has
17 been.

18 MR. KANTOR: Have we taken that position--the
19 Board or the Corporation?

20 MS. RODHAM: Yes. Our position has been that
21 we are not technically required to comply with 504, but
22 we will comply with 504 because we think it's the appropriate
23 position to take.

24 MR. ENGELBERG: Is there a formal Board position
25 to that effect?

1 MS. RODHAM: I believe that there was a formal
2 recommendation from the Committee on regulations when
3 this was considered that we adopt it.

4 MR. DOOLEY: I think there is a sentence in the
5 preamble to the Regulation that says exactly that.

6 MS. RODHAM: Go ahead, John.

7 MR. DOOLEY: Are there any other questions on
8 that group of facilities accessibility recommendations?

9 MR. TRUDELL: John, in terms of making changes
10 or whatever for the Washington Office, how severe is the
11 need to bring the Washington Office up to standards or
12 providing these additions or whatever?

13 What would the cost be?

14 MR. DOOLEY: It's substantially improved. There
15 was a time, as you probably know because you've probably
16 been involved in the meetings and things in which the
17 Corporation was using the 11th floor conference room,
18 and if you wanted to have a meeting with a person in a
19 wheelchair, what it meant was that you carried them
20 physically up the stairs to this room, which we did a
21 number of times, is part of the reason why the recommendation
22 is like this.

23 The availability of the 8th floor rooms, which
24 are accessible and some of the work on the bathroom
25 facilities can make the only problem--the outside problem.

1 Now, I understand that it's under study. I
2 understand that it's not insurmountable, but I don't have
3 the detail on it. The Administration Division of the
4 Corporation is currently working on it.

5 MR. BRADLEY: We're working with the landlord
6 and the other tenants in the building to try to get the
7 landlord to assist us in a portion of the costs among
8 the tenants to make a ramp available on 15th Street; to
9 make the doors easily operated by people in wheelchairs.

10 We think the landlord is probably under D.C.
11 legal requirement to do that, and Mario and Hal Thomas
12 in the Administration Office--we have a special committee
13 who is working on that.

14 Our goal and objective is to make sure that the
15 building is accessible, even if it comes down to the fact
16 that we just have to do it ourselves and the landlord
17 and other tenants do not participate, but we're trying to
18 get him to share that expense.

19 MR. ENGELBERG: I think that's fine, but if
20 there is a legal remedy, I would hope that our General
21 Counsel will prevail ourselves so that we're not in the
22 same lawsuit against the landlord.

23 MR. BRADLEY: We talked about that.

24 MR. ENGELBERG: No, but I'm serious. I think
25 that's very important.

1 Also, it would be fun to sue somebody for a
2 change.

3 MS. RODHAM: To be a plaintiff.

4 MR. DOOLEY: There are a series of recommendations
5 on page 14 that deal with--

6 MR. BRADLEY: Page 24.

7 MR. DOOLEY: Oh, I'm sorry. It's 14 at the top.
8 24 at the bottom, that deals with services for the
9 handicapped and how they can be improved.

10 The first relates to national support and is
11 a recommendation that a high priority in the future to the
12 extent that there is money for national support be placed
13 on establishing capacity for national support in the area
14 of the handicapped.

15 Our finding largely is it's needed; that programs
16 want it; that there's no logical reason why this has been
17 omitted and that to the extent there is money available,
18 it ought to go here.

19 There is also a recommendation on the training
20 manual in this area that is currently being worked on.
21 We understand that that will shortly be done, and the
22 training is expected to follow and that has been planned
23 out already.

24 The third recommendation is that the persons
25 who are trained in the Regional Offices to deal with 504

1 issues also have some knowledge of delivery and be able
2 to provide technical assistance there.

3 MR. RODHAM: That doesn't contemplate another
4 staff person?

5 MR. DOOLEY: No, it does not.

6 The point of it is that these things are
7 inseparable talking about facilities accessibility and
8 actually serving the handicapped are inseparable issues
9 and it's probably overly bureaucratic to say we're going to
10 have an expert on how you make the doorway openings but
11 will know nothing about how to serve the clientele. That
12 would be crazy in our view, and there should be a service
13 capacity and technical assistance part there to it.

14 The last is a general recommendation that we
15 participate in the U.N. sponsored activities on the
16 International Year of Disabled Persons in 1981.

17 Those all relate to service.

18 Let me just briefly say something about the
19 background of those, which we found particularly in the
20 site visits, which is part of the study, that there is a
21 lot of interest in this area.

22 There is, however, a general lacking of expertise
23 that training and national support would be helpful and
24 that the field and clients really want to see this happen,
25 and this is everything supportive to this activity, and

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1 that there is an even more outreach--more contact between
2 the organized handicapped groups and the programs that
3 we would hope to facilitate partially by the Regional
4 Office persons and partially by some Corporation events
5 around the Year of Disabled Persons.

6 MS. RODHAM: Any questions on these recommendations?

7 MS. SHUMP: I have a question.

8 Does all of this that you have just finished
9 explaining hinge on the if that is at the beginning on
10 page 24 in item 6?

11 "If increased money is available in future years--",
12 or are we planning to do something on a limited basis
13 now, and if so, how and how much will it cost?

14 MR. DOOLEY: Part of it always hinges on an if,
15 and in this case, part of it actually is already in place
16 or is going into place.

17 First, on the support. There is already going
18 into place some support capacity for the mentally
19 handicapped as a first step along this line.

20 As I understand it, and Alan may want to go into
21 even more detail. I think Alan should speak to it that
22 the if relates to any improvement beyond the limited
23 capacities.

24 The manual and training recommendation in 7
25 will be done with existing resources this year. However,

1 to the extent you're talking about training in the
2 future, that will be dependent upon future resources
3 obviously.

4 The Regional Office persons for purposes of
5 implementation in 8 are people we understand are people
6 currently in Regional Offices, but that's an open question,
7 I would guess. There maybe some if related to that.

8 Nine, we assume, isn't a question so much of
9 money and there isn't any if related to that.

10 MR. HOUSEMAN: We are developing a full plan
11 for support for the handicapped, and that could not be
12 addressed within the existing resources, which there
13 aren't any existing resources to use to fully implement
14 that plan; but the budget proposal for '81 contemplated
15 increased monies for national support, and if we get any
16 increased funds for national support, the highest
17 priority would be given to--in terms of new support efforts
18 would be given to the physically and mentally handicapped.

19 That is the meaning of this particular section
20 with regard to an overall national support because we
21 had no guarantee of any additional funds in fiscal '81.
22 In particular in this fiscal year or the next one, we
23 couldn't go any further than the statement that we made
24 here; but we have, as a staff, placed highest priority
25 on developing a support capacity for the handicapped of new

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1 possible support efforts. That's where we are in that
2 particular segment.

3 With regard to training, there is also a
4 commitment assuming that the new--not new and additional
5 money comes into OPS budget, but that they continue to
6 have money, as they do now, into next year for training
7 on national issues that some of that money would be used
8 for handicapped training.

9 In other words, there is a priority given to it.

10 So, this stakes out both a new direction and a
11 commitment to move in that direction; both with current
12 funds and any additional funds we have.

13 MS. RODHAM: Mickey?

14 MR. KANTOR: Just to followup, do you have any
15 estimate what it would cost us to fully implement--I'm
16 talking about not only at the national level but the local
17 level, 504 and all the other related activities?

18 Just a ballpark figure so we'll know what we're
19 dealing with?

20 MR. DOOLEY: Let me speak first to 504.

21 We do not have a figure we can give you on
22 504 compliance. I can tell you approximately where we are,
23 and I can give you this sense.

24 I don't think that except in some extreme cases
25 where there's no alternative that you're talking about a

1 lot of money.

2 We have enough turnover in office locations
3 around the country an ability to deal with these kinds of
4 issues in negotiating a new facility to begin with; that
5 as long as you're willing to accept a bit of time going
6 by, which I think we have to be, that much of this will
7 fall into place, as long as people do it.

8 If people are allowed to run offices without
9 considering it, then that's right. We're never going to
10 get compliance and at some point, it will cost a fortune
11 if somebody said do it tomorrow.

12 I think the attitude of the staff has pretty
13 much been that we want to start the time process, and we
14 want that going to be sure as offices move and new
15 locations go that it's not going to be a great financial
16 burden on people.

17 I must say from the standpoint of the field,
18 having gone on visits, that awareness is created and
19 that is not happening.

20 There are some issues, and this is why your
21 recommendation l comes in, however, that could cost
22 considerable money, depending upon what they mean.

23 If the auxiliary aids provision means that in
24 all or almost all programs in the country every office
25 has to have a deaf communications equipment--so-called

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1 TTY's normally, and that we have got to have interpreters
2 on the staff or at least contracts with interpreters
3 available for communication with the deaf, and that all
4 publicity and communication of all kinds that comes from
5 programs must be--have a braille capacity as well as
6 otherwise.

7 You could be running into a considerable amount
8 of money, and nobody has looked at that and said, "Okay,
9 what's reasonable and realistic?"

10 That's why recommendation 1 says is an area
11 where we think there could be a problem, and the Corporation
12 has to bite the bullet a little more and provide
13 specificity to programs, rather than writing a general
14 regulation, as it has, saying we do appropriate auxiliary
15 aids.

16 That's my report on 504. Alan will have to
17 speak for support.

18 MR. HOUSEMAN: All one can do, at least in
19 terms of additional money, is make a guess.

20 My own sense is given the existence of
21 organizations already committed to physically and mentally
22 handicapped, that we can obtain a relatively comprehensive
23 support capacity with fewer dollars than if we created it
24 ourselves.

25 That's the direction we're trying to go in;

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1 although, there's some problems with that direction.
2 It will be an incremental process.

3 My own guess is that we're talking in the end,
4 not necessarily next year, but in the end of \$500,000 to
5 \$700,000 to fully implement a national capacity.

6 I don't think a great deal of new money, if
7 any, will be needed to carry out the training and
8 seminars and research.

9 In fact, I think most of that will be a
10 reallocation of our existing resources to make sure that's
11 done, and that's what's going on now in OPS, and I see
12 it in the research institute and that will continue to
13 go on.

14 So, I don't see new money necessarily being
15 the critical component of the training and the research
16 and the manuals part; but for the development of a
17 national support capacity, there will take new money.

18 The best I can do is give you a guess. It
19 will be implemented incrementally, and we are carefully
20 going about doing it so that we do take advantage of the
21 existing organizations that have expertise in the work
22 in this area.

23 There are problems with that, and we are
24 hesitant to have a support capacity that is
25 which is where the problem comes in; but we're, I think,

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1 convinced that we can develop an effective support
2 capacity within the next several years for the physically
3 and the mentally handicapped without a great deal of cost,
4 and much less than opening up two new completely new kinds
5 of centers or even one new center.

6 MS. RODHAM: All this will come back to the
7 Board?

8 MR. HOUSEMAN: Oh, absolutely. It's all
9 dependent in the end. That's why the way it was phrased
10 on budget decisions and allocation of money--whatever
11 money we get.

12 All that we're doing here is staking out. This
13 is obviously very general--staking out a proposal on a
14 plan and staking out a priority with regard to money
15 going for new support efforts.

16 MS. RODHAM: You want to go on?

17 My understanding is that we're going to make a
18 final recommendation of the entire report including these
19 recommendations be forwarded to Congress, is that right,
20 Dick?

21 MR. TRUDELL: Yes, that's right. They're just
22 reporting the summary.

23 MS. RODHAM: What we're doing now is sort of
24 highlighting the important recommendations so that the
25 Board is aware of them, but the motion will be to the entire

1 report and that it be forwarded.

2 MR. DOOLEY: I should point out one thing.
3 There's no legal requirement that any of this be sent
4 to Congress.

5 MS. RODHAM: These are the extras.

6 MR. DOOLEY: That's right.

7 On the bottom of page 25, there is a number of
8 general policy questions; that is to say that there are
9 some very large and basic policy of the Corporation that
10 when one looks at them from the handicapped perspective,
11 one sees that there might be changes made; but that we
12 would not recommend that the Board make those changes or
13 the staff make those changes solely from the handicapped
14 perspective.

15 So, all we're saying is as these policies are
16 evaluated, be sure that what we have come up with from
17 this perspective is considered; and there are four of
18 those.

19 Two of them relate to the monitoring process,
20 considering views of clients and other advocates, looking
21 at activities covered by non-LSC funds, and the third is
22 the priority setting process, which is currently under
23 evaluation in field services, and the fourth is looking
24 at delivery systems to meet needs of special groups.

25 MS. RODHAM: What is the next?

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1 MR. DOOLEY: The next is the elderly, and that
2 is on page 34 and 35.

3 The first recommendation and the second
4 recommendation deal with sufficient services going from
5 programs to the elderly.

6 There is recently passed and implemented by
7 HEW regulation an Age Discrimination Act. It's not so
8 much recently passed, but recently implemented by
9 Regulation.

10 The proposal is that the Corporation will itself
11 adopt an Age Discrimination regulation just as it did for
12 504; not because it necessarily had a legal mandate to do
13 it, but because it chooses to do so; that it will inform
14 programs of obligations under the Age Discrimination
15 Act.

16 There's a second element to one; that that
17 should be part of an overall civil rights responsibility
18 programs.

19 What we've seen, of course, from the elderly
20 and handicapped side is that we're piecemealing this.
21 We first get into the handicapped and then we're going to
22 go into the elderly.

23 I think from the perspective, particularly from
24 the General Counsel's office, there's a desire not to
25 piecemeal it; but to understand it should be part of a

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1 general civil rights discrimination policy and the
2 regulations should be geared that way.

3 You will notice that these do not specifically
4 say that these regulations will say anything other than
5 that we will have them because of the understanding that
6 that ought to work appropriately through the regulations
7 committee through the staff.

8 MR. HOUSEMAN: I think the General Counsel has
9 begun to develop the general civil rights policy that
10 will be coming to the Board, I'm not sure at the next
11 meeting, but relatively soon that will cover both these
12 groups, but other groups as well.

13 MS. RODHAM: Any questions on the recommendations
14 on pages 34 and 35?

15 MR. DOOLEY: I just went through 1 and 2. Let
16 me briefly go through.

17 MS. RODHAM: Well, I think that we've read
18 them.'

19 MR. KANTOR: I just have one quick question.
20 Is recommendation 4 duplicative of our
21 recommendation--general policy recommendation number 3
22 on page 25?

23 MR. DOOLEY: What we did because it came out
24 much the same and you'll find some detail in the
25 priorities issue in the text before this under the elderly

1 but not under the handicapped, yes, they are.

2 MS. RODHAM: Cecelia?

3 MS. ESQUER: I just have a comment on
4 recommendation number 3.

5 There was some discussion at the Provisions
6 Committee meeting on that, and I think there were a
7 couple of observations that possibly if we started
8 adding everything on our letterhead to include what types
9 of people or who were being encouraged to apply, we're
10 going to need legal size or extra legal size letterhead.

11 I just feel from a personal feeling on the
12 policy standpoint, that I would want to omit recommendation
13 number 3; that it be specifically stated.

14 I think when the general civil rights policy
15 is reviewed by the Board, that maybe there will be a
16 statement that an equal opportunity employer or something
17 like that; but I do not support recommendation number 3
18 because I think then it just could be meaningless when
19 you have a whole list of observations.

20 MR. DOOLEY: I can only say, Cecelia, that it
21 was done in the context that we currently encouraged to
22 apply that list minus the elderly; that there is a thing
23 called the Age Discrimination Employment Act; that there
24 is a question of compliance.

25 MS. ESQUER: Is there a specific requirement in

1 the Act that that be included in the job announcements?

2 MR. DOOLEY: No, there is not a specific
3 requirement that that be included in job announcements.
4 However, what we've got is a situation particularly
5 locally where we have very few elderly staff; that the
6 advocates tell us that it would be fun to litigate against
7 programs as to the age of their staff on age discrimination
8 complaints--

9 MS. RODHAM: Now, wait a minute.

10 MR. DOOLEY: I'm just reporting. This is the
11 kind of step one should take to show your sensitivity to
12 this issue; that not taking this kind of step suggests
13 that you know nothing about it or you're not interested
14 in it so that if you're challenged on it, it is another
15 part of the showing of age discrimination; but there is
16 no specific requirement that this specific thing be done.

17 MS. ESQUER: Personally, I would accept being
18 challenged, and I still feel it is not something that
19 should be specifically included; but I understand where
20 people are coming from as far as sensitivity.

21 I think when you look at the action of the
22 programs at the local level, that there probably is a
23 pretty good involvement of elderly.

24 I think in your own study you mentioned that
25 probably the elderly have maybe a higher support level, not

1 of LSC funds, and I think maybe we could risk it.

2 MR. DOOLEY: All of what you said is correct.
3 The point, however, is that it relates to the employment
4 of elderly staff; not the service of elderly persons.
5 I think that's where we're weak.

6 MS. RODHAM: Are you going to make that a
7 formal motion, Cecelia?

8 MS. ESQUER: I'm not sure what the procedure is.
9 Maybe we could vote on that specifically.

10 I would so move that we eliminate item number
11 3 on page 34.

12 MS. RODHAM: Is there a second?

13 MR. TRUDELL: I second.

14 MS. RODHAM: It's been moved and seconded that
15 we eliminate from the Actions and Recommendations
16 on the Non-Institutionalized Elderly recommendation
17 number 3, which appears on page 34 of the Board book
18 which would require that job announcements for Legal
19 Services Corporation staff include that the elderly are
20 encouraged to apply, and it's been moved and seconded.

21 Is there any discussion?

22 MR. ENGELBERG: Cecelia, tell me again. Your
23 argument is?

24 MS. ESQUER: That it just becomes kind of
25 meaningless. If you put Blacks are encouraged to apply,

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1 are encouraged to apply, women are encouraged
2 to apply, handicapped, physically handicapped, mentally
3 handicapped; and now we're talking about elderly.

4 MS. RODHAM: Able bodied people are not.

5 MS. ESQUER: I think we just have a whole list
6 of things that it's kind of like lip service and it could
7 be just meaningless is what I'm talking about.

8 MR. ENGELBERG: Maybe I'm missing something.

9 What is the existing affirmative action
10 announcement that's out?

11 MS. ESQUER: We have an equal opportunity--in
12 job descriptions where there are special skills needed.

13 MR. ENGELBERG: I take it these are staff
14 recommendations based on the notion that you should say
15 equal opportunity employer.

16 MS. RODHAM: I have also seen our job announcements
17 which it says specifically says minorities and women are
18 encouraged to apply. So, now what we would say is
19 minorities, women and the elderly.

20 MS. ESQUER: We also have handicapped.

21 MS. RODHAM: Is handicapped also included?

22 I don't think it is at this point. It may be.

23 MR. HOUSEMAN: I thought it was, but Mario said
24 it wasn't.

25 MR. ENGELBERG: As I understand it, it is a

1 serious problem.

2 MS. RODHAM: We don't know if it's a serious
3 problem.

4 MR. ENGELBERG: I'm talking in general elderly
5 people are victims of job discrimination. I assume that's
6 a fairly documented fact.

7 MS. RODHAM: That's true.

8 MS. SHUMP: I cannot help but wonder since our
9 programs are headed up by lawyers, I would not insult
10 the elderly by including this because if we are an
11 equal opportunity employer and under the law, you know,
12 all people have the right to apply.

13 I really don't see the need for it, and I've
14 got to agree with Cecelia.

15 MR. KANTOR: My view on that is if we encourage
16 other specified groups; minorities, women, and so on,
17 and the language is there, that we ought to do the same
18 with the elderly and the handicapped.

19 If we don't, then we don't have to or don't
20 have to in the sense that it's not necessary.

21 MS. RODHAM: Let me ask Mario since all of us
22 are making comments on this without knowing what we're
23 talking about.

24 Mr. General Counsel, are we legally required to
25 use the language that we currently use in job announcements

1 concerning minorities, women and occasionally handicapped?

2 MR. LEWIS: No, not at all. You're not even
3 required to identify yourself as an equal employment
4 organization.

5 That's a practice that followed a number of
6 consent decrees that were entered into with EEOC and
7 have been uniformly adopted by those groups that promote
8 the notion of equal opportunity.

9 MS. RODHAM: Would it be a step backward, in
10 your opinion, or in any way disadvantageous to us if we
11 were to adopt more general language because I think
12 Cecelia's comment goes further than just as to the
13 elderly.

14 I mean, if we are an equal opportunity employer,
15 then why don't we say that instead of listing and perhaps
16 leaving off some group?

17 I mean, I know we're going to hear from people
18 in the South Pacific that we haven't included them if
19 we don't list them when we start listing groups.

20 Would that be in any way a problem for us, if
21 we just adopted a general statement?

22 MR. LEWIS: Not at all. In fact, expressing a
23 personal opinion, I've looked at your current equal
24 employment opportunity policy.

25 In it, you include provisions for non-discrimination

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1 against political affiliation and for other things of
2 that type that is not traditional.

3 The likelihood is that you'd end up with about
4 15 different things over a period of time.

5 It might be best just to from time to time
6 indicate that your equal employment opportunity policy
7 applies to a certain group.

8 In this case, I propose for purposes of dealing
9 with the problem, that Cecelia's proposal be adopted
10 with the understanding that the policy of the Corporation
11 is to include anti-age discrimination as part of that.

12 MS. RODHAM: Steve?

13 MR. ENGELBERG: That's fine, but I think, though,
14 I don't want to make a mountain over a mole hill, but I
15 think it would be unfair if we continue then to list other
16 groups.

17 In other words, I like the notion, which I assume
18 you're pushing for, which would be simply that we state
19 a very strong policy of non-discrimination hiring without
20 naming any groups.

21 If anyone wants us to document that, it can
22 be documented quite simply that we are particularly sensitive
23 to groups which have been traditionally discriminated
24 against.

25 I guess legally we couldn't have a motion to change

1 all--

2 MS. RODHAM: Well, I don't know why not. I
3 think Cecelia's motion--

4 MR. ENGELBERG: In other words, I would vote
5 for Cecelia's position, if it is understood that we're
6 not going to list specifically and then exclude elderly.

7 First of all, I think that's unfair; and
8 secondly, I think you'd also raise a political problem.

9 MS. ESQUER: Steve, what I would prefer to do
10 is since we are having the General Counsel review our
11 civil rights policy, I would really prefer to wait for a
12 recommendation on the general overall thing to see what
13 he comes up with.

14 MR. ENGELBERG: But I think it's going to be a
15 tactical and a strategical study to today leave a group,
16 which as I understand has been discriminated against
17 in employment out of an overall list.

18 In other words, I like very much your idea
19 of correcting the overall policy, which I assume you're
20 advocating. If you're not, --

21 MS. RODHAM: But, Steve, given the fact that
22 our current policy only refers--it's not a policy, but
23 our current language only refers to minorities and women,
24 we have left out numerous groups that are discriminated
25 against.

1 I think Cecelia's motion puts us on the right
2 track that rather than continuing with this piecemeal
3 effort to include yet another group that we know has been
4 discriminated against, rather we stop here and we allow
5 the General Counsel to come to us with a policy that will
6 include our general civil rights obligations and hopefully
7 will include a recommendation that we not list different
8 groups in our job announcements; but that we let our
9 policies and our actions support the fact that we are an
10 equal opportunity employer.

11 MR. ENGELBERG: What do the announcements now
12 say?

13 MS. RODHAM: Minorities and women are encouraged
14 to apply.

15 MR. ENGELBERG: That's all?

16 MS. RODHAM: That's all it says, and women are
17 not a minority.

18 MS. ESQUER: Some, I think, list handicapped.

19 MR. ENGELBERG: See, I don't think we're clear
20 on what it says.

21 MS. ESQUER: It's not consistent.

22 MS. RODHAM: But it's not consistent.

23 The general policy however, Steve, is minorities
24 and women. In some instances, handicapped have been
25 included. I have not personally seen a job announcement

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1 that included handicapped, but minorities and women I
2 always see included in the job announcements.

3 MR. HOUSEMAN: Possibly, there's an approach
4 that allows us to do both, which is to say in here that in
5 the review of civil rights efforts, the Corporation will
6 consider job announcements both for LSC staff and any
7 other requirements in programs and there make some
8 reference to--because this is the elderly looking at this
9 issue in the context of its overall review of civil
10 rights areas.

11 It doesn't go where Steve wants it. It goes
12 a little beyond where Cecelia thought, but it just keeps
13 the point in; but it doesn't make it a requirement from
14 this report.

15 MS. RODHAM: Well, why can't that be taken care
16 of in recommendation number 1?

17 MR. HOUSEMAN: It can. I'm not saying we have
18 to have a third thing. I'm just incorporating this,
19 but some specific reference to it--

20 MR. ENGELBERG: I'm really going to stress again
21 what I would prefer and maybe Cecelia would consider
22 an amendment to her motion which says that we want a
23 generally very strong anti-discrimination policy saying
24 or we want a reformulation of it which makes it clear
25 that that's the policy of the Corporation, which avoids

1 enumerating anything so as to avoid the problem we're
2 talking about here of either adding or the other reverse
3 which is exclusion.

4 I'm telling you, I have a sense that no matter
5 all the good faith that's intended behind your motion, it
6 is going to be misconstrued politically among groups
7 which have strongly supported this program in the past
8 and which have very sensitive concerns about discrimination.
9 I see it in my own everyday life.

10 MS. ESQUER: I understand what you're saying,
11 but I don't think I would be amenable to an amendment
12 because I feel recommendation number 1 covers the fact
13 that we are going to consider implementing a regulation
14 to enforce the Age Discrimination Act. I think it's a
15 very positive Act, and that regulation should take care
16 of this listing.

17 I again would prefer to wait until we have an
18 overview and a review of our civil rights policy.

19 MR. TRUDELL: I think the longer we discuss it,
20 we make more of an issue of it.

21 MS. RODHAM: Any further discussion on Cecelia's
22 motion?

23 (No response.)

24 MS. RODHAM: All those in favor, signify by
25 saying "aye".

1 (Ayes.)

2 MS. RODHAM: All those opposed?

3 (Nos.)

4 MS. RODHAM: There's been a division. All those
5 in favor, please signify by raising your right hand?

6 Those in favor of Cecelia's motion are Shump,
7 Trudell, Esquer, Rodham.

8 All those opposed?

9 Engelberg, Kantor.

10 MR. SACKS: Abstain.

11 MS. RODHAM: Sacks abstains.

12 Cecelia's motion is passed.

13 Any additional questions or comments on the
14 recommendations on pages 34 and 35?

15 MR. DOOLEY: May I make one clarification?

16 Number 2, this came up in the Committee.

17 "The Corporation will inform all programs of
18 their obligations under the Age Discrimination Act", should
19 be Acts and it's intended to include, and that's why it
20 looks funny, the Discrimination Employment Act as well as
21 Age Discrimination.

22 MS. RODHAM: Wherever we have Act, as in
23 paragraph 1?

24 MR. HOUSEMAN: Yes.

25 MS. RODHAM: Howard?

1 MR. SACKS: It might help, now that you've
2 adopted a motion to strike 3, that you could add a
3 couple of words to 1, "including employment".

4 That might soften the effect of striking 3.

5 MS. RODHAM: I would agree with that.

6 Is there a second to Howard's motion that
7 the words "including employment" be added to the words
8 in paragraph recommendation 1 about civil rights
9 responsibilities?

10 MS. SHUMP: I second the motion.

11 MS. RODHAM: You realize there was some
12 inconsistency?

13 I mean, in paragraph 1, we are talking about
14 programs. In paragraph 3, as I read it as it's written
15 we were only talking about LSC staff, which presumably
16 is only the Corporation staff.

17 Now, I think that it's proper that the reach
18 of our recommendation be broader than just the Corporation
19 staff.

20 So, in effect, we are broadening by the words
21 "including employment" in adding to paragraph 1 what
22 had originally been recommended in paragraph 3, which I
23 think is appropriate because certainly the Corporation
24 would want the programs also to practice non-discrimination
25 against the elderly.

1 MR. DOOLEY: Just a point of clarification.
2 That's why I said Acts in 2. The Age Discrimination
3 Employment Act is, in fact, enforced by the Department
4 of Labor, and its omission is intended in the sense that
5 we did not intend and did not recommend that the Corporation
6 set up some enforcement mechanism to duplicate what is in
7 Labor.

8 The suggesting being the Corporation's
9 responsibility is to inform programs of what their
10 obligations are there and that would be it for programs;
11 but as to its own, of course, hiring policies that it
12 should comply.

13 That's how that occurred. I'm sure, however,
14 there's no problem in the recommendation. I just want
15 to clarify how it got this way.

16 MS. RODHAM: Any discussion on Howard's motion?

17 (No response.)

18 MS. RODHAM: All those in favor, signify by
19 saying "aye".

20 (Ayes.)

21 MS. RODHAM: Those opposed?

22 (No response.)

23 MS. RODHAM: It's unanimous.

24 Any other questions or comments on recommendations?
25 It will be now 1 through 7 on pages 34 and 35?

1 (No response.)

2 MS. RODHAM: What is next?

3 MR. DOOLEY: Next, is page 40 through 42
4 and it deals with the institutionalized; both elderly
5 and handicapped.

6 The first recommendation dealing with funding
7 is something the Board has already discussed in connection
8 with the budget proposal to Congress because it is
9 part of the 1981 Budget Request, and I'm not sure, in
10 view of that, there's any need to discuss that any longer
11 or any further.

12 Two, three, four and five and one deals with
13 support. It sort of follows three and four deal with
14 relations with other agencies who are in this business.

15 Five is a recommendation that follows a similar
16 one made in the migrate part of the 1007(h) Report, which
17 is a recommendation that Congress alleviate access barriers
18 for advocates in getting to persons who are institutionalized
19 in order to be able to serve them, as was true with the
20 migrates. We don't want to be in the position of drafting
21 a specific thing--the supportive efforts by others for
22 this kind of legislation.

23 We want to just generally endorse the concept
24 that Congress should deal with this problem.

25 MS. RODHAM: Any questions on these recommendations?

1 MR. TRUDELL: I have a question, Cecelia,
2 about 1, I guess, when you get into the funding issue
3 in terms of not having a formula, and I'd like to hear
4 some discussions about it in terms of clearly making
5 deviation and in terms of treating any group separate
6 from others.

7 It may be appropriate to even hear from people
8 in the audience as to where we're moving in trying to
9 approve what they've done so they can disseminate their
10 report and to avoid any repercussion at a later time.
11 I'd like to hear from maybe some of the PAG people or
12 other people.

13 MR. HOUSEMAN: We worked this language out
14 with the PAG people.

15 MR. TRUDELL: I didn't know that.

16 MR. HOUSEMAN: This language, I think, is consis-
17 tent with our '81 budget request and it is also consistent
18 with the approach that we're going through with the future
19 funding committees; both the PAG future funding criteria
20 committee and the joint task forces of the Corporation--
21 the three task forces, which include the PAG future
22 funding people.

23 I don't know if Bruce is here. He can speak
24 to it, but we specifically worked out this approach and
25 this language and this section to accommodate and to be

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1 consistent with the views of PAG and the future funding
2 people.

3 MS. RODHAM: Bruce? This is Bruce Morrison.

4 MR. MORRISON: It's correct that I've seen this
5 draft before and Alan and I have discussed it.

6 I think it would be fair to say that the first
7 paragraph under--paragraph 1, the first paragraph, is
8 consistent with the PAG position, which is that an effort
9 should be made to seek funding to extent services to the
10 institutionalized.

11 That is a group--it's not under a concept that
12 they should get extra funding, but that they are a group
13 that were excluded from the minimum access plan.

14 There is not unanimity at all, and in fact, we
15 have serious questions about the following paragraphs
16 which have less to do with that concept; but more to do
17 with how the money will be distributed, the recognition
18 of non-LSC funds and how that will be done, the extent to
19 which there should be more funding for the institutionalized
20 than there is for the non-institutionalized.

21 We think that those questions are premature in
22 this report in the sense that we are embarked on a study
23 of what kind of future funding strategy we should have.

24 I know that the Board is going to discuss that
25 some later today and tomorrow; that any plan to for coverage

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1 of any particular group ought to be part of and
2 consistent with an overall strategy for the entire
3 community so that it is a bit premature to vote on all that
4 language.

5 It would be fair to say that some of that
6 language is in the budget request for 1981, and that
7 perhaps we slipped on our rights by not raising this
8 more forcefully earlier when our eye was on a different
9 ball; but I would say that we are concerned about the
10 breadth and sweep of that language and frankly would hope
11 that you would just endorse the first paragraph.

12 MS. RODHAM: Would you want to make a motion?

13 MR. HOUSEMAN: Well, let me just say, Bruce and
14 I obviously had a communication breakdown. I thought that
15 the final paragraph of 1, which said the specific funding
16 approach would be developed in conjunction with the
17 development of the Corporation's more general future
18 policies took care of his needs. Apparently, that didn't.

19 I assume it did, and he and I specifically went
20 over this language. It's okay. I don't mind, but since
21 we had specifically discussed it, and he said he was
22 okay on it, I felt free making the earlier statement.

23 MR. DOOLEY: Listening to this, I'm not sure
24 that people are reading more into this than is in there.

25 The operative word in that first paragraph, at

1 least to me, and this was discussed a bit in the Provisions
2 Committee, is the word "flat".

3 The problem is that there are factors that
4 relate to the institutional section that don't relate
5 elsewhere that, I think, it's fairly well accepted have to
6 be considered.

7 For example, it is markedly different to talk
8 about serving 200 persons in an institution when everybody
9 is there an average of two years.

10 Then 200 persons in an institution when everybody
11 is there an average of 15 days, and that is the kind of
12 difference that occurs in this population.

13 In the first occasion, you're talking about that
14 same 200 people with very little turnover. In the second,
15 you're talking about thousands coming through the
16 institution.

17 That's the kind of thing that was intended in
18 the word "flat". It does not say there will not be a
19 formula.

20 MS. RODHAM: I understand that, and that's the
21 way that I read it; but I think that the concern that Dick
22 has expressed is sort of well taken.

23 One of the questions that is not answered here
24 is any eligibility standards. You talk in the supporting
25 table of total number of institutionalized.

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1 I think there are a lot of serious implementation
2 questions that I would hate to see covered by the language
3 despite I can understand your efforts to make some statement--
4 explanatory statement as to what kind of plan you're
5 talking about.

6 I don't really think that's necessary. We have
7 a lot of questions that are unanswered about future
8 funding formula. There are enormous difficulties in
9 talking about brining Legal Services to an institutionalized
10 population; only the first of which might be eligibility
11 of that population--I mean, break that down, what kind of
12 resources we look at, et cetera.

13 I think just for purpose of our own future
14 planning, it might be well taken to strike paragraphs 2
15 and 3 in the recommendation number 1 and talk only about
16 that we will develop a plan for coverage for the
17 institutionalized and to seek money as available as is
18 expressed in paragraph 1.

19 I don't think we lose anything, but I don't
20 think we get ourselves in any position where we might be
21 making a policy statement, raising expectations that
22 we're not going to be able to meet yet. We don't know
23 what they mean.

24 MR. TRUDELL: I would so move that.

25 I think the Appropriations Committee have an

1 indepth discussion about the funding policies or whatever
2 and come up with something that we can endorse or adopt
3 as a Board because I think we've gone through this whole
4 thing in terms of is this going to be a policy.

5 I think there was some indication we would move
6 in that direction; that we would begin to treat, when it's
7 absolutely necessary certain groups in a different way.

8 So far, that's not a policy.

9 MS. RODHAM: Certainly, too, as we're going into
10 a tighter budgetary picture, I think we're going to have
11 to be very careful about what sort of plans for services
12 we make that deviate from the effort to provide the
13 maximum or moderate access to as many people as possible.

14 YOU know, we may have to make the decision
15 that the institutionalized are a population that
16 unfortunately we're not going to be able to serve in a
17 full coverage way because of the budgetary restrictions
18 and need to continue and upgrade the quality of the
19 services we're already giving.

20 I don't want to make any statement that pushes
21 us in any direction at this time because I don't feel
22 comfortable doing it.

23 Is there a second to Dick's motion?

24 MR. SACKS: I second it.

25 MS. RODHAM: Any further discussion on the motion

1 to strike the second and third paragraphs of recommendation
2 number 1 on page 41?

3 Steve?

4 MR. ENGELBERG: I'd like to hear Alan respond
5 to what you were saying. I'm just curious to his response.

6 What is your response to what Hillary just said?

7 MR. HOUSEMAN: This paragraph is the operative
8 paragraph of what we're working on under our '81 budget.
9 request.

10 I think to some degree at some point we have to
11 face the issues of funding the institutionalized.
12 Frankly, at least from the staff's point of view, we
13 thought we faced those in our '81 budget request
14 presentation and we are re-evaluating that and re-accessing
15 it through the future funding thing, and we will do
16 nothing that's inconsistent with the future funding
17 approach that we're doing, and that's what we're saying;
18 but to the extent that paragraph 2 is in our '81 budget
19 request, which it is, and the first sentence in paragraph 3.
20 I thought incorporating it here made some sense. It's
21 certainly not a big issue.

22 I can get into the merits, but I'm not sure
23 you want to do that right at this second.

24 MR. TRUDELL: I think the operative word is in
25 paragraph 1 is plan. The rationale for all the facets

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1 of the plan are explained and we go from there, but I
2 think we're just muddying the waters.

3 MS. RODHAM: I also think, Alan, we're looking
4 at it now in a different point of time. When you were
5 talking about in our '81 budget what we hoped to achieve,
6 given the level of funding that we requested.

7 I think all of us maybe for good and bad reasons
8 are a little more skiddish about making any commitments
9 until we have a better idea of where we're going in a
10 general funding way.

11 This is no reflection on what you said because
12 I agree. It is exactly what we adopted when we talked
13 about the budget.

14 At this point in time, I, for one am not ready
15 to repeat that language.

16 MR. ENGELBERG: What is the motion to strike?

17 MS. RODHAM: Paragraph 2 and 3 of recommendation
18 number 1.

19 Any further discussion?

20 (No response.)

21 MS. RODHAM: All those in favor, please signify
22 by saying "aye".

23 (Ayes.)

24 MS. RODHAM: All those opposed?

25 (No responses.)

1 MS. RODHAM: It passes.

2 Any further questions on the recommendations
3 on pages 40, 41, and 42?

4 Howard?

5 MR. SACKS: Paragraph 3 says "The Corporation will
6 affirmatively seek out funds from sources other than its
7 own appropriation to provide services to the
8 institutionalized."

9 Does that mean that the Corporation is going to
10 go around to private foundations and government agencies
11 and seek grants to the Corporation, or are we talking
12 about local programs or whatever programs we finance will
13 go around?

14 MR. DOOLEY: The understanding and the overall
15 policy, I think, as presented in the budget and as
16 presented here is that we should embark on a process
17 under which the institutionalized get service from a
18 variety of sources, of which the Corporation is only one;
19 and that there are a number of activities going on in
20 other branches of the Federal government that the Corporation
21 might effect in a positive way by a little support for
22 them in help and assistance.

23 In fact, the Corporation has been doing some of
24 that; that how the money would be distributed from their
25 other sources is up to them, except that the Corporation

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1 is not looking for money for itself or necessarily for
2 its own programs. It is looking for service to the
3 institutionalized so that its part is only a part so we
4 don't face the notion that the only way to get service to
5 the institutionalized is for the Corporation to get \$100
6 million or something to do it, and depending upon how the
7 funding policy comes out, it could be a Bill of that
8 magnitude. That's all that was intended by 3.

9 MR. SACKS: Well, that's just a problem of
10 language, but I don't want to get us in the position
11 where we're committing ourselves that we're going to go
12 around and seek direct grants to us.

13 MR. HOUSEMAN: Oh, no, that was not intended
14 at all.

15 It's up to us to take steps to assist our
16 programs and others, and we have not at times taken those
17 steps to get other funding sources. We have with AoA
18 and have them with some others, and it was just to put us
19 on a track that was clear that we had a responsibility
20 to get other funds available for the service.

21 MR. SACKS: Maybe we can put in some phrase
22 after "The Corporation will affirmatively seek out funds
23 on behalf of its grantees--" or something like that?

24 MR. DOOLEY: I wouldn't even say it's on behalf
25 of the grantees.

1 Maybe you want to negatively say not for the
2 Corporation as opposed to saying for who?

3 MR. SACKS: Well, I hate to put it in the form
4 of a negative.

5 Are we going to have grantees under this?

6 If we get the money, I assume we're going to
7 fund certain programs, and those programs are called
8 normally grantees--projected grantees?

9 MR. DOOLEY: That's correct, but to give you an
10 example, there are currently in the business of providing
11 Legal Services to institutionalized persons a lot of
12 public defenders.

13 It may very well be that the best thing that
14 could happen is that those public defenders got more
15 resources, and that a certain part of the need were met
16 through a system already created.

17 Then it would be for us to fund now Legal
18 Services programs otherwise funded by the Corporation
19 to do something.

20 All I'm suggesting is, that I would not want
21 us to totally limit this--our activities to our own
22 pre-existing grantees.

23 MS. RODHAM: Steve?

24 MR. ENGELBERG: I totally agree with what you're
25 proposing. I think it's very important.

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1 MS. RODHAM: Wait a minute. You agree with
2 what proposal? With what John said?

3 MR. ENGELBERG: I agree with John that it
4 shouldn't be limited to grantees, and I think what John is
5 driving at and what we'll be talking about later today,
6 this seems to be another example and this would have to
7 be done primarily by the Corporation--a Corporation
8 without the direct funding through skillful leadership
9 an important role to improve services to obviously a
10 population who is in desperate need of it without having
11 to depend on any of the programs to do so.

12 I think that's a very important kind of activity,
13 where you're generating or directing funds for your own
14 which is fine, but also trying to use the public defender
15 as an example, funds that pump money into other sources.

16 MS. RODHAM: Really, what you're talking about
17 is the encouragement of the availability of resources;
18 not the seeking out of resources.

19 Seeking out does, I think, somewhat connote
20 the idea that Howard is talking about. We're going to go
21 get them for ourselves.

22 MR. ENGELBERG: I'm talking about a much more
23 aggressive role by the Corporation, on behalf of other
24 related services. In other words, it's another mechanism
25 short of direct funding. Obviously, it would be great if

1 we had \$1 billion budget. We could step down and start
2 funding a lot of these programs. That would be the easiest
3 and simplest way to do it; but again, it's very unlikely
4 we're going to have that.

5 Yet, rather than just sitting around wringing
6 our hands, the idea here has a tremendous implication
7 beyond the institutionalized.

8 MS. RODHAM: Let me ask this question.

9 Why are we seeking out or encouraging--I can't
10 remember. So, I apologize. It may be in the other
11 recommendations for this group.

12 Are we also recommending that we do it for
13 everybody else?

14 MR. DOOLEY: This is a new start, and the point
15 of all of this was here is a group we don't currently
16 serve at all.

17 We're starting from scratch with this group.
18 What are we going to do?

19 There are essential parts of this that are
20 intended to fit together. One of it was--is that we should
21 be seeking to become a part of an overall service picture.

22 MS. RODHAM: Let me interrupt.

23 It's not true that we don't serve the
24 institutionalized at all. That's just not true. I know
25 enough cases, and I've read enough of the newsletters and

1 everything that comes from our Centers to demonstrate that
2 we are serving some of the institutionalized.

3 MR. DOOLEY: That's correct. I'm sorry.

4 MS. RODHAM: It's just not fair to make that as
5 a statement and premise a policy on it.

6 MR. DOOLEY: I think it's the way I phrased it.
7 What I mean by that is that we have not included them
8 in counts and therefore, they are not part of the funding
9 basis of programs.

10 Programs, in fact, do provide some representation
11 here, and the extent of it was detailed earlier.

12 The point of it is, as we come into the funding
13 question, what do we want to do; and part of the policy
14 was that we wanted not only to seek money to put out
15 money ourselves, we want to be trying to get other
16 sources of money to improve this service for this clientele--
17 this constituency to become part of an overall funding
18 package; but only part and not all.

19 That's where 3 came from.

20 MR. ENGELBERG: I don't want to belabor this,
21 but all I'm saying is I think the idea here is true.
22 I think the rationale, Hillary, is obvious that this is
23 an underserved population and for the funding crisis
24 that we find ourselves in, it's a natural area that this
25 Corporation would move into eventually, and it's clear

1 we're not going to be able to, which means we'll do the
2 best we can to back up and support and maybe fund in some
3 small effort; but the thing we can do in the very best
4 way is use the considerable expertise and experience of
5 the Corporation and grantees to think of and then try to
6 implement other funding sources federally and at the
7 local level.

8 Again, it's another example where through time
9 and effort as opposed to money, maybe the Corporation
10 could make a big difference in getting the service even
11 though it's not through its own grantees.

12 MR. SACKS: I don't think we have any disagreement
13 on principal. I just think it's a question of language,
14 and I'd like to suggest something in the place of 3
15 picking up on some language.

16 "The Corporation will assist agencies furnishing
17 Legal Services to the institutionalized to secure funds
18 from non-LSC sources."

19 MR. KANTOR: It's too narrow because right now
20 there are just not enough agencies, and they don't exist.
21 What will happen, hopefully, is when they create enough
22 interest, dollars and expect it in there in any policy
23 that would exist in the future.

24 I think we all agree here what we want to do.
25 I think it's silly for this Board to sit around writing

1 language. I think we ought to just adopt in general
2 the idea. I think the staff understands that the staff
3 just comes back with language that when it's necessary
4 to implement what we're talking about.

5 MS. ESQUER: We're just talking about assisting
6 in leveraging funds?

7 MR. KANTOR: Right, and I think everyone understands.
8 I think that this Board shouldn't sit around and write
9 language.

10 MR. HOUSEMAN: I will in redrafting this make
11 it clear it's not the Corporation and take into account
12 the discussion.

13 MS. RODHAM: Is that satisfactory, Howard?

14 MR. SACKS: Fine.

15 MS. RODHAM: Any other questions or comments
16 about these recommendations?

17 (No response.)

18 Any further recommendations? Berney?

19 MR. VENEY: Hillary, I guess I wasn't terribly
20 concerned about this whole report until I heard the
21 discussion of the Board; but could I just go back to one
22 page of this to make sure I understand what it is that
23 the Corporation is doing? That's page 35, I guess,
24 number 8, where it talks about training.

25 It says, "The training will be open and the

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1 manuals available to those in special elderly units as
2 well as to generalist staff within local programs."

3 I wasn't worried about that language until the
4 Board began to deal with very specific interpretations
5 of language.

6 I would hope that this doesn't mean that you
7 preclude clients from being trained or things of that
8 nature.

9 Okay, fine. I see Alan shaking his head no.

10 MR. HOUSEMAN: No, absolutely not. It was to
11 say that you've got to train more than just special
12 elderly unit staff and groups working with them.

13 I will make sure that that's written in a way
14 that incorporates that, Berney.

15 MS. RODHAM: Yes, sir? Would you identify
16 yourself?

17 MR. DENODY: My name is Don Denody, and I'm
18 from the Memphis Area Legal Services, a staff attorney.

19 I'd like to make one recommendation or an
20 additional consideration of the Board, and I understand
21 you're talking about broad policy, but I'd like to
22 flash on just a little bit some facts that are occurring
23 here in Memphis in this area.

24 In 1975, we created a Senior Citizens Unit
25 exclusively with local or State funds, and it has existed

1 for five years exclusively with those funds.

2 From the beginning, we pursued the vigorous
3 outreach program in nursing homes and boarding homes
4 in particular.

5 During the five years, we discovered a reoccurring
6 problem. The problem, put simply, is that black elderly
7 are confined to boarding homes and white elderly have
8 access to Medicaid nursing homes.

9 After two years of thorough analysis, we brought
10 a lawsuit against 12 local nursing homes, the Department
11 of Public Health and Department of Human Services here,
12 alleging race discrimination and handicapped discrimination
13 against a class of black elderly located in Memphis.

14 We discovered after filing the lawsuit, that
15 colleagues in Mississippi, Alabama, Ohio, California
16 have the identical same problem; that is, that long-term
17 health care for black elderly are given an inferior,
18 unregulated boarding homes and for white elderly, nursing
19 homes.

20 In our opinion, a clear violation of Title VI
21 of the Civil Rights Act.

22 After we filed the lawsuit with vigorous
23 opposition by 15 lawyers on the other side, they proceeded
24 systematically to attempt to eliminate our funding--the
25 funding for the Senior Citizens Unit, which employs seven

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1 lawyers and three paralegals, and a support staff of
2 four individuals.

3 We have voluntarily sought outside funding
4 to do this type of thing.

5 I would like a provision somewhere or recognition
6 by this Board as a matter of policy that when a program
7 becomes dependent upon local or State funding and finds
8 itself the victim of punitive action because of a lawsuit,
9 that some type of temporary and provisional bailout,
10 for lack of a better word, could be available until we
11 can by attrition and other matters work out the laying off
12 of employees or the reduction of salaries or whatever.

13 When you get into the area of institutionalized
14 persons, it is a big business. The nursing home industry
15 is extremely powerful.

16 At the present time, there are four nursing
17 homes on the New York Stock Exchange to show you the extent.
18 I'm afraid that as we pursue vigorously in other programs
19 they will become victims of punitive actions, as far as
20 local and State funding.

21 I wish to make a recommendation that as a matter
22 of policy when programs have sought outside or local or
23 State funding, to pursue active work on behalf of
24 institutionalized persons and find themselves the victims
25 of punitive cutoffs of those funds, that there be some type

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1 of recognition by the Board that these programs should
2 be saved.

3 I know you're not talking about funding, but
4 you're talking about policy for implementing these things.
5 It will have a chilling effect upon me, as a lawyer; one
6 of five who's trying this case to see fellow employees
7 laid off or terminated because of lack of funding, as a
8 result of a punitive measure.

9 It may have a chilling effect on your ability
10 to bring access to institutionalized persons.

11 MS. RODHAM: I can't remember. Are you entitled
12 to attorney's fees under Title VI?

13 MR. DENODY: We are, but we anticipate this
14 lasting three to five years before it's successful.

15 MS. RODHAM: Steve?

16 MR. ENGELBERG: I assume the situation this
17 gentleman has described is not totally new.

18 Dan, has it come up in the past, and to your
19 knowledge, what's been the Corporation's response to
20 similar problems?

21 MS. RODHAM: Before Dan answer that, are you a
22 part of Memphis Legal Services?

23 MR. DENODY: Memphis Area Legal Services.

24 MS. RODHAM: So, our grant to Memphis Area Legal
25 Services doesn't cover any of your expenses?

1 MR. DENODY: For the Senior Citizens Unit,
2 I think it's about 9%, and it's primarily in offices
3 and some supplies.

4 As far as the actual personnel costs and
5 litigation costs, that comes from either ALA money or
6 from Title XX money.

7 I should say that the ALA money, the way in
8 which the nursing home industry has attempted to stop that
9 has not been nationally, but locally, we have a nursing
10 home that incorporated within our Senior Citizens Office
11 composed of a lawyer and two paralegals.

12 They specially tried on the floor of the General
13 Assembly this last term to say that no Legal Services
14 program could receive unbudgeted money from the State
15 agency and specifically said it was because of this lawsuit.

16 So, very little money is provided, as far as
17 LSC funds. Most of it is Title XX or matching money
18 from our local and county government.

19 MR. BRADLEY: Steve, to answer your question,
20 it's an acute problem. A.C.. And I have been talking
21 about it. A.C. and Clint are talking specifically
22 about how we can help out in Memphis. There's no easy
23 answer because you have to keep in mind, right now the
24 figure is almost \$40 million--\$40 million worth of other
25 resources going to all the programs, and everyday our

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1 programs are losing the money for reasons like this.
2 Bruce, in New Haven, just recently almost lost \$150,000
3 because of cutback, I guess, in community development
4 money.

5 So, the question is really what can the
6 Corporation do to help cushion the loss of those funds.

7 MR. ENGELBERG: But as I understand it, you
8 know, obviously we're not really at an appropriate point
9 at the agenda, I mean, there's a difference, and I'm
10 not saying it's any worse; but there's a difference
11 between losing the money because of just a shortage of
12 funds on the one hand, which is obviously a serious
13 problem, and I think a totally different situation,
14 which this gentleman described doesn't strike me as being
15 probably that unique.

16 This situation--they both share the cutoff of
17 services, which obviously is a serious problem. I think
18 back to our meeting in San Francisco a couple of years
19 ago where this issue was raised.

20 What I'm concerned about though is the notion
21 of retaliation. Obviously, hopefully we will be immune
22 from that, but the notion of retaliation against other
23 funding sources and what, if any, our response can be.

24 I mean, I can think of a situation where the
25 Board might say where there has been retaliation, but the

1 Corporation would not allow it to happen and basically,
2 it requires a bailout or a loan or some temporary mechanism
3 and that we would distinguish that from just a normal
4 cutoff of the funds. You know, a program loses funds
5 because there just isn't any more.

6 MR. BRADLEY: That's exactly what we're talking
7 to A.C. about right now is there any way that the Corporation
8 can creatively help them over the gap because A.C.
9 possibly sees--

10 MR. ENGELBERG: I don't think you're asking to
11 deal with the Memphis problem?

12 MR. DENODY: No.

13 MR. ENGELBERG: He's raising a potential policy
14 question, which I think is very important.

15 MR. DENODY: That's exactly it, and I did it in
16 this context because I think the strength of the nursing
17 home--I mean, some of the other institution providers will
18 be effected or will come to pass upon programs that
19 pursue outside sources.

20 A similar thing has happened in Nashville, which
21 I'm sure Ashley Welsher could talk to; but it's a way of
22 retaliating, and it is for punitive reasons.

23 MS. RODHAM: I think that's a very interesting
24 and good point for us to keep in mind because I think
25 you're right, and I just had never thought of it in this

1 way, but I think that the nursing home lobby is extremely
2 powerful, and that is one of the things we'll have to
3 take into account.

4 Cecelia?

5 MS. ESQUER: I have a question. In our '81
6 funds, I thought that we had set aside some money in our
7 '80 or '81 budget that would allow us to provide special
8 assistance--something like special needs money.

9 I can't remember exactly where it came in the
10 budget, but it seems like that would be an appropriate
11 thing to look at again and review and consider expanding
12 it just a little bit more.

13 MR. BRADLEY: No, not specifically in the '81
14 request, per se, and the only item that was in the '80
15 budget and planning the '81 budget is just a continuance--

16 MR. ENGELBERG: Based on this gentleman's
17 recommendation, which is really a policy input, I would
18 propose, Hillary, unless you have a problem that the staff
19 would report to us, you know, a short report in June as
20 to its recommendations, if any, as to how we would deal
21 with this type of problem specifically aimed at the
22 retaliation issue whether out of any title funds, and
23 you may conclude that it opens up a Pandora's box, but
24 you understand the problems because we could be faced for
25 non-retaliation reasons, and then you get into serious

1 equity questions--

2 MR. BRADLEY: Your committee will meet before the
3 June Board Meeting, and Dick's committee will meet and
4 let's share with you all of the information that we can
5 gather.

6 MR. ENGELBERG: I would like just a very short
7 response from the staff to a very serious problem this
8 gentleman has raised. Your response may be that we can't
9 deal with it, but so that the Board can evaluate whether
10 we should get into or not.

11 I think it is important enough that we should
12 at least look at it, recognizing the serious equity issues
13 involved.

14 MS. RODHAM: Mickey?

15 MR. KANTOR: Just one comment. I feel it's as
16 important a problem as we ever faced because if there's
17 any premier concern we all have is lawyers be able to
18 represent their clients in this program without fear of
19 retaliation or abuse, and I think to the extent that we
20 can come up with an idea or plan and a policy to take care
21 of this kind of problem, it would be protective of the
22 highest interest of this Corporation; i.e. allowing lawyers
23 to practice law for poor people as lawyers who represent
24 other people who practice law.

25 MR. TRUDELL: I suggest we bring it back this

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1 afternoon.

2 MR. RODHAM: I think we can discuss it, but
3 I think we need to think it through really carefully
4 because we have to draw the issue narrowly enough so we
5 don't find ourselves talking about bailouts, and I think
6 it's a complicated issue.

7 MR. ENGELBERG: My feeling is that it should be
8 a very limited type of intervention, and if the theory of
9 it is to protect against retaliation that it be used
10 obviously very sparingly and that very carefully we be
11 very sure that it's, in fact, retaliation as opposed just
12 to the dry up of funding problems because that really
13 would create an enormous inequity.

14 MR. DENODY: Thank you, and have a good time in
15 Memphis while you're here.

16 MR. HOUSEMAN: Just a few points on this.

17 One, we are going to increasingly face this
18 problem as we move into a more significant representation
19 of the institutionalized in particular, and secondingly,
20 he also raised a really interesting substantive concern
21 that at some point when you read the full report will be
22 flushed out; the racism in the way the nursing home
23 industry is structured and the tracking that's going on.

24 What you increasingly see is the nursing homes
25 are populated by black; but you increasingly see a

1 dual track system coming up. These are very serious issues,
2 which are discussed at some greater depth in the actual
3 report and that we're finding to be a serious issue.

4 MR. ENGELBERG: Just a question occurred to me.

5 Do we have any easy fix on reimbursement by
6 programs under Title VI and Title VII? I assume programs
7 do get some Title VI and Title VII attorney's fees?

8 MR. BRADLEY: What we have is just more
9 anecdotal than anything else.

10 MS. RODHAM: Dick?

11 MR. TRUDELL: I move that it be adopted and
12 approved for release the summary of revised actions
13 and recommendations referring to the elderly and
14 handicapped chapter of the 1007(h) report.

15 MS. RODHAM: Is there a second?

16 MR. KANTOR: I second.

17 MS. RODHAM: Any further discussion?

18 (No response.)

19 MS. RODHAM: All those in favor please signify
20 by saying "aye".

21 (Ayes.)

22 MS. RODHAM: All those opposed?

23 (No response.)

24 MS. RODHAM: We certainly want to thank you all
25 for your monumental task of getting the 1007(h).

1 You're going to have to get a bulldozer to dig you out
2 of your office. There's a lot of paper that's been
3 generated.

4 It is now nearly 12:00. I assume we do not have
5 any plans for a Board luncheon. So, we are on our own.

6 I would like to try to reconvene at about 1:30.
7 It may be that we will not be able to reconvene until
8 closer to 2:00 because I would like to wait until our two
9 other members, Mr. Kutak and Mr. Ortique arrive; but
10 let's try to get back here about 1:30.

11 (Whereupon, at 11:55 a.m., the meeting was
12 adjourned to reconvene at 1:30 p.m.)

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AFTERNOON SESSION

2:15 p.m.

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3 MS. RODHAM: Next will be the report and
4 discussion on the Delivery Systems Study.

5 Leona, why don't you and whoever else you're
6 going to have to make the presentation come forward?

7 We are going to begin the discussion of the
8 Delivery Systems Study, and I know that the Provisions
9 Committee went over the first draft in great detail, and it
10 might be useful to just briefly describe the status of the
11 report now, and if there are any important differences
12 between this draft and the previous draft, point those
13 out; and to provide the Board with the information it needs
14 to know how it should make a decision and which decision
15 it should make about the report; whether we are ready to
16 send it to Congress; whether we are not ready; what else
17 needs to be done, if we are not ready.

18 Judy or Leona, I don't know how you want to
19 proceed on that, but try to address those questions in
20 your remarks.

21 MS. VOGT: First of all, in response to your
22 first request, the Study is moving into the final throes
23 of completion. We have two tracks that we're working on
24 simultaneously; one, producing this report that you have
25 now in its second draft; and the other is to continue to

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1 work on the analysis in order to complete all the research
2 aspects of the report.

3 The data base and the analysis is constantly
4 being refined so we can have a second report due later
5 hopefully in the summer.

6 The second issue you want us to raise is what
7 happened at the Provisions Committee and what's happened
8 since.

9 Dick Trudell asked us at the last meeting or
10 at the Provisions meeting to prepare an abstract of sorts
11 for the benefit of those who were at the Provisions
12 Committee, but more for the benefit of those of you who
13 were not at the Provisions Committee so that you would not
14 have to sort through and try to figure out what some of the
15 new changes were from the first draft.

16 So, that if you look at, I guess, the first grey
17 divider that has something called "Abstract of Revised
18 Draft of the DSS Policy Report", I think that that pretty
19 much captures that.

20 It might help to just quickly go through the
21 changes, and if you have any questions about--especially
22 those of you who will see some things missing about why
23 we did things, I would certainly be glad to respond; but
24 some of these things, we don't have to go into in much
25 detail.

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1 Chapter I--first of all, the Transmittal
2 Statement was pulled out of the report itself because it
3 does include values the Corporation wants to state to
4 Congress and it does go beyond just the findings of the
5 Study, and that came both from the Advisory Panel as well
6 as from the Board.

7 So, that the Chapter I now is a new draft. It's
8 a new discussion that broadens the context of the
9 environment in which the study was launched and also
10 addresses some of the changes that have taken place over
11 the course of the study period.

12 It also flags other work that the Corporation
13 has done like the 1007(h) Study and some of the QUIP
14 grants so that it kind of explains the total learning
15 environment.

16 Chapter II essentially just clarified what was
17 in the first version.

18 First, it stated more clearly who did what.
19 What roles the Corporation Board had, the Senior Staff,
20 the Contractors, the projects and so forth.

21 Second, it also now includes a time line. So,
22 it shows the scope of the Study and also indicates for
23 those who have a more technical background what time
24 period the data collection took place in relation to the
25 four measures.

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1 It also explains in more detail the voucher
2 model. Even though vouchers seem to be, you know, a
3 throw away almost, a number of people kept saying, "We
4 need to know more about what was tried and what the
5 voucher model was".

6 It also expanded on the data collection
7 procedures used and the analysis of the individual measures.

8 Again, nothing new, other than just clarification
9 and further explanation.

10 Chapter III, generally so all of you would know,
11 both at the Advisory Panel and at the Provisions Committee
12 meeting, there was some kind of disagreement over the
13 value of this information.

14 Some people felt it was unnecessary and belonged
15 in an appendix. Others felt that it was important enough
16 because it at least described problems that the private bar
17 models have in actually fitting into the Legal Services
18 Corporation world.

19 So that in Chapter III, I think that the only
20 major differences dealt with the prepaid model.

21 We explained in a little more detail why the
22 prepaid model had difficulty in complying with the Act and
23 and the regs and some problems with the audits and some
24 of those technical points.

25 It also addressed what we're calling the model

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1 appropriateness for individual communities. Did it appear
2 that the models provided needed services to the clients
3 and the types of communities served.

4 There were different graphic presentations
5 there than before.

6 Now, Chapter IV, which is pretty much the meat
7 of the study is different.

8 First of all, the discussion of the cost analysis,
9 I think Cecelia described as being tedious, is now our
10 new term for the cost analysis, the tedious cost analysis;
11 but we did feel that or we tried anyway to explain more
12 clearly what we were trying to communicate about the
13 difficulty in measuring costs, and we also tried to
14 present a more clear explanation of the effect of direct
15 and indirect costs on the total costs.

16 We also included what we did not have before,
17 and that was the data from the 48 staff attorney projects.
18 Again, because we didn't have it available at the time
19 of the last draft.

20 The conclusions did not change on the costs
21 piece. Essentially what it still says is that the cost
22 varied greatly from project to project, and that there is
23 some evidence of some factors that effect cost; but that
24 the only model that is significantly different from the
25 staff attorney model is pro bono; that there were few

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1 projects--individual projects that used usual and
2 customary fees that were on the high side, but beyond that,
3 there was no one model that consistently performed better;
4 meaning had lower costs than the staff attorney model.

5 I'd like to double back and tell you what
6 else we're doing, but at least this explains what this
7 report is.

8 As it indicates on the last page of the abstract,
9 the section on quality of services was not changed. We
10 thought that we'd be sending you the further analysis
11 so that you would have it to review this week.

12 We have had numerous problems with that measure,
13 and I would rather not go into those at this point; but
14 I can tell you at least right now, even though I'm
15 deviating from just reading the abstract what the situation
16 is.

17 Essentially at the model level, the data do not
18 indicate that model makes a difference in quality of
19 service meaning that first of all, it was a gross measure
20 because we did not want to push the capability of what was
21 a very elementary procedure that was tried.

22 Secondly, because of the fact that there was
23 difference--some difference within project on individual
24 cases, when you aggregated the score to the project level,
25 it seemed to wash out.

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1 So that there was no measurable difference found in
2 quality of service at the average case level.

3 What we had anticipated sending you this week
4 was not only that in some table form, but also information
5 on quality of services for certain types of cases meaning
6 cases handled with some frequency by more than one or
7 two models so that we could tell you whether model made
8 a difference for, say, income maintenance, housing,
9 divorces or what have you.

10 That's the piece of information we're missing,
11 and you know, I thought it was momentary; that we would
12 have it in the mail last week; but that is the only
13 additional piece of information is whether we would have
14 an information that would say that the model makes a
15 difference on case types of major case types.

16 MR. ORTIQUE: While you are on that subject,
17 what has bothered me between the time that I left Denver
18 and yesterday evening is whether a model makes a
19 difference in those areas that are peculiar to rapport.

20 I'm very much concerned as to the other models
21 particularly with reference to pro bono. Can we be
22 certain that rapport in those areas--that staff attorneys
23 can become specialists on behalf of their clients or are
24 able to demonstrate that it doesn't make a difference.

25 It seems to me that when you get or gain the

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1 sophistication that some of our staff attorneys has
2 gained through years of working in those areas that--
3 it's my belief, at least, that they are probably in a
4 better position to give higher quality legal work and
5 legal services than any other model.

6 What type of grappling have we done with that,
7 and I'm very much concerned as I was one of those that
8 said there was no other model some years ago. I certainly
9 have come around to the position that there are other
10 models and certainly other models can be very effective;
11 but I don't want to be caught in the trap of trying to
12 be so objective that I allow my objectivity to cover my
13 facing reality.

14 I've been concerned about that. In that
15 first paragraph--no, it's the second full paragraph on
16 page III-25 under D. "Can the Model Address the Legal
17 Services Needs of Poor People?"

18 You make, what I consider, a true statement.
19 Because poor people have problems that are not experienced
20 by the general population, for example, the standard
21 includes special poverty law problems as well as general
22 civil legal services.

23 I want to know did we really measure those
24 various modes in terms of that and were our results
25 indicative of the general conclusion that it really

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1 doesn't make any difference?

2 MS. VOGT: The answer is that is exactly what
3 we're doing right now, and that's what I thought I was
4 having mailed to you this week.

5 MR. ORTIQUE: I see.

6 MS. VOGT: It is that precise kind of analysis
7 that we're attempting to do. To be very frank, in the
8 first cut of the data, it does look like there is a
9 difference by case type.

10 Because it does look that way, even though the
11 project averages look about the same or at the model
12 level averages, we want to make sure we do it carefully
13 because it is an important conclusion, and that's what
14 we are doing, and I think that we want to discuss that
15 in relation to what it means with this report.

16 It's not a complicated analysis at this point
17 because we're right down to the end, and we thought
18 we would--I thought I would bring it with me today, but
19 that is exactly what we're looking for.

20 I'm sorry. I forgot to mention that the
21 client satisfaction case in the report that what we
22 attempted to do was respond to both the Advisory Panel
23 and the Board's concerns about the strength of the
24 cautionary note about the limitations of the client
25 satisfaction data.

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1 Even though we said that the response rate
2 was low, we did present the results. There were a number
3 of people who said, "Shouldn't you even go further and
4 say that there are serious limitations to this".

5 So, again, you might have further comments
6 on it, but we did tone that down considerably.

7 The discussion on impact really--well, one
8 part of the report did just clarify what we did.

9 For people who thought that one important
10 measure was whether the models attempted to do any impact
11 at all.

12 So, what we did was try and highlight that and
13 secondly, we did go and do further analysis on who did
14 the impact work, and there is a presentation in there
15 now that was not in the last version that shows that
16 staff attorneys, whether they are in staff attorney programs
17 or in the private bar programs, tended to do more impact
18 work than the private attorneys or the attorneys in
19 private practice.

20 If you take the combined effort of both staff
21 attorneys and the private bar together, that accounts for
22 51% of the impact work efforts reported in the study.
23 So that is a major new result, if you like, a finding
24 of the study.

25 That's you, as a predictor, probably you could

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1 safely say that the presence of staff will produce higher
2 results, at least as we measured them in impact.

3 There's a new appendix. We deleted one that
4 described the integrated analysis or the institutional
5 analysis for very valid reasons. That supports the
6 research report, and it has nothing to do with what is in
7 this document.

8 Instead, we substituted something that is a
9 description of the models tested and that was at the
10 request of some members of the Advisory Panel, as well as
11 I think it was mentioned at the Provisions Committee
12 meeting; that there was not enough explanation of what
13 it was we were looking at; that it's difficult to
14 understand the conclusions or believe that they are valid,
15 if you don't understand what was being tested.

16 After we produced this, I might mention because
17 it fits in with what some other people said, I heard
18 several comments about the fact that maybe this should be
19 a separate piece; that maybe it's not something for
20 Congress or it shouldn't be in this document; but I don't
21 know if you have any comments on that, if you read that.

22 I would just like to flag that on page--in the
23 body of the report, I-6 and 7, have, what we consider to
24 be, the major conclusions from the study, as it exists,
25 in other words without the quality piece.

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1 It tracks the organization of the report
2 starting with testing of the feasibility and it goes
3 through the conclusions also then on the models.

4 Essentially, it says that with the exception
5 of one measure, which we don't even have, but pro bonos
6 are the only private bar delivery models that were found
7 to cost less than the staff attorney program; that there
8 were some models that were found to be more successful
9 in doing impact work and those are the pro bono,
10 judicare with staff components and contracts, and there
11 were other models that didn't do as well, and then prepaid
12 did not even attempt impact work by their own design.

13 Client satisfaction, we essentially say that
14 even though clients generally seem satisfied with their
15 experiences and their services, the response rate was so
16 low that we would be cautious in the way this is
17 interpreted.

18 As I mentioned to you, the quality piece would
19 just indicate at the model level there is no difference
20 indicated in the quality of service; but that through
21 further expiration, there could be a difference in the
22 quality of services provided for certain types of legal
23 problems.

24 So, the changes from version one to version
25 two--those are what we consider the major conclusions from

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1 the report that would then flow into the transmittal
2 statement to Congress.

3 Do you have any questions? I really have no
4 idea of what level of detail you want to go over the
5 report in. So, I'll be glad to respond.

6 MS. RODHAM: Why don't we open it up then to
7 questions and comments from the Board members with
8 specifically as it relates to particular parts of the
9 report or generally as to the status of the report and
10 the future of it?

11 MR. KANTOR: Well, I don't know where to begin,
12 and I guess you have to use, as Revius has suggested,
13 I think, that you have to rely on your own experience
14 to some degree to look at this because if you just look
15 at the words and the numbers, you come to the conclusion
16 that is drawn here.

17 I mean, I have to--I know there's no other
18 way to do it because there's no other way to do it
19 since you're dealing with governmental bodies who want
20 numbers and so on.

21 You can put tables before me saying projects
22 reporting impact work by the number and go 0 for 6,
23 6 for 6 or 1 for 2. It doesn't tell me anything about that
24 impact work, what it is, how it related to the community,
25 how the community responded, whether it was necessary or

1 not, what was missed, what wasn't missed, what cases were
2 left unfiled. None of the things that are really
3 important are in here--really important to the relationship
4 of one of our programs, whatever the model is, and the
5 client community they serve.

6 To that extent, and I'm not criticizing anyone.
7 I don't know if you can do that, other than a narrative
8 relying on experts.

9 To that extent, this is totally inadequate.
10 There's just no way you could do that with numbers. You've
11 got to make some judgments. You've got to have some
12 assessment of the values you place on being part of the
13 community and relating to it.

14 I think you could have been stronger, and as I
15 say, I'm not criticizing. I think it's probably an
16 impossible task, unless you're going to be subjective.
17 I think it's the only way to assess this is to be
18 subjective.

19 I believe it's clear there is no way any of
20 the models with staff attorney program can have the kind
21 of impact on a community that we're looking for.

22 Now, whether or not in the cost area or in
23 some case types, those case types which relate to the
24 entire community, they can have the same quality or better
25 quality maybe is the situation or in client satisfaction,

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1 to some degree, you may have some comparability; but in
2 the last area, I think it's clear. I don't think we have
3 to dance around the issue.

4 I understand the various forces. I've certainly
5 lived with it long enough that are pulling in every
6 direction, but I think on the issue of impact, if it's
7 important to this Board, I don't think we have to run
8 away and hide from the issue. The issue is clear.

9 Now, that doesn't mean we've got to have one
10 model of program in Legal Services. What it means to me
11 is is that in that area, if it's critical in certain
12 communities or overall, we ought to make sure that impact
13 is a major factor because we all know by experience
14 and by, I think, our intelligence and common sense that
15 only a staff attorney program maybe in conjunction with
16 judicare or whatever--pro bono or other models, is the
17 only type of program that can reach that kind of issue.

18 Now, that's my personal belief. I think it
19 might be shared by a number of people around this table.
20 I guess what I'm saying is the only thing disappoints
21 me about this is we really tiptoed around it.

22 Now, maybe we have to; maybe there are reasons
23 to; maybe we can't objectively show; but it's clear to
24 me personally from my experience that's the case.

25 So, to that extent, I'm not criticizing again.

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1 I think it's an impossible thing to do objectively.

2 I think the table showing number of projects in
3 the study, judicare with staff, 4; number of projects
4 reporting some impact work, 4 of 4 showing 100% is
5 entirely misleading. I don't know what that means.
6 It's a meaningless figure, and a meaningless number.

7 The 4 of 4--this is on page IV-49, but the
8 4 of 4 may be terrific impact work, and may have a
9 great effect on the community and may be of great value.
10 They could be, in fact, of no value. They may not even
11 reflect what the community needs or wants.

12 I have no way of knowing, but that's what's
13 important. It's important what they reflect and how
14 important they are in the community.

15 So, I guess what I'm saying is I'm frustrated
16 along with you that that section in the quality section,
17 we can't get away from, to some degree, this sort of
18 objective analysis, which I don't think will ever be
19 satisfactory in order to reach the kind of conclusions
20 that we need to reach.

21 MR. ORTIQUE: Mickey, would you have any
22 objection to our stating that; that we know that some of
23 these figures are misleading?

24 Based on broad experience, not only of Board
25 people, but members out there in the field and that's the

1 reason why I made the comment to the effect that I don't
2 want our objectivity to undercut our common sense.

3 MR. BRADLEY: Mickey, we probably--in response to
4 both of you and your comments too, Judge, and we probably
5 should just delete that table because when we put in those
6 types of tables, as we saw at the Advisory Committee
7 meeting, as we saw at the Provisions Committee meeting,
8 any time we display something in a table, it caused more
9 complications and confusion to addressing the thing, and
10 maybe we should have just deleted that; but the substantive
11 concern that you just expressed, Mickey, we tried to state
12 it to be consistent with the analysis of just the numbers
13 on IV-45 and the major results of the impact analyses
14 are one, two, three.

15 What we really tried to state, that you just
16 articulated, I think is on page 4 when we say, "The study
17 does show that the most dramatic difference--", and that
18 was our effort to try to articulate the concerns that you
19 are just expressing and at the same time making sure that
20 we did not do a disservice to the raw reports that came in.

21 I dare say maybe we should just leave that out,
22 When you see that 4 of 4 projects do some impact work,
23 and that's 100%, what do you conclude from that?

24 MR. KANTOR: I'm just concerned that--you know,
25 I read the conclusions, and I agree almost totally.

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1 What concerns me, Dan, is just what you said.
2 Someone is going to pick this up. Someone is going to
3 read it, and they are going to come back and criticize
4 us and say, "Wait a minute. How did you reach that
5 conclusion because your numbers seem to indicate
6 differently?"

7 Then to explain that is a very difficult--I
8 think a difficult task, and that's all I'm saying.
9 I'm concerned about it.

10 MS. VOGT: Mickey, maybe on IV-51, what we
11 tried to do, I mean, to be very frank, that table that's
12 on IV-49 was put in because someone said you should at
13 least show that there are some private bar models that
14 would even attempt to do impact work. So, that's why
15 that's there. I don't care which way it goes.

16 IV-51 was was put in to show the range of
17 scores; not only just the average, which washes again
18 what's going on; but if you notice, the scores for the
19 individual projects ranged from 2500 to a minus two
20 meaning there was one project that the team of Judges
21 actually felt that there was a negative effect on the
22 community because of the work that was done.

23 So, what we tried to do is at least describe
24 in clear enough terms what the variation was, but also
25 just the presence of that kind of work.

1 If showing a separate table makes it seem more
2 important, that's another issue.

3 Judy just mentioned one thing. I really was
4 going to kind of hold to this report--this discussion;
5 but there are two important points related to what you
6 mentioned.

7 One is that what the attorneys who collected
8 the data looked for were things that you precisely
9 mentioned.

10 What were your problems in the community?
11 What strategy was used? Was it appropriate?

12 What was achieved reasonably or could they have
13 achieved more? How much credit belongs to the program?
14 Was it really just kind of a dynamic situation and the
15 community changed on its own?

16 They took into account those kinds of factors.

17 The second thing is in the research report
18 because we have these--whatever it is--395 impact work
19 statements written up in comparable fashions, we're
20 going to do some analysis of those to show either approaches
21 taken for specific types of problems; to show how the
22 scores were related to the strategies employed; some
23 analysis of the logic involved in the strategy used to
24 show if there was a faulty logic in the beginning and
25 what happened and so forth; but that's a researchy kind

1 of thing.

2 What we were trying to do here was just show the
3 bottom line and because this particular measure was much
4 more complex than the others, and complex is the right
5 term because there were many steps, we didn't know how
6 much to describe and that's why we broke its component
7 parts down.

8 So, I'm sure it seems very sterile for something
9 that is a very important part of the work of the Legal
10 Services programs; but again, we had to be able to
11 quantify this and not just use subjective judgments in
12 order to see if two people would agree to the same kinds
13 of results and the values of the results that they would
14 assign to those results.

15 MS. RODHAM: Anything further?

16 Howard?

17 MR. SACKS: Yes, I wanted to ask a couple of
18 questions about reporting dates.

19 I'm troubled about coming to a final decision
20 today or tomorrow about this report, because we're
21 missing two things.

22 Number one, we're missing the quality data;
23 and number two, we have not received from Professor
24 Schwartz on behalf of the ABA group anything more than
25 his statement about the methodology of the project, and

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1 as everybody knows who has read that, in some places
2 he was critical. In some places, he thought we had done
3 the right thing; but he's a formidable critic. I would
4 like to have the benefits of his substantive comments
5 about our conclusions, if it's at all feasible to get
6 them before we have to go to Congress because I don't
7 want to have anything go out to Congress on our letterhead
8 that we could tone down or qualify, if we had the
9 benefit of his comments.

10 So, that's one thing.

11 Now, as to the quality data, I am reluctant to
12 accept the statements made here today, not because I
13 doubt their validity or anybody's good faith; but until
14 the detailed work has been done, I don't want to sign
15 my name to any conclusion.

16 My experience has been with empirical research
17 that you don't shoot off your mouth until you've done all
18 the work.

19 Now, maybe I'm wrong here. Maybe the staff is
20 completely confident and will swear in blood that when they
21 finish the detailed work on a case approach, that it really
22 won't effect their conclusion that overall project models
23 don't differ in terms of quality; but I'd be happier if
24 we had done the work.

25 So, my question to you is must we submit the

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1 report immediately?

2 MR. BRADLEY: May I attempt to respond to that,
3 Howard, because I think both of those concerns are
4 concerns that a lot of people, I know, have asked me in
5 just the last few days.

6 One, unless something has changed, it is my
7 understanding from my last conversation with Professor
8 Schwartz. It's a chicken and egg proposition.

9 He doesn't plan to do the substantive analysis
10 of the report until this body completes it, and when you
11 get through with it and it's over and final and done with,
12 then he is going to do that kind of substantive analysis,
13 unless he's changed.

14 Number two, and I think for me especially is
15 a more critical question that you raised, and we talked
16 about it briefly is that I wish that this were not a
17 political year.

18 If you will recall, Congress mandated this
19 study and gave the Corporation two years in which to
20 complete it. We're now in our fifth year.

21 Our reauthorization bill is now pending before,
22 as Mary described this morning, we now have a favorable
23 bill. It's absolutely clear that the Oversight Committees
24 are hoping, expecting, requesting all of those things
25 that this Board act and act soon on whether or not you are

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1 going to make any recommendations to the Congress as to
2 whether or not this Board, based on the results of the DSS
3 Study; whether or not you are prepared at this time to
4 recommend statutory changes.

5 I'm talking about the political judgment in terms
6 of the leadership of our committees in Congress. That
7 issue has already been raised. The question has been
8 raised repeatedly.

9 Should we, the Congress, act on the reauthorization
10 of Legal Services Corporation before we get the benefit
11 and analysis of the DSS Study?

12 I suppose, in as simple a way as I can state it,
13 and Leona can correct me, I do not believe that if we
14 spend any amount of additional time on further debate,
15 analysis, say, of the quality impact measurement that the
16 proposed recommendations that are included in the transmittal
17 memo to Congress will change meaning six months from now
18 you will not go back to Congress and say, "Oh, we now
19 are going to recommend that there be substantive changes
20 in our legislation."

21 There's no question--I said in my appearances
22 before the Committees and in my meetings especially with
23 Mr. Kasteimeier dealing with all the staff that's in the
24 Senate Committee Report that they just report it out.

25 I wish that were not the case, but we have, in fact,

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1 represented to all those people on The Hill who constantly
2 ask, "What's going on?" that even the Board meeting was
3 delayed from the earlier date to this date, and I think
4 that there's a real possibility that I think we all need
5 to seriously think about; that if we don't communicate
6 something to the Congress about the results of our five
7 year, \$13 million effort, that I just don't know how our
8 friends and supporters on those Oversight Committees are
9 going to deal with that issue because it's already been
10 suggested, "Don't reauthorize the Corporation for three
11 years. Just reauthorize it for one year until they complete
12 the study where we can get the benefit."

13 My judgment is and based on our almost daily
14 discussions with Leona and the consultants and the DSS
15 Staff and the Senior Staff, is that I really do not believe
16 that the refinement of the quality factor is going to change
17 the recommended policy provisions that we've included in
18 the first five or six pages here.

19 I would have a very difficult time, I think,
20 going back next week to the Hill and explaining to the two
21 Oversight Committees that it may be another three or four
22 months before the Board is prepared to make statutory
23 recommendations to the Congress, and I limit that to a
24 narrow issue is whether or not, based on this study, based
25 on what we have done for the last five years, are we

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1 prepared today or anytime in the future to make any
2 substantive changes in our authorizing legislation. That
3 is a critical question that's now before this Board, and
4 you all will have to decide probably one way or the other.
5 Whatever you decide, we'll communicate to Congress.

6 My hope is that the proposed recommendations,
7 findings to the Congress and to the President that basically
8 say--that based on the study, we don't propose and we
9 don't recommend. In fact, we think the flexibility that's
10 there in the Act now is supported, in fact, by the
11 results of the study.

12 Yes, we may not have the final missing component
13 of the quality measurement. In fact, I'm sure that there
14 will be continued discussions and debates in the research
15 community and the legal community and especially in the
16 Legal Services communities because some of those members
17 are here today that are concerned not only about the
18 quality, but the impact and some of the other components.

19 I think that that kind of debate and that kind
20 of examination and that kind of policy evolution will
21 continue; but it comes down, in my judgment, to a very
22 simple question that's before us now.

23 That is, can we state from this body to the
24 Congress that yes, we do or no, we do not recommend
25 changes in our authorization that's pending in the next

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1 few weeks?

2 MR. SACKS: Well, if all that is wanted is a
3 statement from us as to whether we recommend any statutory
4 changes, I'm ready to take a position on that immediately.

5 If we can separate that statement from the
6 full-blown report, then I'd be very satisfied.

7 I'm reluctant to submit this detailed report
8 without doing the last piece of work because I don't want
9 to be embarrassed three months from now with a blast from
10 Schwartz or from some late revisions of the quality data
11 that would make us think that, gee, we wish we had written
12 that paragraph a little bit differently.

13 Is it possible to separate them and write them
14 a simple one page letter and say, "Based on our findings
15 and conclusions--

16 MS. RODHAM: \$14 million and five years, we
17 don't think you should change the statute.

18 MR. SACKS: The report will be coming forward,
19 but certainly we've seen or at least, I've seen enough
20 to persuade me that we don't need to change the statute.
21 If that's all they want now, there's nothing in here that
22 so far indicates that we need to change the statute.

23 Will that suffice?

24 MR. BRADLEY: I suppose there's always a
25 possibility it will suffice. I think that it would make the

1 credibility of our proponents and the three of four
2 individuals, especially in the House Judiciary Committee
3 that will be fighting this battle, because they are already
4 hearing those kinds of arguments right now.

5 The Corporation is either going to give us the
6 study, or they're not going to give us the study. They
7 are going to tell us what they've learned, or they're
8 not going to tell us what they've learned, and we want to
9 see what they've got thus far.

10 Some of them are just candidly saying, "We're
11 afraid that there are some things there that they don't
12 want us to see."

13 Responding to your question, Howard, I know and
14 I absolutely know because we've been talking about this
15 repeatedly on the Hill for the last six to eight weeks is
16 that it would help the Legal Services community, in my
17 judgment, based on what's going on in Congress today, if
18 we can give them something more than a one page, you know,
19 communication or concern or expression of the views.

20 Now, but, and that's something that Leona and
21 the staff that we debated. We talked about it extensively.

22 I share the concerns that you have about I wish
23 that I had all of the information that you know that
24 ultimately we will have, in terms of analysis of the quality
25 but the bottom line is and what I repeatedly asked this

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1 question of our staff when we talked about it is that the
2 bottom line is will the conclusions of their quality
3 impact factor, will that effect the recommendations that
4 we make to Congress; and we believe they will not.

5 I think, Howard, that we could, in terms of
6 depending how on how strongly we feel about it, that we
7 could even make the statements to the Congress--I'm not
8 suggesting that we do this. I'm just trying to deal with
9 your concerns; that we just clarify in this document
10 that you have before you that we have not yet--meaning
11 the Board, has not yet reviewed the final information
12 on the quality measurement, and the Committee, if you
13 want to delegate it to your Provisions Committee or the
14 next Board meeting, you'll review that; but right now,
15 based on what we've got today, we can emphatically say
16 that.

17 What we have today shows that the quality
18 measurement is not determinative of the models, and I
19 think that we can probably state it in such a way to sort
20 of not so much hedge our bets, but to be honest with
21 the concerns that some of the people in the research
22 community and some of the people in the Legal Services
23 community have, but at the same time, I think accomplish
24 a very, very important political objective, and I don't
25 think we can lose sight, you know, of the later.

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1 MR. SACKS: I'm persuaded.

2 MS. VOGT: I would like to make one comment,
3 however. I do think that there is more definitive
4 information, Dan, than what you've said in the sense that
5 further analysis would not change the conclusion that
6 on average there is a difference in quality in the model.
7 It is not going to change.

8 In fact, they are so close, model by model, that
9 there's no way it's going to pop out. That's the first
10 thing.

11 Second, there will not be a dramatic change
12 because of that that will say that there is no model that
13 will be unacceptable.

14 In other words, they are acceptable--all of them.
15 All of them appear to be able to handle at least one
16 case type.

17 It's only the case type and that information that
18 would be refined. So that we do have information about
19 models; that it, apparently, is not the factor that makes
20 a difference in the average project score on quality.

21 MR. ORTIQUE: That bothers me. It really does.
22 I'm so afraid that if we make statements like that, that
23 we are just inviting more attacks than we are fending off.

24 Now, it seems to me first of all, we've got to
25 appreciate that no matter what we send to Congress, it's

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1 going to be attached by somebody, and we can't help that.
2 There is nothing we're going to be able to do to eliminate
3 the various attacks.

4 I think we ought to go ahead and as best we can
5 state the position that the quality impact studies would
6 indicate, one, two, three, four, five.

7 I do believe that we've got to have some
8 subjective observations about that. We're kidding ourselves.

9 The moment that you say that all of the models
10 do thus and so, you're in trouble. I'll never forget how
11 many times our former Board member from Tennessee pointed
12 out that the Corporation was purposely cementing staff
13 models to the point that it would be impossible to do
14 anything about it.

15 I'm sure that Congress people have those same
16 realizations, and I don't think that we were purposely
17 doing anything. I think to serve well the high quality
18 service for our client, we recognize that there are certain
19 bottom line representations and we went ahead and did that.
20 I don't think we have to apologize for that. I think we've
21 got to state that emphatically and be ready to take the
22 flack that's certain to come, and it's going to come.

23 I just would feel ashamed really--it's a stronger
24 word, I think, than embarrassment, to have sat here these
25 five years from the inception knowing this is what Congress

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1 has asked for, and I've heard figures from \$10 million
2 to \$14 million and spent all of this money and then
3 postpone this.

4 I'm ready to say go with it and say we know
5 there's going to be criticism. We understand that, and
6 we're ready to change. We're open to change, but at this
7 moment, these are our recommendations to Congress and
8 we are prepared to defend them in a more subjective way.

9 Even if we have to promise Congress that we're
10 going to send these additional reports which, I think,
11 we anticipated some years ago, that we would be implementing
12 this annually or every two years or so in coming back to
13 Congress.

14 I would prefer, as I say, it's more than
15 embarrassment to me, if we postpone this any longer; but
16 again, to say that pro bono, for example, can produce the
17 same quality services that staff produces, I just don't
18 believe that. I'm not going to buy that, and I would hate
19 to be in your shoes to defend that position because I
20 don't think it can be defended.

21 MS. RODHAM: Well, either we have a study or
22 we don't have. I don't see how we can rewrite it to
23 include all sorts of subjective opinions that are not
24 based on anything except our own anecdotal or experiential
25 information. You just can't do that.

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1 Judy?

2 MS. RIGGS: My role in all of this is the non-
3 research, the non-objective person.

4 For those who were at the Provisions Committee
5 meeting, you recall that in Chapter I originally, we had
6 attempted to do two things.

7 We had attempted to report there the major
8 findings and conclusions, which to some extent was an
9 objective thing; and then to try to say what the Corporation
10 thought about it.

11 Everybody thought that it was mixing apples
12 and oranges, and that it was really important for the
13 Corporation to figure out what it wanted to say about this;
14 to attach its values to it; and to make that kind of
15 statement separate from the report itself.

16 That's why you have before you now something
17 called a Transmittal Statement, which is separate from the
18 report itself, which does attempt to do that.

19 It was our thought that we should talk about
20 that after we had finished talking about the objective
21 things, but it was an effort to, at least,--at the Provisions
22 Committee meeting and certainly at the staff level, it
23 seemed the place to put those comments of values that
24 people here are beginning to talk about, I guess.

25 MS. RODHAM: I think it's an appropriate division.

1 Steve?

2 MR. ENGELBERG: Going back to impact a second,
3 because I think that's part of what you're concerned.
4 It seems to me that maybe part of it is just some
5 inconsistent wording.

6 For example, in the conclusion section--

7 MS. RODHAM: What page are you referring to?

8 MR. ENGELBERG: We're looking at I-7, sub-
9 paragraph f.

10 The conclusion, as I read it, seems to say
11 that on impact it doesn't seem to make any difference,
12 right? Sub-paragraph f says that fairly clearly.

13 MS. RODHAM: It doesn't make a difference?

14 MS. RIGGS: It does make a difference.

15 MR. ENGELBERG: No, no, I'm sorry, but it lumps
16 in staff with--it says going back to the earlier
17 discussion that Revius made, it seems to say as to impact,
18 it makes no difference whether pro bono, judicare/staff
19 or staff, right?

20 MS. RODHAM: Right.

21 MR. ENGELBERG: And yet, as I understood the
22 previous discussion, some of the data that was contained
23 on page--and maybe I don't understand the statistical
24 data.

25 On IV-50, there seems to be a pretty clear

1 statement that staff attorney models had done better on
2 impact--I thought that's what you were saying.

3 MS. VOGT: There are two pieces. One is just the
4 raw score that was given to the work done by an individual
5 project by this person called an impact judge.

6 Second, because of the fact that there were
7 very large programs and small programs, I mean, you had
8 60 attorneys and two attorney programs.

9 What we tried to do was to normalize that work
10 and we came up with what we thought was the best available
11 measure to do that, and that's when if you look at the
12 overall project scores, we divided the total project
13 rating by \$10,000 of their budget over the period that
14 we were observing--over the data collection period, which
15 was two years.

16 So, that's why you see very large scores for the
17 staff attorney programs because there were some in there
18 like the one that has that very large score of 2597.
19 That was a very large staff attorney program.

20 So, it's neutralized somehow by factoring in
21 their budget.

22 MR. ENGELBERG: Well, maybe I'm confused.

23 I thought you were saying earlier indeed the
24 data tended to support the notion that staff attorney
25 programs did better on impact.

1 Did I misunderstand you?

2 MS. VOGT: Programs--any programs with staff.

3 MR. ENGELBERG: Any programs with staff?

4 MS. VOGT: Right.

5 MR. ENGELBERG: Oh, I see.

6 MS. VOGT: If you look at page IV-54, Table 20,
7 it shows the type of attorney who actually did the impact
8 work.

9 Look at the model by model breakdown, staff
10 seem to be doing it; either alone or in conjunction with
11 members of the panel.

12 If you look at all the impact work units,
13 37% of them are handled exclusively by staff.

14 MR. ENGELBERG: Then I still think that f should
15 be restated. This is not going to cure Revius'--but I
16 think that is somewhat misleading.

17 In other words, I think f has to relate clear--
18 as I understand what you're saying is, the key on impact
19 the key element is staff component.

20 What you're saying is the data tends to show
21 that pro bono with a staff component, judicare with a
22 staff component, contract with a staff component as well
23 as the staff attorney program, according to your data,
24 all do about the same on impact, as opposed to judicare,
25 or straight judicare, et cetera, right?

1 MS. VOGT: Right.

2 MR. ENGELBERG: I think that should be noted.
3 The staff component aspect has to be made clear, and it's
4 not clear in f. It doesn't say.

5 MS. RIGGS: It is in g, Steve, but maybe it
6 needs to be made more clear.

7 MR. ENGELBERG: You're right.

8 MR. KANTOR: But it's not clear.

9 MR. ENGELBERG: That's doesn't solve Revius'
10 problem, but at least it somewhat alleviate's it.

11 MS. RODHAM: Bob?

12 MR. KUTAK: Madam Chairman, I think we might
13 be wrestling with two different, and in this case,
14 separate questions, and let me see if I can, at least,
15 keep them apart.

16 One thing I've heard is that we're being asked
17 by Mr. Kastemeier for our opinion about a piece of
18 legislation that's now pending before the Congress.

19 The other is that we are being asked by each
20 other, frankly, for our position on a comprehensive study.
21 I really think the two are different.

22 I think that nothing--the conclusion that has
23 been suggested here that nothing in the study suggests a
24 change in the Legal Service Corporation Act should carry
25 with it the superb clause that I think was added at this

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1 time because very frankly, I'd go further to say that
2 even if the study did suggest changes in the Legal Services
3 Corporation Act, I wouldn't recommend it at this time
4 because, very frankly, clearly at this time the Congress
5 doesn't have the opportunity to deliberate it.

6 This is the second quarter of the second session,
7 and frankly by my count, there is only about 75 more days
8 left.

9 If we came up with a series of amendments, I
10 am confident that they would be deferred to a later time.

11 Even if the study did suggest changes in the
12 Legal Services Corporation Act, I wouldn't recommend it
13 for a second reason because we don't have time to explore
14 all of their implications precisely because this is very
15 comprehensive study and certainly a very complex study,
16 and may I suggest a very cogent study

17 Precisely for those reasons, we need a lot of
18 reaction from the field, which we haven't yet got. We
19 need a lot of reaction from the client community, which
20 I think we haven't entirely got. We need a lot of
21 reaction from the Corporation, which we haven't entirely
22 got.

23 The clock is running with respect to the
24 legislation that's pending in the Congress.

25 I think because we need to send whatever we do

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1 send up there to be something simply sufficient to assure
2 the Congress right now when they're considering an
3 authorization bill or reauthorization bill, that nothing
4 in the study has so jumped out at us, nothing in the study
5 has so jarred us, nothing in the study has so shook us
6 or the constituency whom we represent that we should
7 press forward with some radical revision to the Act.

8 We ought to say at this time so that it is done
9 with deliberateness and is done with the kind of calmness
10 that the Congress does expect out of us after four years
11 of effort and considerable amount of monies; that we
12 prepare some sort of a conclusion, and indeed some sort
13 of supporting statement that does not try to defend the
14 report because it is yet to be completely studied; but
15 to support us in making a conclusion that they need to
16 know whether or not they should change anything in the Act
17 at this time, as they are going through the reauthorization
18 process, doesn't exist.

19 So, I would urge, Madam Chairman, what we do
20 is press forward with all deliberate speed in not only
21 completing the study, but in translating it in such
22 workable terms so that even the constituency that really
23 needs it--those programs out there will have the way
24 to thread themselves through it and draw out quickly and
25 conveniently and appropriately the wisdom and the learning

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1 from it; but all that be done without the pressure of
2 having to hurry up and get something done for Mr.
3 Kastemeier, which he's entitled to have from us, and we
4 need to give it.

5 MS. RODHAM: Let me ask a specific question
6 in line of your comments.

7 Is the transmittal letter that's been prepared
8 fit into the theme to fulfill the obligations?

9 MR. KUTAK: Not quite a transmittal letter
10 because the transmittal letter was written, of course,
11 in contemplation of transmitting a summary of the report;
12 but I think the essence is there.

13 MR. ENGELBERG: Are you taking the position that
14 the report should not be sent now?

15 MR. KUTAK: That's right.

16 MR. ENGELBERG: Not be sent?

17 MR. KUTAK: Not be sent because I don't think
18 it is complete, and as Howard has said, how can we send
19 a report that is yet not in its entirety finished; but
20 at least we can eliminate from what we have in the
21 report any concerns of the Congress about whether or not
22 we want to make any changes in the legislation.

23 MR. SACKS: I tried that idea on Dan, and Dan
24 rejected it.

25 MR. ENGELBERG: Dan, why do you think that's a

1 problem? Because it looks as if we can't finish the
2 report?

3 I mean, Kastemeier, as I understand it, wants--
4 has a pragmatic question; that is, are we going to base
5 on this report--your concern is that if we send a letter
6 up without all the supporting documentation, then it's
7 going to look like we superficially arrived at that
8 judgment?

9 MR. BRADLEY: Well, I think that's just a small
10 part of it, and I'm sorry that I reduced it to such a
11 simplicity issue in terms of all he wants is just a
12 piece of paper from us saying go forward with the action,
13 Mr. Chairman, and we're not recommending anything; but we're
14 still doing the work on the study.

15 I'm sorry if I left that impression, Bob.

16 I really think that the only way that Mr.
17 Kastemeir will feel comfortable with the report is to have
18 something much more than what you are suggesting.

19 I take exception. Maybe we haven't processed
20 in terms of this particular draft. You know, the DSS Study,
21 as you know better than any of us, has been going on
22 since the day you arrived on this Board, and we have had,
23 I think, extensive reviews and discussions with a very,
24 very large portion of the Legal Services community.

25 My frustration, and it really is that, Bob,

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1 is just a frustration. I don't think that if we
2 schedule this item on the next three or four or five
3 Board meeting agendas that we're going to come out much
4 differently than where we are today.

5 MS. RODHAM: Steve?

6 MR. ENGELBERG: As I understand it, obviously
7 what you're saying is we have to sort of--if we approve
8 the report today so you could go ahead and transmit it,
9 the quality part would have to be filled in and we would
10 have some kind of quick review mechanism by the committee
11 just to get their okay; but essentially unless the--I
12 assume that's what you're--unless the committee had some
13 major problem, it would go.

14 If the committee thought it was a big problem,
15 they would have to do something, is that right?

16 Procedurally, nobody knows anything about this
17 stuff. Procedurally, it makes us look pretty stupid to
18 approve a report where a section is missing.

19 I assume we all agree there has to be some
20 clearance mechanism when the thing is complete, right?

21 MR. BRADLEY: On that point, you're absolutely
22 right.

23 MR. ENGELBERG: We're left then with the problem,
24 to sort of put it in layman's language--

25 MR. KANTOR: You've now offended half of the

1 people. Why don't you offend everyone else?

2 MR. ENGELBERG: The concern seems to be by
3 Revius that if the data presented in such a way would
4 sort of prejudice us against--could lead to problems in
5 terms of continued funding or massive funding of the staff
6 attorney model, right?

7 MR. ORTIQUE: Right.

8 MR. ELGELBERG: It seems to me there may be a
9 way around that, which would be basically to go ahead
10 and submit the report, and secondly, there has to be a
11 letter written, which we all understand the statutory--
12 you don't need any statutory changes. We can fund
13 anything we want under the existing statutes, correct?
14 So, certainly this report dictates no statutory change.
15 That's easy as long as we have the report.

16 Revius, to deal with your problem, it seems
17 to me we could try to say in there in a way that says
18 basically the remaining decisions about future allocation
19 are ones we have to continue to study. The data, we think,
20 while it suggests certain things has got to be looked at
21 again. We've got to digest it. We could then talk about
22 why, you know, the funding--I think the important thing
23 is we shouldn't be defensive about that, and we're not
24 apologizing. This is a historical pattern, but by the same
25 token, we're not going to be stuck in the mud.

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1 We realize the need to experiment, you know. This
2 report gives us a lot of data, et cetera.

3 It other words, separate it out to make clear
4 that there are a lot of future policies by this Corporation
5 in no way to indicate that we're going to suddenly abandon
6 the staff attorney model, and indeed, I don't think the
7 study suggests that we should abandon it.

8 MR. SACKS: It's in there.

9 MR. ENGELBERG: What I'm saying is that if we
10 put it in the form of a letter--

11 MR. SACKS: It's in the letter on page 9. Read
12 it.

13 MR. ENGELBERG: Where is it, Howard?

14 MR. SACKS: The last paragraph on page 8. Read
15 the two paragraphs under Corporation Policy. What it
16 says, is just what you said in a little more detail.

17 MR. ENGELBERG: It doesn't quite say that.

18 My understanding what Revius' concern is that
19 critics of the staff attorney model can say, "We don't
20 care what these two paragraphs say. Your own data
21 contradicts this."

22 I'm dealing with the data problem now, and I
23 think we need a couple of paragraphs without saying
24 we're just not ignoring the data. I don't know quite how
25 you can express it, but I think what Revius is saying is

1 that people who read this report can come back and say,
2 "Your own data suggests that these two paragraphs are
3 wrong."

4 MR. SACKS: Then they haven't read the data.

5 MS. RODHAM: Judy, do you want to respond?

6 MS. RIGGS: At the Provisions Committee meeting,
7 there was a strong concern, I think, on the part of many
8 of the members of the Board that were there that as
9 Chapter I was originally drafted, it was too wishy-washy
10 and the Corporation wasn't saying anything.

11 The transmittal statement is an effort to try
12 and incorporate the kinds of expressions of values in
13 policy that were being articulated at that point.

14 At that time, we talked about the fact that it
15 seemed to us that the important thing to try and communicate
16 out of this was that we had done a lot of serious work
17 here. It's done. It's over at the level of the national
18 policy debate about mandating a single approach to
19 delivery of legal services to the poor; that we did a lot
20 of work, but it showed, at least in some circumstances,
21 there are a variety of approaches that can work to
22 deliver services to the poor; that we ought to stop
23 fighting with each other at a national level about which
24 works best and direct our energies instead at developing
25 local systems that make sense; that there was nothing

1 in the report that showed that anything was more effective
2 than the staff attorney model, and that we certainly
3 would do nothing to move away from the staff attorney
4 model; but the program itself was a continuing evolving
5 kind of thing; that even within the staff attorney approach
6 was very different in different communities and that's
7 the kind of way we had to look at this program and look
8 at the results of the data.

9 Now, obviously, it isn't expressed as well as a
10 lot of people of the Board here want to hear it expressed.

11 MR. ORTIQUE: You just expressed it beautifully.
12 That is not as clear in this language as you just expressed
13 it. You just indicated it perfectly.

14 MR. BRADLEY: If I could respond to your
15 concerns and the concerns that Bob had, I think a practical
16 resolution to get back to the direction which the Board
17 wants to go is two things.

18 One, I think it would be wise for this Board to
19 approve, in essence, this report; and I can so communicate
20 that in a letter or Hillary can to the two chairmans
21 of the Oversight Committees early next week and say that
22 the Board has acted, and we're now in the process of
23 making editorial and typing changes and reproduction
24 changes. We're going to very shortly have for you--the
25 members of the Provisions Committee--that missing piece

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1 that Howard is concerned about and that you're concerned
2 about, and you will, if you want to--the entire Board--
3 will see that before the final thing is printed and
4 bound and physically, you know, delivered. We're talking
5 about probably another couple of weeks.

6 We won't be on the floor of either body before
7 mid or late May, and we're talking basically a few more
8 weeks to give you a change, Howard--especially Howard
9 because Howard has spent a lot of time over and beyond and
10 above his duties as a Board member spending some time
11 with our staff reviewing this, probably more thoroughly,
12 more closely than most of our staff has, and we appreciate
13 that, and we would try to get that additional information
14 to all of you to make sure that you are comfortable with
15 what we say before we integrate it into this missing part
16 of the transmittal and the document itself.

17 That presupposes that the Board is comfortable
18 with basically approving Chapters I, II, III and IV; and
19 if you feel comfortable with what we tried to articulate--
20 the further refinements in Judy's transmittal letter, and
21 with the policy recommendations you're making to Congress.

22 We would not release that report until this
23 committee, Hillary, and the rest of the Board have a chance
24 to see what we say about the quality measure that's
25 missing.

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1 I think we can accomplish all of those
2 purposes over the period of the next couple or three weeks.

3 MS. RODHAM: Mickey?

4 MR. KANTOR: Just very quickly. Table 19 on
5 page 51 indicates a couple of things very clearly without
6 a doubt, which as Steve pointed out in f on page I-7 is
7 contradictive.

8 It's clear in the staff attorney model as
9 compared to judicare with staff, as compared with contract
10 is clearly better; anywhere from 17% to .25% better,
11 whichever measure you use going across the table.

12 Yet, we say on page I-7 that pro bono, judicare
13 with staff components and contracts scored as well as the
14 staff attorney model. It's just not true or the table
15 is wrong; one or the other. We can't do that. It's either
16 right or it's wrong.

17 MS. VOGT: You're looking at the impact scores,
18 the middle column?

19 MR. KANTOR: Yes. I'm looking all across.

20 Take judicare with staff versus staff attorney,
21 project impact score per \$10,000 budget.

22 At the average, the staff attorney is 17%. At
23 the highest, 40% higher.

24 Project Impact Score, Average, 1000% higher.
25 More than 1000% at the Highest. The Lowest is some

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1 astronomical percentage higher. I mean, it's just not
2 even a close question.

3 How can you say on one hand, you have a table
4 that shows staff attorney model is consistently higher
5 than these two?

6 Yet, you say back on I-7, there's no difference.
7 Well, of course, there is. There's a huge difference.

8 I haven't talked about pro bono. Pro bono in
9 only one measure is even the same or better, and the
10 other two measures, it is significantly less, as well,
11 than staff attorney programs.

12 In other words, I understand what you're saying
13 on page 4 and 5, which Howard points out quite correctly.
14 I would change a little of the language that the staff
15 attorney component--not is, I think, one critical. It
16 is the critical factor; not one critical. I don't know
17 what your other critical factors would be. You didn't
18 list them.

19 So, the critical factor in impact because that's
20 all you studied; but it's clear you can't say on I-7
21 they are the same when they are not the same.

22 MS. VOGT: A couple of quick comments.

23 One is, the easiest one first, it is only one
24 because there are a lot others. We only identify one here
25 in the analysis that we did.

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1 In other words, there is more work that we could
2 look at that we could say the impact score could be
3 predicted by the type of impact work attempted; but if
4 you work in government benefits, you're likely to get a
5 higher score than if you work in a civil rights area or
6 something like that.

7 So, it's one in the presentation. We only show
8 one, but there are a lot of other things--

9 MR. KANTOR: You're saying the other factual
10 situations show different than this?

11 MS. VOGT: That there could be others that we
12 never--

13 MR. KANTOR: But wait. That's not what I'm
14 asking.

15 Did you have any other data, other than what's
16 shown here, which would indicate at least the three models
17 I'm talking about are roughly equal; and if you did, why
18 aren't they in here to support your conclusion; and
19 if they're not, you know, I don't understand.

20 MS. VOGT: The point that you mentioned, which
21 is one of the factors, deals with the staff--who did the
22 work.

23 What I'm saying is that is a major component in
24 delivery of services. What kind of attorney you have
25 doing the work.

1 So, that is one of the factors. It also could
2 be the experience of the attorneys.

3 MR. KANTOR: I understand all that.

4 MS. VOGT: Now, back to the question on the model.
5 We show here three different displays of
6 results of impact work. Essentially, what we said in this
7 report, and because there is some value in this, this is
8 something the Board should really look at; that the one
9 measure is the one that is the project impact score per
10 \$10,000 budget.

11 So, if you use just that one, we did not show
12 the statistical significance results; but the difference
13 between 14, 11--well, 21, 14, 11 and 8, if you go even down
14 as far as the 8, there is no statistically significant
15 difference in the data by just looking at that.

16 When you look at the other measures, there would
17 be a difference, but that's because we did not factor in
18 the budget--the amount of money that supported that work
19 with column two.

20 In other words, the raw score was the amount of
21 work they did, which is really no statement about the
22 quality of the work done.

23 So, that's the explanation. We say there's only
24 one anyway in this report result that we were looking at
25 to cross all models types, and that is the impact score

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1 per \$10,000 worth of budget.

2 So, what we are implying here is if you only
3 look at the scores that the individual projects got--

4 MR. KANTOR: That's only one measure of impact
5 or quality. You could have used a measure as to return
6 to client.

7 In other words, impact return and you didn't,
8 but you could have.

9 What I'm saying is not only I think that is maybe
10 not as relevant as units of impact work for project, I'm
11 just saying on my own, I think I would not value project
12 impact score per \$10,000 budget very high here because
13 you've already said in terms of cost that it appears that
14 there is very little difference in these models.

15 We're talking about impact here; not impact
16 per million dollars or thousand dollars or whatever.

17 Now, if you want to talk about money returned
18 to the client community and so on, that may be even a
19 more relevant measure than what you have here; but it's
20 clear, no matter how we couch it, that on one hand you
21 can't say they are roughly equal, if they are not roughly
22 equal. Either they are or they aren't.

23 What you've done here is you've put in this
24 chart, which seems to support, except on one measure--one
25 of the three measures on one of the four types of projects

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1 you refer to that they are roughly equal.

2 On all of the rest, there is a substantial
3 difference between the staff attorney model and the rest--
4 substantial in this measure--in the impact measure. That's
5 what the chart says purely and simply.

6 That's why I'm saying although your transmittal,
7 I guess this is, indicates that fairly clearly, it is
8 inconsistent, as Steve points out, on I-7, sub-section 2f
9 with what you say there, and it seems to me we should be--
10 try to be as internally consistent as possible, and I
11 don't think we are being in this now.

12 I'm not criticizing. I'm just saying when I
13 read this and look at this, I draw one conclusion that
14 seems to be supported by the fact and also supported by
15 what my experience tells me, and yet, the conclusions
16 don't seem to come up with that.

17 MS. RODHAM: Howard?

18 MR. SACKS: I think if we had a little more
19 textual explanation in Chapter IV and we indicated in a
20 footnote to Table 19 that these differences, which are
21 apparent, are not real because they are not statistically
22 significant; that this inconsistency between I-7 and IV-51
23 would be ironed out.

24 MS. RODHAM: As there is with all of these
25 issues, one other side, and if you look at the long letter

1 from the Boston Pro Bono Project at the end in your
2 Appendix, they make the point that they think it's more
3 than fair that the \$10,000 standard is used, and that
4 that's a very significant standard because pro bono
5 projects that were being judged on impact were, of course,
6 under, what they consider to be, the disadvantage of
7 having to start up their projects, they are newer, younger;
8 but they believe they were doing very significant impact
9 work; that, in fact, they should be given more credit,
10 if you want to read between the lines, than the staff
11 attorney model because of those disadvantages they labored
12 under.

13 You know, I think, you know, we can massage this
14 data and play with it; but I think, you know, we can
15 explain it as much as possible, but I don't want to get
16 in the position of this Board taking what we--what I
17 consider to be the flip side of the anticipated negative
18 reaction by becoming so defensive that we're trying to
19 explain away any possible statistic or narrative that
20 might reflect in any way poorly on staff attorneys.

21 I think that's a very bad position for us.

22 MR. ENGELBERG: Can I ask a question of Leona
23 because I really don't understand this.

24 Does your data suggest, in terms of ranking,
25 that the two programs on impact that would be best would

1 be the pure staff attorney program and a pro bono/staff
2 component? I mean, that they clearly are better.
3 I mean, looking at this chart over here, they are clearly
4 better than judicare with staff and contract?

5 Is that a valid reading of those numbers or is
6 that statistically insignificant?

7 MS. VOGT: To state it the way you stated it,
8 it is the correct ranking. They would not on their own
9 stand out as being different in statistical terms from
10 the judicare with staff and the contract.

11 I'm again using that impact score per \$10,000
12 budget.

13 MR. ENGELBERG: That's where I was looking.

14 You're saying that those numbers, the 21, 14, 11,
15 8 aren't significant?

16 MS. VOGT: They are significantly different
17 from the rest of them, but I don't have the statistics.
18 I'm sorry.

19 The pro bono and the staff attorney model are
20 not statistically significant. There's not a difference,
21 I'm sorry, between those two and the judicare with staff
22 and the contract models.

23 MS. RODHAM: The more interesting question is
24 "So what?"

25 I mean, there's no information, as Mickey has

1 pointed out, about what kind of impact work is done, to
2 who, for what, over what period of time, with what kind of
3 return.

4 I mean, I think that's one of the--I think we
5 have to have all the way running through this report that
6 sort of question, as what really can you tell by this
7 kind of statistical presentation and display.

8 So, you can say what models are more significant
9 in the number of impact work they undertook in a limited
10 period of time under experimental conditions. I think
11 we could draw the data as narrowly as it should be drawn.
12 I'm not sure it says very much, but I think that's a fair
13 way of going at it.

14 MR. SACKS: Maybe you and I are not reading
15 the data the same way.

16 My understanding is that these scores, which
17 you report in Table 19, measure not only the number of
18 impact cases handled; but the quality of the work done
19 through this elaborate review process that you went
20 through and that you described.

21 So, this purports to be a judgment by outside
22 evaluators as, not only as to how much impact work was
23 done; but something about the beneficial results of the
24 impact work.

25 So, if I'm correct, then this is in there.

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1 MS. RODHAM: My only point, Howard, even that
2 process, in my opinion, is limited by the very fact of
3 what this whole effort was--an experiment.

4 I think you can't remove that.

5 I'd like to hear the Board member's comments
6 before we go to the audience. Howard?

7 MR. SACKS: I have some detailed comments on
8 the material, but I'd like to reserve those until I see--
9 do we have a consensus as to what we're going to do?

10 Are we going to, assuming that we agree with
11 this, approve the transmittal letter and the report to
12 be sent to Congress, subject to somebody giving the
13 Provisions Committee the details on the quality data and
14 have those checked before the document goes out on the
15 Hill?

16 Indeed, I'll make that in the form of a motion
17 and test the ground because if we're not going to do that,
18 then there's no point in my going forward with any
19 detailed comments.

20 MS. RODHAM: Cecelia?

21 MS. ESQUER: I think I'd like to hear some
22 comments from the audience before I would be ready to
23 vote on Howard's motion.

24 MS. RODHAM: Bruce?

25 MR. SACKS: I withdraw the motion. That's a

1 good idea.

2 MS. RODHAM: Bruce?

3 MR. MORRISON: Some of you have heard some of
4 this before at the Provisions Committee meeting, and I
5 must confess that the discussion that's been going on for
6 the last hour or so has been getting me angrier and
7 angrier about the way we're proceeding ahead to have a
8 report.

9 Let me start by telling you what I think you
10 ought to do, and then tell you why, and tell you a little
11 bit and try to respond to what I hear members of the
12 Board trying to do and their not getting quite to that
13 point, but the fact that they probably could get to that
14 point, if the discussion were extended a little bit and
15 we looked a little closer.

16 First, I said at the Provisions Committee
17 meeting that I thought that if you pressed this data
18 a little bit more, and were a little more careful about
19 the analysis, this sort of everything washes out and
20 everything is the same would start to go away, and you
21 would start to be able to say some significant things.

22 Not very much of that additional work has
23 happened from that meeting until now, but the one piece
24 that was suggested at that time that did go on was to
25 look at who was it that was doing the impact work in the

1 different models, and we did find something out. I
2 don't want to overstate the conclusion because even there,
3 we can get into a debate about exactly how big the numbers
4 are; but we did find out that a very significant portion
5 of the impact work that was being attributed to private
6 bar models was being done by staff attorneys.

7 Now, that's significant, I think, and that wasn't
8 in the report that we had at Denver, and it's in the report
9 now, and it's not the only example of the kind of facts
10 that are buried in the data that can be learned.

11 There's a political problem. Dan has stated the
12 political problem. I concede that I don't have a different
13 answer because I don't know enough to know what the impact
14 of sending what kind of a document up at what time.

15 We apparently have a problem caused by years of
16 delay, perhaps, that we're now being demanded to have an
17 answer; and we need a report.

18 I don't think anybody is going to debate the
19 conclusion that you don't need to change the Legal Services
20 Corporation Act because of the Delivery Systems Study.
21 I think Bob Kutak probably put that point best in the way
22 he said it a little earlier, and I think you can reach that
23 conclusion.

24 You can reach that today, and you can communicate
25 it on Monday to the Congress, it seems to me.

1 The question is what do you send with it?

2 There seems to be three possibilities. You
3 send just the one page letter that says that. You send a
4 somewhat more complete document; for instance, a re-edited
5 transmittal statement. It wouldn't be called a transmittal
6 statement, but would have that content, which I think is
7 pretty good content and pretty strong in saying the things
8 that I hear the Board saying.

9 Third, you try to send up the whole report.
10 You can't send up the whole report on Monday. Maybe you
11 can send up the whole report in a week, or two weeks, or
12 maybe three weeks--whatever it takes and maybe what goes
13 up will depend on exactly when you decide you have to have
14 the document there.

15 Dan is saying you got to do number three, I guess.
16 At bottom, I guess that's a political judgment. I think
17 it's a mistake to do number three. I think you should do
18 number one or number two; probably number two is the one
19 you'd opt for as a compromise among those.

20 There is a real danger in sending up this report
21 without trying to firm up some of these things that
22 support the instincts that you're hearing expressed at the
23 table about what is and isn't really going on and what
24 really does and doesn't go on in terms of delivery of
25 service.

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1 Having said that much and having said that
2 where I think you should come out is not to send the full
3 report up; but to work a little bit more on the full
4 report. Not for six months, not for five months, four
5 months; but for one month or six weeks more and to send
6 up in the interim your conclusion on the question of
7 whether or not the Act needs to be changed.

8 Just to talk a little bit about the impact item
9 and the point that Mickey was making and trying to make
10 about what these charts do.

11 Leona will concede, if asked directly, I
12 believe, that the choice of using the \$10,000 item to
13 so-call normalize these results was a choice made, first
14 of all, not by the working group that had originally
15 tried to put together the impact measure and what it
16 meant; but by the contractor and the staff because of
17 the pressures of time.

18 That choice has a significant impact, pardon
19 the pun on what the pro bono projects score, and I'll
20 tell you why that is true.

21 The pro bono projects do not pay for the time
22 of the attorneys, and if what you are trying to do by
23 that normalization is to measure the rate of impact; that
24 is, given the size of the project, how much does it do?
25 What's the rate of impact? The proportion of impact that

1 it produces.

2 The reasonable measure of that is the amount of
3 attorney time, or attorney and paralegal time--however
4 you want to measure it that is available.

5 For most of the models, dollars measures that
6 fairly adequately because you're paying for the attorney
7 time.

8 Applying that measure to pro bono, doesn't
9 work because what you're paying for is the staff and
10 administrative time and not the time that the attorneys
11 are spending.

12 The result of that is that by using the \$10,000
13 measure, you inflat the score of pro bono.

14 Now, there are arguments why the pro bono was
15 at a disadvantage and all of that; but that doesn't
16 speak to the fact that just empirically and looking at
17 that question, you're artificially inflating the rate of
18 impact by pro bono.

19 What you are measuring by that division of
20 \$10,000 is something you might call cost of impact, but
21 that also has a flaw, and the flaw that it has is that it
22 is unlikely that by doubling the budget of a pro bono
23 project, because the money goes mostly to administration,
24 you'd be likely to double the amount of impact because
25 you're not doubling the available attorney hours.

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1 Now, perhaps that going over it and saying it
2 the way I just said it, people might disagree or agree
3 on what I've just said, and it's complicated perhaps; but
4 the choice that's there is not the only choice that could
5 be made.

6 In fact, with a little bit more work, the rate
7 of impact, as I've suggested, the amount of available
8 attorney time could also be displayed.

9 Another effect of doing what was done, I think,
10 is that you have a statistically significant difference
11 in scores which was washed out by dividing by a large
12 number so that you no longer have a statistically
13 significant difference among the scores.

14 That also seems to be a problem, and it was a
15 problem that Mickey was getting at.

16 I think that the report itself--the underlying
17 report in that area, for instance, can be worked through
18 and pressed and get a better conclusion. That is a
19 conclusion that gets more out of the data that is there;
20 not manipulating the data; not changing the data; but
21 not just sort of washing over the data in a rush to get a
22 report out.

23 The same thing is true of the quality. What's
24 been said about quality is that we know that if you
25 average to the project level--excuse me, to the model

1 type level, that we don't find a statistically significant
2 difference; but there are indications that if we look
3 at it by comparing case types, which may be important,
4 depending on what those case type differences are, there
5 may be a difference.

6 The only reason we're not going to report that
7 is not because it isn't there, but because we want to
8 send a report in a few days earlier. I think that's a
9 mistake because that may be an important piece of data
10 that you'll never have an opportunity to make the same
11 point with at a later time.

12 The same may also be true in costs per case type,
13 and the correlation between cost per case type and quality
14 per case type.

15 Basically, you have to strike a balance between
16 the political risks of not sending the report up as
17 quickly and the political risks of sending up a report
18 that really doesn't do justice to the data.

19 I just would urge to just strike the balance
20 in a slightly different place; not a dramatically different
21 place. The slightly different place being send the
22 conclusion and you don't need to amend the Act. Send the
23 transmittal language, which I think is consistent with
24 the report; but hold the report back a short period of
25 time and insist that a certain limited number of things

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1 be done to try to get out of the data what is there.

2 One of the dangers of sending the thing up
3 quickly now is that there is going to be a tendency then
4 to want to supplement and correct and I hear people
5 talking about every year or two years.

6 I think the worst thing that could happen out
7 of this is not to have some finality; not to have the
8 report and have this whole thing put behind us. I think
9 there's an increasing danger of that to the extent that
10 we leave things out and say, "We'll come back and we'll
11 deal with those later. We'll have volume 1, volume 2,
12 volume 3, month after month after month."

13 I think we should be done with it.

14 I'm afraid that's rather a disjointed presentation
15 because frankly I'm frustrated with the inability to
16 communicate this point; that there's a lot more in that
17 data that can be gotten out with some concentrated effort,
18 I think, in a relatively short period of time, and I
19 would that in the rush to get the report out, we wouldn't
20 miss that opportunity.

21 MS. RODHAM: What we might do is write the
22 transmittal report and letter and attach it to the 1007(h)
23 study. It's unlikely Congress will read it anyway. They'll
24 receive this enormous pile of documents with this transmittal
25 letter and the Delivery Systems Study and we'll get off

1 scot-free.

2 Charles? Any response?

3 MR. DORSEY: I'm Charles Dorsey, the Chairperson
4 of the Project Advisory Group, but I think more pertinent
5 to this discussion is the fact that I'm the Director of
6 the Maryland Program, one of the unfortunate 12, as we
7 have gotten to be known among Legal Services programs.

8 I was very frustrated hearing the conversation
9 that we've had here today.

10 Number one, it seemed to me that we have forgotten
11 all that Mary Bourdette had told us this morning about
12 what was going on.

13 I don't think that anyone in the Legal Services
14 community and the Corporation thinks that this year there
15 should be any changes in the Reauthorization Act.

16 I think that Bob Kutak's analysis was the specific
17 analysis that the Board needed. There are two pieces to
18 it.

19 Question number one, whether there are needed
20 amendments in the Act, which the Corporation should
21 recommend this year; and number two, whether the report is
22 ready to go forward.

23 Now, I reached the same conclusions that Bruce
24 reaches, but you know, I remember the opening shot in
25 PRS and probably there are only two or three people on the

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1 Board who were on the Board when that occurred.

2 I know what we, the 12, went through to a less
3 traumatic extent, and I don't really have a feel for what
4 the other variation--the other variations of the studies
5 went through; but I do know this.

6 There was a cost that we had to pay to
7 participate in this study. The fact of the matter is
8 that last September-October, we had climbing over us the
9 people from the quality study, people from the impact
10 study; and that was a very difficult time because we were
11 having a (inaudible) approximately at the same time.

12 I think that this Board and the Corporation owes
13 it to those of us who participated in the study to come
14 up with a study that is honest; that is well thought out;
15 that is well done. A \$13 million study should be a well
16 done study.

17 My point is that, first of all in a study,
18 there is a collection of data. This was done at the end
19 of last year.

20 Now, what should follow that collection of
21 data is a thoughtly analysis of that data. I'm not a
22 statistician, but I do not believe that computers can
23 do it. I think that it takes thoughtful, knowledgeable
24 people to look at that data and to analyze it and to
25 come up with conclusions, and I submit to this Board that

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1 there has not been sufficient time to do that.

2 I don't think that the report should go forward
3 without this thoughtful analysis.

4 MS. RODHAM: We thought we might take just
5 a short break. Berney will be the first person to speak
6 after the break, and let people get their thoughts
7 together on this.

8 It's obviously a very critical question. You
9 might want to spend some time talking to some of the
10 people who are here and try to figure out what to do.

11 We'll reconvene in 10 minutes.

12 (A short recess was taken.)

13 MR. TRUDELL: Hillary asked me to chair the
14 meeting until she returned, if she didn't return within
15 10 minutes or so, and since there may be more than one
16 or two people that want to make some comments, we might
17 as well get started.

18 Before we broke, Berney wanted to address the
19 Board. Is Berney back?

20 Is there anybody else in the audience who
21 wants to address the Board on the Study?

22 MR. VENEY: I guess the analogy from me is that
23 in the lives of poor people one of the major problems is
24 to solve a short-term crisis, we create a long-range
25 problem.

1 My sense is that the Board is about to serve
2 to do exactly the same thing in a program that serves
3 poor people.

4 You're about to solve a short-range problem of
5 getting something before the Congress and create a long-
6 term crisis.

7 I would remind all of us how long and how well
8 quoted the ABA Study on Legal Needs has been. In simple
9 point of fact that study--because it was unique, because
10 it was available and because it was scientifically done
11 and had some validity, has been quoted and requoted and
12 used and reused and now the Corporation is producing a
13 document that also will be used time and time again;
14 sometimes by our critics; sometimes by our supporters;
15 but very often by people who will, in fact, have just an
16 honest sense of inquiry. They will want information.

17 I think it is incumbent upon the Board to do
18 as has been suggested; that is, to separate out the
19 political considerations from the research document--this
20 report.

21 I think it is important that you look at this
22 research document and say, "What does this research
23 tell us?"

24 I would join Bruce in almost everything he said.
25 I think everything he said.

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1 Clearly, I am not sure that we want to have a
2 document that massages the data; that so turns around the
3 data that we are not clear as to what we have that
4 manipulates it.

5 Just as clearly, I would ask somebody on the
6 Board to tell me if you take a look at what's on IV-15
7 and then you take a look at what's on IV-21 and on IV-24,
8 I'd like somebody on the Board to tell me why what's on
9 IV-21 plus what's on IV-24 doesn't add up to what's on
10 IV-15?

11 MR. BRADLEY: I think it'd be more appropriate
12 to not let the Board answer that question; but to ask
13 Leona because--

14 MR. VENEY: Dan, but that's my problem. If
15 it has to be interpreted by the people who did the study,
16 we've got a problem.

17 If the casual reader and the average reader,
18 the intelligent people on this Board can't interpret this
19 data, then we've got a problem in this report, because
20 Leona is not going to be available. She is not going to
21 be packaged with each presentation of this. It's
22 unfortunate, but she's not.

23 Her explanations are excellent. She has done
24 very fine work. She has worked extremely hard, but I
25 suggest to you that rushing to submit this before it has

1 been talked through and considered at many levels, is
2 not going to lead us to anything but more confusion.

3 Now, I recognize that at the bottom of page
4 IV-15, there is one word that does not appear on the
5 other charts, and that is the word "loaded"; but I don't
6 find in the narrative anything that tells me what loaded
7 means. Micro, macro, yes. Loaded--I'm not sure.

8 Again, I suggest to you, if we have questions
9 around what the impact shows, and if we have questions
10 around cost data and what that data really shows, then
11 I think we've got a problem with the report.

12 I'll make just one last comment on the issue of
13 quality and how it gets interpreted.

14 I hope you don't really mean that because
15 everything averaged out, we're just going to let it float
16 as averaged out without some significant statement that
17 says, "It may average out, folks, but it takes specific
18 training and intensive work to produce someone who, in
19 fact, can do well working for poor people" because I have
20 no doubt that attorneys who have been in practice for
21 20 or 25 years--10, 15 years--whatever the numbers are,
22 can, in fact, produce quality work, but they are careful
23 that their support staff gets out good looking pieces
24 of paper; but I question whether or not people who have
25 not specialized in poverty law will produce for us the

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1 same kind of quality on poor people's issues when they
2 come to them only occasionally and randomly and know that
3 they are not going to spend intensive time with them,
4 or not perhaps particularly interested in the issue itself
5 as an issue, will not pursue it with their peers, will
6 not have over drinks discussion about the issues; whether
7 that is the same quality.

8 I think what this Corporation is about and what
9 I hope the Board has been about is making sure that the
10 highest level of quality is delivered, and to say that
11 the report that is going to be quoted for the years could
12 average out something as important as quality without
13 making the distinction, without taking the time to look
14 at what the data really says, is not a report you want to
15 sign.

16 MS. RODHAM: Clint?

17 MR. LYONS: I think it may be important at this
18 point to revisit the purpose and the questions that
19 we're being asked relative to this Study.

20 I don't think it is necessary in this report to
21 the Congress to exhaust all of the issues surrounding
22 the delivery of legal services and the variations across
23 models and all of that. Indeed, we were not asked to do
24 that to exhaust all of the issues. We were asked to
25 address a couple of basic questions, and we have so set up

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1 this report that we will do both. We will address the
2 basic questions asked by the Congress, and we will ask
3 or address some of the basic delivery questions about
4 other issues involving the variation and so forth in
5 another paper.

6 I think at this point we're saying, you know,
7 we've got to do all of that at the same time and get a
8 report to Congress right away.

9 It seems to me that if, in fact, we can look
10 at this report and make the judgment that what we have
11 here addresses the basic question as to whether or not
12 we need a change in our legislation as a result of what
13 we've learned from this study.

14 Then we've just got to accept what we have in
15 this study as being sufficient enough to answer that.

16 The only missing piece is the quality piece,
17 and what we're saying is that we are not without data
18 with regard to that quality piece. We do have some data,
19 and we can plug that data in at two levels.

20 At one level, we can plug it in over the next
21 couple of days. At the second level, it may take three
22 to four weeks.

23 The first level is the gross sort of analysis
24 that says there are no significant differences among the
25 models.

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1 The second level is as we go more into the
2 analysis is that along case types across the models,
3 there may be some significant differences.

4 Leona has indicated that that type of analysis
5 is already begun and within three to four weeks that she
6 can have that data.

7 I just hope that as we make the decision we don't
8 expect that this report can or should meet everybody's
9 approval with regard to exhausting all of the possible
10 issues around the analysis.

11 It is just not possible, and it's not going to
12 happen. The study was not designed that way.

13 The truth of the matter is, the study raised
14 more questions as we went along, and we're going to have
15 to address the answers to those questions in some other
16 way.

17 Our main objective is to answer the basic
18 questions for the Congress without distorting the data
19 or without being dishonest about it and without giving
20 inaccurate information, and it is a study designed to make
21 a very gross cut and to make judgments along a very broad
22 and generalized level.

23 If we can accomplish, with the Congress, the
24 objective of leaving the basic decisions with us--with
25 this Legal Services community, and there are no changes

1 in our Act with respect to mandated delivery or anything,
2 I think that we can better use further analysis to make
3 decisions and to help programs make decisions at the local
4 level.

5 So, I guess my bottom line is and what I'm
6 arguing for is that we make the judgment to go ahead;
7 that we accept the representation of the staff that we
8 have the data and that within three weeks we will plug in
9 that quality data. We will give you an opportunity to
10 look at that data, and if you find that the data does not
11 support the overall findings and conclusions and the
12 transmittal that's being proposed to the Congress, then
13 we're in a different ballgame.

14 I think at this point--

15 MR. BRADLEY: Clint, because I haven't made
16 this clear, and I apologize for doing so.

17 This document, draft one that you've got and
18 draft two that you have before you, is already in the hands
19 of Congress because this is a public document and they are
20 on our mailing list. The staffs of the Oversight Committees
21 have been provided this information and know that we're
22 having this kind of discussion.

23 As I indicated earlier, I think what they are
24 waiting for is how does the Board respond to what they now
25 have in their hands.

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1 I don't see that there's going to be any great
2 difficulty. Clint, you say three weeks, you know. I
3 don't know. We were talking earlier about two weeks
4 in terms of the two levels of analysis of that information.

5 I think that it's perfectly logical and
6 satisfactory for those persons on the Hill who are concerned
7 about this, that we, in effect, express to them the Board's
8 judgment on this, even if it means that it may be another
9 two weeks, three weeks, to do the editing job, to have
10 the Provisions Committee, to have Hillary, to finally
11 review the quality measurement before it is, quote, bound
12 and symbolically delivered to the committees. I don't
13 think we have any problem with doing that, if that's
14 the judgment of this Board.

15 MS. RODHAM: We have no motion before us.

16 MR. KANTOR: I don't want to avoid what Berney
17 said because I think he said something I consider to be
18 the most critical question.

19 There is no doubt that this report will become
20 a definitive piece in this area of concern. There's no
21 way to avoid it.

22 To the extent that we can--because Dan, I think,
23 is suggesting--be very carefully in what we finally
24 send to the Congress as the whole report, and in the
25 interim, provide the Congress with our judgment on

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1 changes that Bob suggested earlier--changes to the Act,
2 which I don't think anyone here sees that are necessary.

3 Almost, no matter what even if our conclusions
4 would change in the area of quality or other areas, we'd
5 want to retain that flexibility; that we make as strong a
6 statement as we think we need and are comfortable with
7 on the area of impact, which I think is something that
8 we can conclude and the area of cost, which I think we
9 can conclude.

10 If we can leave it at that and satisfy both
11 friends and the skeptical on the Hill, I think we're in
12 much better shape.

13 I would be distressed and opposed to making
14 any statement now in terms of quality. I don't think we
15 know, and I'm not criticizing anyone. I'm not criticizing
16 Leona. I just don't think we know that there are two
17 levels, and there's a lot of data and there's some people
18 I think on the Board whose visceral feeling is there is
19 some differences, but not a great deal of significant
20 difference.

21 I believe we should just remain silent on that
22 issue, at least in what we say to the Congress right
23 now; but I agree with Bob Kutak. We ought to say something
24 and say it clearly, and I agree with Berney that what
25 we finally send to the Hill in terms of a final report--

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1 they already have the preliminary anyway--we ought to be
2 completely comfortable because it will be used, and will
3 be used either to the advantage of our clients or not.

4 I, for one, would never agree to send anything
5 up there to Congress that we weren't completely
6 comfortable with.

7 MS. RODHAM: Howard?

8 MR. SACKS: Ramona?

9 MS. SHUMP: Hillary, one of the things that I
10 cannot help but question, when we set about to measure
11 the impact, why was that measure of the effect and the
12 benefit to the numbers of people not used in comparison?

13 There isn't anything here that I can see that
14 has a flat statement that showed that the impact work
15 done by our staff attorney, and even the impact work
16 done by the pro bono with staff which, in effect, was our
17 own staff served to better the lives of x numbers of
18 people, and I may be not reading it right.

19 MS. VOGT: In terms of what was analyzed and
20 what the measure included, there were various elements
21 that looked at, not only the number of people effected,
22 but the severity of the problem initially; the relative
23 permanence of the change that was a result of the legal
24 work and so forth.

25 The reason why, when we struggled with this

1 measure is we started out essentially with our Advisory
2 Panel saying impact on the poverty community is a very
3 important thing to look at, and if you don't look at that,
4 you'll be missing a very significant part of what Legal
5 Services programs do.

6 We tried to figure out with a working group,
7 I think Bruce mentioned the working group, but people who
8 had been struggling with this for some time on their own
9 and the struggled with us on the measure, how we could
10 come up with something that would be comparable that
11 would capture not only the magnitude of difference from
12 one impact work to another; but what was even more
13 fundamental was how you could compare something that was
14 the legal right versus a change in a human condition.

15 So, what we did was we used a measurement
16 system that allowed people--. They had all the information
17 you are describing and they essentially judged the value
18 of the work that was done in terms of the lives of poor
19 people, and they took the whole work unit, and they
20 assigned a score.

21 It was all factored in. I forget. Someone
22 else said earlier, it's now boiled down to numbers and
23 so it's somewhat sterile in its presentation; but all
24 those elements were considered in the analysis.

25 MS. SHUMP: Numbers are exceedingly misleading,

1 and they can be used against as well as for us.

2 MS. VOGT: I'm fully aware of that.

3 MS. RODHAM: Howard?

4 MR. SACKS: I'd like to make a motion, if you
5 think it's--

6 MS. RODHAM: Certainly.

7 MR. SACKS: That the Board adopt and transmit
8 to Congress the transmittal statement and the report that
9 we have before us, subject to one, any changes made in
10 this meeting; and two, inclusion of the material on
11 quality and any further editorial changes when approved by
12 the Provisions Committee and the Chairman.

13 MS. RODHAM: Is there a second?

14 MS. ESQUER: I'll second the motion.

15 MR. ENGELBERG: Could you restate it, Howard?
16 I'm sorry.

17 MR. SACKS: I move the adoption and the transmittal
18 to Congress of the transmittal statement and of this
19 report that we have before us, subject to one, any changes
20 that we may make in this meeting; and two, the inclusion
21 of the material on quality and any further editorial
22 changes when they have been approved by the Provisions
23 Committee and the Chairman.

24 What I have in mind is that we will go on
25 discussing this, and we may make some changes today; and

1 secondly, that the quality material, and here I think I'm
2 disagreeing with you. In fact, I'm sure I am--that the
3 quality material would go in and would have to be approved
4 by the Provisions Committee and the Chairman and also
5 any further editorial changes that would be made between
6 now and the date of printing would have to be approved
7 by the Provisions Committee and the Chairman.

8 MS. RODHAM: Does everyone understand Howard's
9 motion?

10 (No response.)

11 MS. RODHAM: Is there any discussion?

12 MR. KANTOR: Yes, I disagree with it, and I
13 want to just reiterate what I said before that I agree
14 with Dan, and I think with Howard and with Bob and
15 everyone else that expressed themselves.

16 We should have a letter of some nature. It
17 wouldn't be a transmittal letter because I'm against
18 sending a report up at this time, but which would
19 indicate to the Congress clearly that we don't think
20 any changes need to be made based on this preliminary
21 study not referring at all to quality with no conclusions
22 in that area; but referring to the other three areas
23 with whatever caveats, observations, conditions we'd
24 want to make.

25 Second, that we commission or allow the

1 Provisions Committee working with the staff to come up
2 with what we want as a final report and come back to
3 this Board with it; not to any ad hoc type of situation.

4 I think it's important for a number of reasons,
5 the least of which is the community that we deal with
6 and the public at large, I think, should have a final
7 shot at whatever it is that this is not a final report,
8 and I think we all agree with that.

9 So, I would modify and I would offer in the
10 form of a motion of modification to your motion or an
11 amendment, I guess, is the proper term, a substitute--
12 in know, in Los Angeles we don't deal with--

13 MR. ENGELBERG: That's what the Lakers do.

14 MR. KANTOR: Thank you. That's what it is.

15 A substitute motion, which would indicate
16 we'd send a letter to Congress speaking to the issue of
17 changes in the Act and/or Corporation policy and
18 preliminary conclusions only in the three areas
19 indicated. Not in the area of quality, and that we
20 delay the final implementation of a report until the
21 staff and the Provisions Committee have reviewed it
22 in light of whatever data we get in the quality section
23 and it comes back to the Board for approval at some later
24 date.

25 I so move.

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1 MR. ORTIQUE: My great concern is that I would
2 like to have some limitation on how long we're going to
3 deliberate because as I said before, it's gotten to be a
4 little more than embarrassment because it's taken us so
5 long to do this.

6 I really don't think that putting this off
7 several months is going to cure--

8 MR. KANTOR: I accept that. I agree with you.
9 Maybe we can put some time limit.

10 MR. ORTIQUE: My second point is we've heard
11 from two people from the public. Somehow we've got to
12 have the public in on the last piece, if we're going to
13 have a last piece.

14 I don't think we ought to send, what we call a
15 final report without that last piece. I just don't.
16 I think Congress would laugh at us that we would send
17 the report with quality missing from the report. I
18 think that impact and quality go hand in hand.

19 MR. KANTOR: What time limit would you put?
20 June Board Meeting?

21 MR. ORTIQUE: Well, I indicated that I was a
22 little disappointed because I thought the reason we set
23 the June Board Meeting only one month after the May
24 meeting was that we were going to have until June to
25 take that final look at this, and we were going to go into

1 some deep discussions at this Board meeting, based
2 primarily on what the Provisions Committee and the other
3 groups that have met on this.

4 I never anticipated that we were going to
5 actually take that final step today. I guess that the
6 only solution would be to send two pieces up there and
7 make sure that we're ready and willing to take that final
8 step come June.

9 MS. RODHAM: Howard?

10 MR. SACKS: Well, I just think Revius is very
11 persuasive and we're going to look awful if we send up
12 a document that have everything in it except quality.

13 MS. RODHAM: We're not talking about that. Even
14 your own motion says we don't send it until the quality
15 is in.

16 MR. SACKS: No, but I'm talking to the
17 substitute to Mickey's idea that we could send in everything
18 except quality.

19 MR. KANTOR: No, no, no. I didn't say send
20 anything. All I want to send is a letter that addresses
21 the one concern, I think Congress--at least one major
22 concern is do we suggest any changes in the Act itself?

23 If we can give them at least our review of the
24 preliminary report, which indicates at least in three
25 areas--two for sure, we can at least give them our analysis

1 as a Board; that would be cost and impact. I guess we
2 have some problem with client satisfaction, based upon the
3 limited number of responses, but we could caveat that
4 and at least speak to it, I think. I think the report did
5 a good job of that.

6 Then we would have the time--June Board Meeting
7 or whatever the Board decides to send the final report up
8 after it has been reviewed and the quality has been
9 plugged into it.

10 MR. SACKS: So, what you're talking about is
11 sending the first nine pages--

12 MR. KANTOR: With some changes.

13 MR. SACKS: With no reference to quality?

14 MR. KANTOR: No reference to quality whatsoever
15 because I don't think it's complete.

16 MR. SACKS: Then I return to my point what
17 Revius said that I think we're going to look sick if
18 we tell them, "Well, we're ready to tell you about impact
19 and client satisfaction, but we can't tell you about
20 quality".

21 MR. BRADLEY: Mickey, just for a clarification
22 point.

23 If you had the information that we now have
24 and are working on--on the quality measurement, would you
25 feel more secure, in terms of the transmittal of the total

1 report, or is that too hypothetical?

2 MR. KANTOR: It's not too hypothetical. I
3 can't speak to anybody but myself, of course, but we don't
4 have it; and I don't know what it is, and I have no idea
5 about--I hear what Clint is saying and Leona is saying.

6 I haven't seen what the two levels are and
7 how they work out, and whether or not I'll agree or
8 disagree. I would assume all of us would be in the same
9 position.

10 MS. RODHAM: Let me just ask a further question
11 of clarification.

12 There are several areas we agree or disagree
13 on. I don't feel that any of us are going to disagree
14 with the analysis of the data.

15 What we're going to disagree with are the
16 conclusions that are drawn from the data, but nobody is
17 going to go back and look over Leona's shoulder and
18 run those computer tapes again, you know.

19 Maybe there is somebody who has the time or
20 the money to do that; but I don't know of anybody that's
21 going to be able to do it.

22 The question is whether all of the data that
23 she has analyzed and her staff has analyzed and the
24 contractor has analyzed are going to find their way into
25 the report and then what kinds of conclusions are going to

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1 be drawn from what sets of data.

2 I am kind of moving back, I guess, in the
3 direction of Dan's original point. We may be making more
4 out of this whole effort at this point than needs to be
5 made out of it; that the kind of work that's going to be
6 done on quality within the next two to three to four
7 weeks, given the fact that none of us want to postpone it
8 very long for political reasons and the fact it's been
9 going on forever, is just going to be at the level of
10 sophistication, I would assume, that everything else is
11 here.

12 It's not going to be at the level of sophisti-
13 cation that Bruce Morrison wants us to reach in terms of
14 massaging every piece of data to see optimumly what we can
15 get out of it.

16 If we can get that same similar level on the
17 quality data that we now have, I would, within two to
18 three weeks, I would like to see us try to move and send
19 that forward with the caveat that there is more information
20 that will be useful to the future of Legal Services that
21 we are going to continually obtain from this data, and
22 that depending upon how that data is analyzed in the future,
23 some of the conclusions may change; but that basically
24 the conclusions are going to be fairly gross at this
25 point.

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1 MR. KANTOR: Let me just ask one question.

2 What you're saying is let's wait until the next
3 Board Meeting and not do anything?

4 MS. RODHAM: NO. What I'm saying is what Howard
5 is saying.

6 MR. KANTOR: You can't. There is no data
7 available to us right now, no analysis whatsoever on
8 quality.

9 MS. RODHAM: Mickey, that's not true. I mean,
10 we don't have it written, but I did hear Leona tell us
11 what it is likely to show.

12 MR. KANTOR: And I heard Clint say there are
13 two levels, and maybe I'm wrong. If I'm wrong, tell me.

14 That there are two levels of data. The first
15 level, Clint and Leona agree, shows no significant
16 differences; but I heard Clint say, and tell me if I'm
17 wrong, that at the second level, there may be significant
18 differences.

19 So, how in the world can we--

20 MS. RODHAM: Well, let's not talk so abstractly
21 as levels. What I heard them say is among the models
22 of delivery systems, there are no significant difference
23 among types of cases handled by those models. There maybe
24 significant differences, is that right?

25 MS. VOGT: That's right.

1 MS. RODHAM: You know, there's a lot of
2 information that has been pulled out of the data that
3 we may not want to highlight.

4 As I understand the data, the data shows that
5 some staff attorney programs aren't worth shooting. I mean,
6 you know, they are terrible. The attorneys are terrible;
7 the programs are terrible, and there's no way to draw
8 a generalization based on that.

9 I think that we can beat this data into the
10 ground and not come up with too much more significant
11 information than we've got before us now.

12 If Leona and Clint can tell us in more detail,
13 maybe you've said all you can say about what the quality
14 stuff says.

15 Then I would prefer that we go ahead and get
16 something written that can be reviewed by the Provisions
17 Committee at a time or we could have an emergency Board
18 meeting. If all of the Board members want to come to the
19 Provision Committee meeting, as seven of them did in Denver,
20 then we could effectively consider all this stuff in two
21 to three weeks.

22 MR. ENGELBERG: May I ask a question?

23 MS. RODHAM: Yes.

24 MR. ENGELBERG: What is the difference between--
25 we're talking about, this is May 1 or 2. Frankly, I really

1 don't have strong feelings one way or the other about it.

2 It seems to me, though, as a matter of procedure,
3 protocol and a lot of other reasons, that we probably
4 shouldn't approve a report without having seen some
5 pieces of paper.

6 I cannot believe, and Dan, correct me if I'm
7 wrong, the difference between mid to late May and when is
8 the Board meeting? June 6 or 7?

9 MS. RODHAM: No. That's the problem. I've
10 talked at length with Dan. I've talked at length with
11 Judy.

12 Now, they may not be accurate in their perceptions,
13 but they've got better perceptions than I do; that we
14 cannot--we can certainly, but it is not in our best
15 interest to wait until that time.

16 MR. ENGELBERG: I thought it was earlier.

17 What is the significance between approval, which
18 at best would be late May, I believe is in Howard's
19 motion, right?

20 MR. SACKS: Maybe mid May, if we're lucky.

21 MR. ENGELBERG: Well, mid to late May and a
22 month later. What's so critical about that?

23 I'm not arguing. I'd like to know.

24 MR. ORTIQUE: What difference would it make if
25 we sent immediately a notice of schedule of the report;

1 that is, the letter, the transmittal and the report on a
2 schedule that they could count on and we could live up to
3 that would take us into a Board meeting where we would
4 have the full Board.

5 I know that if I were in Congress--I'm not
6 worried about the Congress as much as I'm worried about
7 the persons on the staff that this hunk of information,
8 referring to the quality was pushed and the Board considered
9 all these other important things and this very important
10 aspect was given over to the Provisions Committee and
11 they grappled with it, and they approved it because
12 they have the delegation of power.

13 I would believe that if we gave them a schedule
14 that we really could live with and intended to live with
15 and committed ourselves to live with which served a
16 notice and said a three stage effort, I believe that
17 Congress or Congress person staff will realize that we're
18 really moving forward; but to have that important aspect
19 that Howard talks about and all of us are concerned about,
20 to shove into the lap of the Provisions Committee and
21 the Provisions Committee, in effect, passes on that, I
22 think someone would say, "What portion of our \$14 million
23 went into that and what portion went into other aspects?"
24 and I think they'd have an legitimate answer.

25 I think that public out there should be outraged.

1 I really do.

2 MR. SACKS: I'd like to hear from Dan.

3 MR. BRADLEY: Steve, your guess is almost as
4 good as mine in terms of what effect it's going to have
5 on terms of trying to push quickly--well, we're in the
6 Senate--our reauthorization, and all I know is that
7 we're trying to assist Mr. Kastemeier as much as we can
8 with the views, especially this issue as an issue; and
9 it very well may be because it's already been talked about
10 as to whether or not they should delay floor action
11 until this report is completed.

12 Kastemeier might very well tomorrow indicate
13 to me, "Okay, Dan, we'll take the risk and gamble and we'll
14 go forward and we'll explain to them and you brief me
15 completely as to what your Board did in Memphis. I will
16 communicate that."

17 I just don't know.

18 MR. SACKS: But it isn't tomorrow. It's today.
19 What's your best judgment today?

20 MR. BRADLEY: Oh, I stated that unequivocally.

21 My best judgment is, and it's more a political
22 judgment than it is a judgment that addresses the concerns
23 of the group and we've talked about is that our advocates
24 in the United States Congress would love to have something
25 from us yesterday--six months ago, two years ago.

1 We have been severely criticized by our friends.
2 It's becoming almost--Revius, did you use the word
3 embarrassed or ashamed?

4 You know, it really is. What I'm trying to do
5 is to factor that out because it embarrasses me and Mary
6 to have to go in and explain--

7 MR. ENGELBERG: Dan, on that level of concern,
8 I think we meet that level of concern. It's like a
9 dynamite charge. We meet that level of concern by making
10 an unequivocal commitment to finish this thing in June,

11 The fact that we waited two years or whatever,
12 we're not going to solve--. On the other hand, there's
13 a more immediate concern that the holding up of the
14 reauthorization bill until June--now, that's what I'm
15 driving at.

16 The fact that they're mad because it took so
17 long, I think we can all agree an extra month ain't going
18 to make any difference; but there's a more immediate
19 concern that holding up the reauthorization--the re-
20 authorization may be will get held up.

21 So, what? What is the consequences of that?

22 MR. BRADLEY: Then I cannot anticipate what the
23 consequences. I think there's a real possibility--a very
24 good possibility that what's probably going to happen is
25 there will be an effort made to delay floor action until

1 this report is completed.

2 MS. RODHAM: I would. If I were in the Congress,
3 I would. I would whether I was a friend or an enemy.
4 I think it's wrong.

5 You know, why should they be asked to
6 reauthorized something--

7 MR. ENGELBERG. We could cure that with a
8 letter, but I take it then in your judgment, the letter
9 minus report--I take it, you strongly advise against that?

10 MR. BRADLEY: I think the letter helps. I think
11 the letter certainly helps, and the more that I can say
12 in terms of the transmittal helps; but if I wanted to
13 make a complete argument, then I would like to have the
14 report if that were possible.

15 MR. ENGELBERG: It seems to me, Dan, the fact
16 that you pointed out earlier, that Congress has got these
17 things. This isn't a big secret.

18 I mean, we could write the letter, refer to the
19 preliminary things in saying the final report, we swear
20 to God, will be done June whatever; and we have some
21 further work--further refinement we want to do; but as
22 you can tell from reading the preliminary report, which
23 is no secret, we're not recommending any changes and
24 here's why.

25 A very strong letter based on the preliminary

1 report making it clear, though, that that is not the
2 final report of the Corporation, but without any further
3 qualifications, the final report will be completed in June.

4 I completely agree. We have to bring this thing
5 to a head.

6 In other words, I'm just asking you does the
7 letter and preliminary report with absolute final deadline
8 in June get you out of--or helps you with the political
9 problems?

10 If it doesn't, then I would be concerned about
11 weight.

12 MS. RODHAM: Steve, I'd also like to ask Judy's
13 opinion because she's worked with Congressional relations
14 since the inception of this thing, and she's written
15 the transmittal letter.

16 Judy, do you have an opinion?

17 MS. RIGGS: Well, I just wanted to raise one
18 thing, which I'm sorry Mary has left because she,
19 obviously, could speak to it more specifically than I
20 can.

21 You asked, you know, what's the risk of holding
22 up the Bill until June anyway.

23 If the Legal Services Corporation Act has not
24 been reauthorized before the State Justice Appropriation
25 Bill comes to the floor of the House, then anyone in the

1 House can raise a point of order to our appropriation
2 because it hasn't been reauthorized.

3 In the past several years, all of those points
4 of orders have been sustained.

5 In 1977, we faced exactly the same situation.
6 Our appropriation went to the floor before our authorization
7 bill, and at that time, all points of order were waived
8 under a rule granted in the Rules Committee.

9 The Rules Committee has refused to grant those
10 kinds of waivers in the last couple of years.

11 Now, Mary has been in detail conversations
12 with both the appropriations committee staff and the
13 authorization staff, and if there--I think her sense is
14 that if there is good progress on the Authorization Bill,
15 if it is at least cleared the floor of the House, that
16 the committee may be able to sustain any kind or may be
17 able to waive a point of order on the question of
18 reauthorization.

19 It is a risk, not only a political risk of the
20 more we get into the political year and the crazier the
21 House gets and the more danger there is to the Bill; but
22 our risks possibly to the appropriation as well by delay.

23 MR. ENGELBERG: But then the second part of
24 the question, Judy, if you and Dan can address yourself
25 is let's assume--I mean, I think we all agree that it

1 would probably be a mistake to remain silent at this
2 meeting.

3 We send the letter up referring to--you know,
4 a very strong letter about legislative changes; refer to
5 the preliminary--I mean it's not a secret making clear
6 that we're not ready to submit the final report; but that
7 there won't be any--I mean, we can guarantee them there
8 will be no changes in our recommendation.

9 Rather, the changes will be in the data and how
10 it's presented and that type. You know, more technical
11 changes.

12 Will that accomplish, in your opinion, or in
13 Dan's opinion? Will that help with Kastemeier to get
14 this thing moving so we don't run into the problems
15 you're talking about?

16 MS. RIGGS: I have not been spending the time
17 on the Hill that Dan and Mary have recently, and they
18 can obviously speak much more closely to the attitude
19 there.

20 I know, I was embarrassed in 1977 when I had
21 to say, "We won't have it this year, but we'll have it
22 next year."

23 Then in 1978, to say, "Well, we don't have it
24 this year, but we promise you we'll have it next year."

25 You know, having written the transmittal

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1 statement and listening to the Provisions Committee, I
2 do have one real concern that if, in fact, we want to try
3 to communicate that message to Congress about the end of
4 the debate and try to say that as strongly as possible.
5 I'm not quite sure when we say that obviously in this,
6 but it seems to be undercut that kind of message when
7 we say, "But it's based on the preliminary report."

8 MS. RODHAM: In other words, just so that point
9 is clear and we understand, you're saying whatever
10 additional, more sophisticated information you might
11 could get out of it is secondary to our finally saying
12 there is really no difference that we can point to in the
13 sense that we have to change the Act in order to mandate,
14 as Mr. Green says in the verbatim report, that we should
15 change the Act to mandate ways of delivery other than
16 staff attorney.

17 Now, if that's the message that needs to be
18 gotten across and if it's important that we get that message
19 across, does that in any way undercut all the rest of the
20 analysis and the conclusions that can be drawn from it that
21 might be something else?

22 MS. RIGGS: I think it does that. I think the
23 concern that people think there's more can be done is that
24 the more solid you make the report that backs up that kind
25 of recommendation and the more it can withstand the

1 criticism you know is going to come, and the more useful
2 it would be to people who want to use it.

3 MR. BRADLEY: I feel so uncomfortable speculating
4 because of the mood and what's going on in Congress. I
5 just think that it's a calculated risk, and the question
6 is am I prepared to recommend to this Board that we take
7 the calculated risk.

8 I don't even feel secure in my recommendation
9 to you. I wish that we--because we've talked about it so
10 much, I wish that we could have completed this--the
11 original schedule in March.

12 I went back to the Oversight Committee and
13 explained the difficulty in presenting it to them in March
14 and assured them that this is what we have. We gave you
15 a copy of that. We're meeting on a date certain.

16 As far as I'm concerned, we've got two options.
17 We go generally in the direction that Howard goes, which
18 I think still is probably a gamble; or we go in the
19 direction that Mickey goes.

20 It seems to me that that's our only two options.
21 You know, I've got enough confidence in our support on
22 the Hill certainly with the members of the two committees,
23 and you know this, Steve, as well as I do. You know that
24 when we get to the Senate floor, whether or not we've
25 completed this document is not going to make that much

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1 difference in terms of the arguments and the Cranstons
2 and I started to say the Mondales, but the Javits' of the
3 world.

4 On the other hand, I know because it's
5 already been talked about that the opponents are simply
6 going to say, "Look, let's just not do anything. Let's
7 just wait until--".

8 We're probably really talking about is if the
9 Board meets the last week in June. We're talking about
10 getting you this report in terms of the reproduction
11 and the editing--we're probably talking about the end of
12 July.

13 MS. RODHAM: They'll be in summer recess.
14 Then they'll be back in the middle of the Fall.

15 MR. BRADLEY: But Steve, let me be as honest
16 as I can in terms of the questions you've asked.

17 Yes, I think that if this Board could articulate
18 a very firm unequivocal positive kind of statement
19 in terms of the Board's specific recommendations to the
20 Congress concerning our legislation encompassing
21 everything that's in this transmittal letter; maybe even
22 more saying "That's it. We're going to present the final
23 report to you sometime by the end of July" because that's
24 what we're talking about.

25 I don't think that means that we're going to lose

1 our reauthorization. I think it's going to be touch and
2 go. It's going to be touch and go, and I think we are
3 vulnerable.

4 MR. ENGELBERG: But now the flipside of that is
5 in your political judgment and I think that everyone
6 should recognize that these are obviously--there's no
7 mathematical certainty, but your political judgment is
8 that if we--and I take it the most radical view--the most
9 radical quick view is Howard's. Nobody suggests we do it
10 any quicker than Howard.

11 MR. SACKS: I'm now a radical.

12 MR. ENGELBERG: You think as opposed to touch
13 and go, getting the authorization bill onto the House
14 floor is better, is that correct?

15 MR. BRADLEY: That's somewhat better.

16 MS. RODHAM: One other point, Steve. I don't
17 think we're ever going to appease the critics who are
18 going to use the substance of the report against the
19 Corporation.

20 The issue is whether you can remove the procedural
21 and the appearance of ineptitude by moving it along as
22 quickly as possible and undercutting, at least, those
23 who might say and those who might be persuaded by someone
24 saying they can't get a report done even and they've
25 promised it for three years.

1 We're not going to remove the substantive
2 criticism. I don't care if we do a 1007(h) type job
3 on it. It's not going to happen. They're still going to--
4 as you can see from the comments that are made in the
5 Advisory Panels.

6 MR. ENGELBERG: You see, part of the problem I
7 have, and this is really in defense of Howard's position.
8 Part of the problem I have in listening to the discussion,
9 and I'm no expert on this report is that I don't see,
10 and Leona, I'd really like your views on this.

11 I see some editorial changes, which I think
12 hopefully you might agree. For example, in that f paragraph,
13 which sort of helps out a little bit. I see some
14 important editorial changes. I can see dropping a few
15 appendices here and there.

16 My understanding of the debate so far as in
17 order to get at what Bruce and I think what Berney was
18 saying--what bothers me, first of all, I'm not sure the
19 data is there at all.

20 Secondly, I'm not sure without--we can get at
21 what Bruce and Berney are talking about.

22 MS. RODHAM: Well, even short of that, I
23 know that we cannot do it without significant expenditures
24 and time and money.

25 MR. ENGELBERG: Well, but I'd like Leona's---

1 MR. VENEY: No, it is a matter of approach,
2 Steve, because Leona said earlier that on the quality
3 data there are two ways you can interpret that quality
4 data.

5 She would choose to average it out. What I was
6 asking was that you not average it out; that you use the
7 other interpretation--

8 MS. RODHAM: No, that's not what she said about
9 quality.

10 MR. SACKS: That is not what Leona said.

11 MR. ENGELBERG: Well, let's let Leona respond
12 to that?

13 MS. VOGT: The first point is that was not what
14 I was saying. What I was saying what we have now is data
15 that indicates that when you just look at the model level
16 and you consider all cases being equal, the data do not
17 indicate that there's a difference in quality resulting
18 from model.

19 The next piece, which is the analysis of case
20 type to see if there is any difference in the types of
21 cases resulting from the model.

22 That's the piece that is yet to be done.

23 If I can make a second comment. I just would like
24 so that, you know, if we can all be realistic about this
25 and all the things that Bruce raised.

1 Bruce raised several issues, some of which are
2 more difficult than others. This one, I thought I was
3 going to have here yesterday. I mean, that's the
4 frustration of the importance of this thing for me
5 personally. I'm sure for you, too; but it was just a
6 couple last steps.

7 I am hesitant to say that I could mail it to you
8 tomorrow or the next day because we seem to keep having
9 problems with the computer or odd things.

10 It's just important to say, "Well, if we wait
11 a couple of weeks, would we have everything that Bruce
12 is concerned about?"

13 I cannot make that representation, and I think
14 that it is important for you to know that.

15 MR. KANTOR: Let me make sure I understand.

16 You're saying on the first equation, all
17 cases being equal that's where you come to the conclusion
18 with what you have now that there is no quality--
19 significant quality difference?

20 On the second measure, case type, that's yet
21 to be done.

22 Now, for a lot of us, the case types are the
23 most important measure--the most critical measure because
24 all cases are not equal--

25 MR. ORTIQUE: That's to poor people?

1 MR. KANTOR: For everybody, but especially
2 poor people.

3 So, therefore, I go back to my earlier statement
4 that it is impossible for us to reach any conclusion
5 whatsoever on the quality issue today.

6 Now, if the Congress already has this, which
7 doesn't speak to quality, I go back to what Dan says
8 and Steve. Send them a letter--a strong letter. Give
9 them a schedule as well, and the next thing they will
10 get will include, not only what they already have; but
11 the quality data which would be the final report.

12 I don't know what we'd send them today, even
13 if we wanted to--even if we noted unanimously what we
14 sent them; but what we already have given the fact,
15 there's no way we can speak to the critical issue and
16 the quality which is case type.

17 MR. SACKS: That's my motion. My motion said--
18 my motion doesn't say send them what we have today.

19 My motion says that we will not send the
20 report to them until we have the quality data, type 1
21 and type 2, and it's been approved by the Provision
22 Committee and by the Chairman, and if anybody wants to
23 have a special meeting and have the whole Board approval,
24 I'm ready to come. I'm prepared to amend the motion
25 to that effect.

1 I just don't want to wait until June because
2 I don't want to run the risk.

3 MS. SHUMP: Hillary, there's a gentleman back
4 there back of Berney that's had his hand up and down
5 I think for the last 15 minutes. I'd like to hear
6 from him.

7 MR. HAL LIEBERMAN: I just want to speak about
8 one of the arguments that was made.

9 MR. BRADLEY: Hal Lieberman.

10 MR. LIEBERMAN: I'm sorry. Hal Lieberman.
11 Director at Central Mass Legal Services; about short-run
12 and long-run advantages or disadvantages of sending the
13 report in now.

14 It seems to me that there's a real problem
15 in terms of a long-run situation, if we send in a report
16 now which has a lot of problems, in terms of the analysis
17 is inadequate in terms of the data base and is an
18 inaccurate statement about where we're at in terms of
19 different delivery models, or it may not be as complete a
20 statement as possible.

21 The argument was made that in the short-run
22 there may be some advantage of sending it in because of
23 the reauthorization process; but I also heard--I think
24 Dan made the statement that the reason that there may be
25 an advantage in the short-run is because our advocates

1 need this document; but if the document, in fact, is not
2 complete and may have ambiguous data or may not be
3 understandable or necessarily readable, and I think Berney
4 pointed out one example of this.

5 I don't even understand how in the short-runs
6 this document being sent in now can be of advantage to
7 us, in terms of our advocates because it seems to me
8 our advocates are not going to be able to use this
9 in any way that might be effective to be able to argue
10 that the Legal Services Corporation Reauthorization Act
11 ought to be advanced quickly, and what we're doing now
12 is better than what we've done in the past or what we
13 may be able to do in the future.

14 I don't even understand the short-run argument
15 if, in fact, this is not a complete report right now,
16 and this is not a report which speaks in a clear way
17 to the comparison of different Legal Services delivery
18 models.

19 MR. ENGELBERG: May I just say one thing?

20 One thing that bothers me is there's a lot of
21 massive criticism in this report, and clearly one
22 criticism, which is nobody's fault, is that we don't
23 have part of it. We all agree on that, and that's a
24 problem, and that to me is the serious problem.

25 This gentleman, and maybe he's right, I don't

1 know, refers kind of glibly to all the massive problems,
2 data and analysis.

3 I don't know. Maybe I'm missing something. I
4 haven't seen--see, Mickey's point, I think, is very--and
5 REvius' point is well taken. There maybe some twists on
6 the ball, and we don't like the way things are phrased,
7 and I think Leona will agree with there are ways we can
8 fix that.

9 I think I hear Leona saying that basically
10 there's no further data that they can look at that's going
11 to change things that much. A lot of this stuff just
12 doesn't lend itself to the kind of hard statistical
13 study.

14 What bothers me is that we're sort of embarking
15 on some quick, chase for certainty and something bothers
16 me very much--

17 MS. RODHAM: And to prove presuppositions.

18 MR. ENGELBERG: Well, that's right.

19 MR. VENEY: That's really not correct, Hillary.

20 MS. RODHAM: Well, I'm not sure it isn't.

21 MR. VENEY: There is not about presuppositions
22 because we took the point a long time ago that said
23 from client's perspective, we weren't sure that the staff
24 attorney model was the only model that was available.

25 I lost a lot of friends in Alta, Utah, demanding

1 that this study be as tight, as well knit and as well
2 done as possible because we wanted something that, in fact,
3 was going to be to the benefit of the client community.

4 I'm not suggesting that there are other kinds of
5 things that, in fact, should have been done. That's past.
6 I'm not questioning the methodology, but Steve, would you
7 answer my earlier question around the cost data?

8 Is it an editorial change?

9 MR. SACKS: I'll answer it. I don't see any
10 inconsistency between IV-15 and IV-21 and IV-24.

11 MR. VENEY: If you add IV-21 and IV-24, you
12 get IV_15.

13 MR. SACKS: You don't add bars, but I don't see
14 any inconsistency between--

15 MR. VENEY: Then I don't understand.

16 MR. SACKS: Well, then you'll have to explain to
17 me why it's inconsistent.

18 I've read the document in this version and an
19 earlier version. I've read the Schwartz report. I find
20 this document clear and understandable.

21 In some places, it could be changed and modified
22 to add tests of statistical significance. We've got two
23 or three weeks. We can get input from the field, from
24 the client's counsel, from the Board, from the staff and
25 we can clean up those, what in my judgemtn are very minor

1 things.

2 Now, the choice is do we want to go back and
3 massage the data, or do we want to present this report,
4 and I don't have any doubt about that.

5 MR. ORTIQUE: That's right. I agree with you on
6 that.

7 MR. SACKS: Let's face it. Madam Chairman,
8 there are some people in here that do not like this report,
9 but--

10 MR. ORTIQUE: I think that every member of this
11 Board has agreed that we're not asking anybody to massage
12 the data. What we are saying is make sure that our
13 interpretations of the data are correct. We have no
14 problem with that.

15 You know what's beginning to bother me, though,
16 Dan? Is our staff saying to us that two weeks, three
17 weeks down the pike, they are not going to be ready on
18 quality?

19 If that's what they are saying to me, then,
20 of course, I've got some other problems; but if they are
21 saying that absolutely, positively you're going to be
22 able to present to us the information, then I think it's
23 up to this Board to decide are we going to meet specially,
24 are we going to move up our June meeting or one of
25 those things.

1 I still say that we could get off a strong
2 letter sending out a schedule that this is what we're
3 doing, this is how we learned to do it, and this is when
4 you can expect in your hands this report; but if we're
5 going to come up--and that's why afraid everyone is so
6 stuck on the matter of schedule because many is the time
7 we said we had the deadline, and the deadline came,
8 and there were myriad reasons, with justification; but
9 myriad reasons as to why we didn't come up with the data.
10 I don't want that to happen.

11 MR. ENGELBERG: I would like to ask Berney--
12 let's get beyond--don't ask me a rhetorical question.

13 Tell me--and we all agree that we're missing
14 part of the report. Okay, let's lay that aside and come
15 back to that because that could be done in a couple of
16 weeks, and if not, we've got real problems. WE all agree.
17 Nobody disagrees with that. So, we don't know about the
18 quality piece, but certainly in some way, that's got to
19 be reviewed.

20 I'm certainly comfortable with the motion that
21 the Provisions Committee doing it and the Chairman, and
22 I'd go for that.

23 Berney, in addition to the quality part, which
24 has to be reviewed openly and above board, what are your
25 other specific objections to this report, which do not

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1 involve going back and restudying everything, which you've
2 already said you don't think of doing.

3 MR. VENEY: I think Bruce outlined most of
4 those concerns.

5 MR. ENGELBERG: Then let Bruce answer.

6 MR. VENEY: Let me go to two things.

7 One, I thought I heard Leona in response to a
8 question raised by Revius say that, in fact, if you took
9 a look at the quality data, as she now has analyzed it,
10 it did indicate that staff attorney programs did a
11 differential quality job in relation.

12 Now, I may have been wrong, but we could always
13 ask--

14 MR. ENGELBERG: It would clarify things for me,
15 Hillary, if it's okay with you, is that if Bruce could
16 sum up, other than quality, his principal objections to
17 the report, which have nothing to do with going back to
18 collecting more data because I think this Board will agree
19 we won't do that.

20 MR. MORRISON: I speak for no one else, but I
21 certainly, in that regard, have not recommended doing that.

22 MR. ENGELBERG: It would be helpful for me if
23 you would state an objection, and then let Leona or
24 someone on the staff respond to that saying, "Right, wrong"
25 or whatever.

1 MR. MORRISON: Some clarity. Not going back
2 and getting data, not massaging data and not because we
3 don't like the results or any of that--I mean sort of
4 demogogic description of where we're coming from.

5 MR. ENGELBERG: Objection one.

6 MR. MORRISON: Objection one--the way in which
7 impact is presented is normalized is by no means the only
8 way, and I think it is not the most accurate way; and it
9 can be done by normalizing on the basis of attorney
10 resources available; not dollars and you will get a more
11 accurate rate of impact, and you may also by using a
12 smaller unit be able to preserve some statistical
13 differences that are in the gross numbers.

14 I'm not certain of the second point, but I
15 would like to discuss that. That's objection number one.

16 MR. ENGELBERG: May we have a response to that?

17 MS. VOGT: Yes, absolutely.

18 MR. ENGELBERG: Absolutely what?

19 MS. VOGT: Absolutely I will respond and very
20 quickly, which goes something like this.

21 This is something that Bruce has suggested.
22 We did not consider it when we developed the measure.
23 We had some problems with attorney resources being an
24 accurate measure, especially in pro bono, and that's the
25 one that's effected with impact work because we don't

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1 have accurate information about the total number of
2 hours available in pro bono.

3 We can pursue that, and I promise Bruce we
4 can pursue it. What I can't promise you, and I'm going to
5 go to the promises. I cannot tell you whether that will
6 take two weeks, a month or whether it's going to be very
7 sloppy data in the sense that, you know, the pro bono
8 programs can't say precisely how many either attorney hours
9 or total number of attorneys they've got because of their
10 own reporting problems.

11 Then, I'm not sure I can use that as an accurate
12 measure. We can try and develop one, but everytime you
13 start developing a new measure, it takes time.

14 MR. ENGELBERG: What you're saying then, as I
15 understand it, in response to Bruce, is you don't have
16 some data to do what he's asking you to do, is that
17 correct?

18 You lack data for pro bono programs to do what
19 you have to do?

20 MS. VOGT: Either the data I have, they wouldn't
21 agree with. What they have, I would need evidence for.

22 MR. ENGELBERG: I'd just like to hear your
23 objection, and hear a response.

24 MR. MORRISON: That's not a reason to do it wrong
25 and to inflate the pro bono data incidently, but let's move

1 on to number two.

2 Number two is cost per case type, which was
3 another one of the items that was suggested in Denver.

4 The cost comparisons that we have are average
5 costs across all kinds of cases that can be adjusted and
6 studied in certain ways to reflect the different case
7 types.

8 Just to give you an example. If a program does
9 a lot of wills or gives a lot of advice only, that is a
10 model. If one model does more short, quick kinds of
11 representation and another model does more complex type
12 of representation, then averaging overall cases really
13 isn't telling you anything at all.

14 So, to the extent possible, one should get
15 costs per case type. Now, that's not perfect and there
16 are limits, and I understand that you could do this
17 forever and there are almost an infinite number of ways;
18 but you can make some--you could look some into that area
19 and the costs comparison maybe effective in significant
20 ways. They also may not.

21 MS. VOGT: I was ready for this one. So, I
22 have some dates.

23 Case mix information to try and come up with
24 better information on whether the mix of cases handled by
25 programs caused costs to vary, we will have probably by

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1 the end of May.

2 To come up with the effect of the model on
3 the cost of individual case types to say whether a divorce
4 case can be handled much less expensively in one model
5 versus another, we won't have until about the second week
6 of July.

7 To go to the next level and try and find out if
8 there are other factors in the data that we've got--
9 characteristics like attorney background, degree of
10 specialization in a program, the effect of the law and
11 so forth.

12 If we're going to have it at all to the extent
13 that it's in the data base, we won't have that until
14 August.

15 So that what we're working on right now, and
16 we've made a couple of cuts, we will be finished with by
17 May.

18 I might mention on the case mix so far, it does
19 not look like the numbers change in terms of the costs; but
20 not significantly against model because there is such a
21 range of costs within a model type of one project against
22 another; but those are the dates on that one.

23 MR. ENGELBERG: But first, let me make sure I
24 understand. What I heard Leona say, and I want to make
25 sure it sounds right, in order to accomplish the type of

1 analysis which you're recommending, which may or may not
2 be the right thing to do, she's saying you're probably
3 talking about August. That's what I heard?

4 MS. VOGT: No.

5 MR. MORRISON: There are three levels. In the
6 ideal world, we'd already be at the third level; but I
7 can't help that we're not and the best we're going to do
8 is to get to level number one; but in your report, you're
9 not even at level number one.

10 MR. ENGELBERG: In level one, you say, Leona,
11 would take you until when? The end of May?

12 MR. VOGT: Yes, about the end of May.

13 MR. ENGELBERG: You're saying level one would
14 be sufficient, although not ideal, is that correct?

15 MR. MORRISON: All I'm saying is I think it
16 would be better than what you have now.

17 MR. KANTOR: Let me just ask Leona one question,
18 and maybe I'm wrong. I'm not a statistician.

19 What Bruce is saying, just in general, seems
20 to make sense that averaging across case types is not as
21 accurate as trying to have a case mix.

22 In other words, comparing divorces, comparing
23 bankruptcies, comparing unlawful detainer action and
24 so on, right?

25 In other words, you'd agree with that?

1 MS. VOGT: That's the way the study was designed
2 to deal with this information.

3 MR. KANTOR: Just a second comment.

4 Why wasn't it done, and if it's not done and it
5 can't be done until later, why don't we put in this report
6 we will do that further because it potentially skews the
7 results. It may or may not. I don't have any idea.

8 MR. ORTIQUE: There's no doubt in my mind,
9 Mickey, that it does skew.

10 We have two programs in New Orleans; a Legal
11 Aid Program and the Legal Services Program that we fund.
12 The Legal Aid Program is funded at less than \$100,000.
13 The program that they've got in New Orleans is over \$1
14 million. I'm talking about our program.

15 The reports each month coming from Legal Aid--
16 450 to 500 new cases a month. That's as much as Legal
17 Services does and many times more--new cases.

18 Why? Because every interview is a case with
19 Legal Aid; whereas, you've actually got a case without
20 a corporation operation.

21 It can be greatly effected, and we've got to
22 have something in there; but you say you can do the level
23 one thing by the end of May?

24 MS. VOGT: It's not what Bruce wants, but yes,
25 we can.

1 In answer to your question about why we didn't
2 do it, this analysis is most complex and the data base
3 to do that kind of analysis is very, very large.

4 What we are doing to make sure--we could just
5 use numbers coming out of the computers, and that's very,
6 very dangerous.

7 So, what we have done and our plan was to do
8 these cuts in this sequential step, and we felt--and to
9 go to Mickey's point, the report does say that, you know,
10 mix of cases and a lot of other things could effect costs.

11 Unlike the quality piece, I would argue that
12 even when we're finished with this analysis, there are
13 going to be so many things that effect costs that cannot
14 be controlled that for anything other than a few
15 types of cases, that it will not--those things probably
16 will not be model dependent because all you have to do is
17 look at the ranges of costs within a model type and know
18 you're going to find ranges once you get below because
19 there are so many other things that can effect costs;
20 but back to the schedule, and we could at least go to the
21 next level.

22 MR. ENGELBERG: If I understand what you're
23 saying, you're saying Bruce's point, you think, is valid
24 in the sense that the averaging is misleading and neither
25 report says that?

1 MS. VOGT: Absolutely.

2 That's why it was always a complex thing.

3 MR. ENGELBERG: You're also saying that in order
4 to do it even when you complete the job, and if you
5 complete it all the way, it's going to take you until
6 August.

7 You're then saying that it's still going to be
8 a lot of uncertainty; although, it's probably a better
9 analysis than what you had to end up with--the averages?

10 MS. VOGT: I think we will find a lot about
11 what effects costs. What I'm saying is whether we find
12 out that model effects costs in a more definitive fashion,
13 I'm not going to put much money on that.

14 MS. RODHAM: Let me just interject something here.
15 I think that we are getting ourselves into a potentially
16 indefensible position.

17 By that I mean, I don't see how, as a single
18 Board member or as a Board, we can do anything other than
19 at this Board meeting than to send to the Congress what
20 we have before us without talking about anything other
21 than that, except providing some kind of schedule along
22 the lines that Revius is saying and trying with as much
23 credibility telling the Congress that we are going to
24 come up with the rest of it including quality and
25 including any additional conclusions that we wish to draw

1 from the data at the end of June following our next Board
2 meeting.

3 I just think, you know, we are just putting
4 ourselves in a terrible position with this kind of--I
5 don't know any other way to say it except in a backwards
6 way of going at this.

7 MR. ENGELBERG: First of all, I'm just trying to
8 get at the issues here.

9 MS. RODHAM: Well, I know it, but the issues
10 are extremely complicated.

11 You know, Bruce has put a great deal of effort
12 into studying this, and he's, obviously, concerned since
13 it effects what he is doing with his life and Leona,
14 obviously, is concerned.

15 I think for the Board to look even at the issues
16 as Bruce and Leona are discussing them, and to say, "Well,
17 those are interesting" and say, "Here's the final report
18 and whatever comes later won't be just icing on the cake."

19 MR. ENGELBERG: Number one, what Leona is saying
20 is basically that while Bruce's point may be valid, she
21 needs more data and that's a time consuming thing.

22 Number two, she says definitely Bruce's point
23 is valid and that she certainly needs more time and
24 depending on the level of sophistication could take
25 anywhere from the end of May to the end of August.

1 MS. RODHAM: Bob has been trying to say something.

2 MR. ENGELBERG: My only point is what I'm trying
3 to drive at is that maybe the way to bridge this gap--see,
4 I want to deal with--and maybe the way to bridge the
5 gap is that maybe we could send a final report in which
6 has--and basically requires supplement and put in the
7 kind of cautionary language in there, which I assume
8 can easily be agreed upon.

9 For example, on the type of cases, it could
10 say, "This is only an averaging method. There's some
11 other things we want to do, and we're going to supplement
12 that".

13 In other words, I think we could semantically
14 submit a final report. I'm trying to see how much agree-
15 ment or disagreement there is between the two of them,
16 and I sense there is basically a time problem.

17 MS. RODHAM: Well, also a money problem.
18 Keeping that computer going--how much more money are we
19 talking about spending between now and August?

20 MS. VOGT: Hillary, this is a part of the
21 analysis that was always planned. It's just that what
22 we are doing is working double time to get it done.

23 MS. RODHAM: So, in other words, we don't
24 have to spend one more penny than we've already decided
25 we were going to spend to get everything Bruce wants done?

1 MS. VOGT: That's right.

2 In terms of the plan if it's compressed to such
3 an extent and everything is promised, then I would have
4 some other comment.

5 MR. ENGELBERG: See, there's no reason that
6 we couldn't submit, in effect, a final report to the
7 Congress and say, though, that we still--that we're doing
8 that because of the reauthorization pressure, and we're
9 not the least bit uncertain about the basic conclusion,
10 which is the statutory change.

11 I think that would have to include the quality
12 piece.

13 MS. RODHAM: Bob has been trying to say
14 something.

15 MR. KUTAK: I can only say, Leona, that one
16 who has sat in your chair for the last two and a half
17 years drafting some proposed rules of professional
18 conduct, I really didn't think that anybody had as tough
19 a problem; but now I'm really beginning to appreciate
20 what kind of a minor problem I have.

21 If I could pull together some of the thoughts
22 here that I hear, I do think we have the cart before
23 the horse.

24 As I hear it, and maybe I'm mistaken, but as I
25 hear it, it's very clear among this Board that we don't

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1 want to change the law now. I think it would be an honest
2 statement to say that we may want to change the law later.
3 Certainly, we want to keep our options open to change
4 the report later, and therefore, the law later. That's
5 only on the basis of if we see a finished and certainly
6 a polished report, which Leona and her people are making
7 every effort to give us.

8 So, I think it would be in order to second
9 Mickey's motion, which I would now do.

10 I take it it really means that we would
11 authorize the Chairman of our Board to advise the Congress
12 whatever appropriate way in her wisdom she thinks the
13 communication ought to be, that on the basis of the
14 findings and the conclusions thus far developed from
15 the Delivery Systems Study, the Board reports to the
16 Congress that there should be no changes in the Legal
17 Services Corporation Act and going further in support
18 of that report, prepare a statement of whatever length
19 and whatever extent that our Chairman feels appropriate
20 to explain the reasons why we have arrived at that
21 recommendation, and to urge the prompt and favorable
22 consideration of the pending Bill.

23 If it is appropriate to formally acknowledge
24 the draft that we have now had submitted to us by
25 attaching it as an exhibit, but as a draft, to inform the

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1 Congress officially what they already know unofficially,
2 I have no objection; but I would not like this Board
3 and therefore, that is why I'm supporting Mickey's motion
4 to go on record adopting the report and transmitting the
5 report when it is not yet in our minds a finished report,
6 a complete report, a report which we are entirely
7 comfortable with.

8 It will be a great report. It will be a report
9 that speakers have already alluded to and Mickey has
10 confirmed, it's going to be a landmark.

11 I don't think we should have any qualms about
12 its scope. I don't think we should have any qualms
13 about the professional way in which it has been
14 executed.

15 We need, however, to exert judgment with
16 respect to a sign off on the final content until we see
17 the final content, and to give Leona and those who are
18 working with her all the support we can to get it done
19 as quickly as possible.

20 I happen to think, as I think all of us do,
21 that it will be a classic in its field. I could tell you
22 frankly, I already alluded to it--

23 MS. RODHAM: In the field of what?

24 MR. KUTAK: I don't know exactly. In the
25 field of studying the delivery of Legal Services for the

1 rest of this decade, if not century and beyond.

2 I can tell you in my having to talk around the
3 country with respect to the proposed rules, I have
4 frequently made reference to it to build up an anticipation
5 for it because people do know that rather than even
6 looking at Rules of Professional Conduct, we ought to be
7 looking really at the kinds of issues which you have
8 explored certainly in this comprehensive study.

9 I urge this Board to simply address the question
10 as responsibly and as appropriately as the question
11 demands. That is, give Mr. Kastemeier, his committee and
12 all supporters in the Congress the assurance that we
13 don't need any changes in the rules--in the law now and
14 we have a basis for saying that and we can articulate
15 that with Leona and her people. Perhaps, Alan Houseman
16 could assist in that regard.

17 I do ask that we merely communicate that
18 message and we don't transmit formally the report, which
19 I believe is not yet ready to go.

20 MS. RODHAM: Let me ask two questions of you on
21 your motion.

22 MR. KUTAK: That's Mickey's motion.

23 MS. RODHAM: What is your response to the
24 potential argument that how can you recommend there will
25 be no changes needed in the Act, if you don't have a

1 final report, and you're telling us that it's not a
2 final report?

3 On what basis are you saying that there will
4 be no changes?

5 MR. KUTAK: What I meant to say, and I hope I,
6 did, was that on the basis of all the study we have had
7 done for us now--up to now, that at this time, we don't
8 see any need.

9 What we are doing is responding concurrently
10 with the state of the art and the state of the study
11 that we have prepared.

12 I don't think anyone would propose that with
13 the report being finished that we draw a final conclusion
14 at any time or that we see no changes in the law.

15 We would say that we don't recommend or propose
16 any changes in the law now--

17 MS. RODHAM: Well, what about the reauthorization?

18 MR. ENGELBERG: The political response is
19 likely to be, "Well, fine. We'll just wait until you're
20 ready."

21 Then that poses very serious problems for this
22 Corporation.

23 MR. KUTAK: The only response is, I hope the
24 accompanying statement would explain by really observing
25 the work that has been done, the reflections we have on

1 top of the work that's been done to give us a considered
2 judgment as to the recommendation we're making.

3 MS. RODHAM: Getting back to Revius' question,
4 which has been unanswered, which might reflect on how
5 we take your motion.

6 If we could have the quality piece in front of
7 us plus the editorial changes that were needed that we've
8 already suggested to clarify what's in this report within
9 two to three weeks, would you feel the need that we had
10 to send something now or could we wait that two to three
11 weeks and either have a meeting or follow Howard's
12 suggestion that we delegate the authority to the Provision
13 Committee so that we can say, "Here is a final report"
14 in the sense that we have done the work on it that we are
15 able to do at this time. Of course, if we are able to
16 do additional work, we will provide that information as
17 well.

18 MR. SACKS: May I suggest one other thing?

19 Is there any risk that what they'll do is give
20 us a one year authorization?

21 May I have an answer?

22 MR. BRADLEY: That's what some have specifically
23 said.

24 MR. SACKS: Would anybody like to speculate
25 on the composition of the Congress a year from now?

1 MR. ENGELBERG: Who said there would be a one
2 year authorization?

3 MR. SACKS: I said is there any risks.

4 MR. ENGELBERG: Who on the committee said that?
5 I mean, the members of the committee have said that
6 if this study is not done--.

7 MR. KUTAK: They could change the law next year.

8 MR. ENGELBERG: Has there been a correlation
9 between a one year authorization and the failure to have
10 the report, or is it just something--

11 MR. BRADLEY: To answer your question, Steve,
12 yes. One member has said he wants to see this report.
13 Why are we rushing into a three year authorization?

14 One of the members said--one of the Senators,
15 "Two years" for the reason Mary said today because we're
16 going to take control of the White House and we want to
17 deal with it in two years.

18 I think Revius--and I want to ask him if he
19 said this.

20 Have we discussed the wisdom as to whether or
21 not, and I'm not suggesting it, of transmitting the
22 report that we have right now minus--just making a
23 statement that the Board is not yet prepared to say
24 anything to Congress in terms of the quality piece, and
25 we will so indicate to you at a later time what the Board's

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1 conclusion is on the quality piece.

2 MR. ORTIQUE: I would be against that, Dan.
3 I'm really against that for several reasons.

4 Number one, the quality piece seems to me to
5 be so important--as important as any piece that we send,
6 to them, and after spending all this money that we're
7 not able to give them the quality piece, just doesn't
8 seem to make any sense to me.

9 Number two, I'm so afraid that if we say we
10 can give them the quality piece at a later date--
11 December or next June or whenever before we actually say
12 we're satisfied with the quality piece.

13 Well, we sent them that, let's sit back and wait.
14 I would like to have the pressure on everybody that we're
15 going to do this. We're going to have that final piece
16 in the next--you tell me it can be ready in two weeks.
17 I'd be happy if we could have it ready in a month.

18 I really don't want us to bifurcated the report
19 and sitting back and taking it easy because we've now
20 done something. We did that with those various levels
21 that we sent--

22 MR. BRADLEY: Speaking specifically to the
23 various motions that are floating around, and hearing
24 all the debate, I'm prepared to take the gamble and I
25 think it's a sizable gamble, and I think it's a risky risk.

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1 It's a frightening risk, and I'm prepared to recommend to
2 the Board that we take the risk and do the essence of
3 what Bob and Mickey's motion attempts to do; trying to
4 communicate as specifically as we can what's invited in
5 this transmittal statement and these findings and
6 conclusions.

7 MS. RODHAM: Well, before we decide we have to
8 take the risk, I still want to know when it's going to
9 be done.

10 I mean, if it's going to be done in two weeks,
11 then I don't want to take that risk. I want to have you
12 go back and say we're going to have it to you in three
13 weeks because in two weeks it's going to be to the Board
14 and the Board is going to decide it will be to you in
15 three weeks.

16 MR. BRADLEY: Hillary, my frustration on that
17 really is, and I know Leona is sitting there hoping that
18 I'll respond to that because of the problems that we
19 have with our contractors, the problems that we have in
20 doing some of the analysis that she has been doing around
21 the clock.

22 You know, Judy told you when she spoke to you
23 on the phone that we promised you that we were going to
24 have you the quality piece before you met here today.
25 We didn't deliver on our promise because of some of the

1 complications that I've told you about, and I don't
2 feel comfortable telling you that in two weeks certain
3 we can complete that analysis with that information. I
4 wish that I could.

5 MR. ORTIQUE: Are we talking about three weeks?
6 Are we talking about a month?

7 MR. BRADLEY: Well, Leona asked me not to
8 speculate in terms of telling you exactly what date you
9 would have it in your hand.

10 MS. VOGT: This is what I would like to at least
11 suggest.

12 That if you say two weeks, we will have whatever
13 it is in two weeks because my feeling is that at some
14 point if we don't have it, there is some reason why we're
15 not getting it. That's the first thing.

16 My concern about the other implication of the
17 editorial changes, I need to know what those things are
18 in order to fix them, and then if we tack those things on
19 in two weeks, I don't know yet what they are really.

20 I mean, I know a few things have been raised,
21 and I would need to know those before there was a date;
22 but the quality piece, then I could promise you that
23 somehow we will do it; whether it's manually or whatever
24 it is. We will have the rest of that quality piece.
25 We could have that within two weeks.

1 I told Dan because of my credibility because
2 things kept getting messed up, you know, that he should
3 be aware of what he says. I can promise you in two
4 weeks you could have that.

5 The rest of it, I would need to know what it is
6 you have to say in order to say what else is involved or
7 whether it's Judy's piece too.

8 MR. BRADLEY: But Leona, if your concern was
9 the dialogue or discussion between Steve and Bruce--

10 MS. VOGT: No. There have been a specific
11 examples but hints of editorial changes and also some
12 language changes that I just don't know that could be
13 important to you that I just don't about yet.

14 MR. SACKS: I'd like to renew my motion then.

15 If she promises us that she can give us the
16 material on quality, both the basic data and something
17 about differences in quality as to individual types of
18 cases, and she can do it in two weeks, I think that if in
19 two weeks we can get the editorial changes cranked in and
20 the quality data and the editorial changes to the
21 Provisions Committee and the Chairman, and I think we can
22 be rolling, and we'll have it done, and we won't face
23 this bifurcated report that Revius and I share that we're
24 so concerned about.

25 MR. ENGELBERG: Howard, with all candor, I don't

1 share, I guess, Bob's and maybe some others sense of the
2 cosmic importance of this report.

3 However, I think there is so much division,
4 and I think that we're putting Leona and the staff in a
5 very awkward position.

6 You're trying to bring to a head that the problem
7 is when you alluded to "Well, we'll just fix these little
8 editorial changes", she doesn't even know what we're
9 talking about.

10 There are things flying around here. It's like
11 shrapnel.

12 It's an example of a Board trying to act, and
13 we're trying to write this report now, and we can't do it.

14 What I'm sensing is, and I've heard it from
15 almost everybody, is a lot of dissatisfaction for a variety
16 of reasons. Some of us maybe don't like the data. Others
17 don't like the way it's presented. Some of it is
18 legitimate and some of it maybe is not.

19 Leona has acknowledged that there's some things
20 she would like to do, I think, in a perfect world if she
21 had more time.

22 Pragmatically, I'd like to get it over with, but
23 I think, Howard, I just sense--

24 MR. SACKS: Well, what do you want to do?
25 What's your specific suggestion?

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1 MR. TRUDELL: Let me ask a question since we
2 may be saddled with it in terms of the Committee.

3 I appreciate all the Board members who were at
4 the Provisions meeting, but Dan, how soon do you think
5 we'd have to send something to the Congress?

6 I mean, in other words, do you want to send it
7 Monday, two weeks or whatever?

8 The reason I'm asking is because in terms of
9 Bob's suggestion and in terms of communicating with
10 Congress with whatever we send referring to the thing
11 in exhibit form and just a draft in the final report
12 or whatever.

13 The next question I have after you answer that
14 is I agree with Leona. You know, everyone is complaining
15 and dissatisfied, but no one has been specific enough,
16 other than to refer to certain charts, and I think
17 McCalpin did a very good job at the Denver meeting, I
18 think, in terms of saying, you know, "This chart doesn't
19 make any sense. Rework it or whatever."

20 So, the question is which areas need clarity,
21 and/or reworking?

22 I'm reluctant to be a part of a Board that
23 endorses any kind of report when we don't have all the
24 parts.

25 We went through that with the 1007(h) Study and

1 report in terms of "Let's get the summary together and
2 everything else and shoot it in and then get the full
3 report and just be totally upset with it, but we've
4 already committed ourselves."

5 The third item, I think, is the idea of the
6 timetable is extremely important, you know. I would
7 assume hopefully by tomorrow we can be a little more
8 specific in terms of time.

9 If we're going to throw it back to the Provisions
10 Committee, then I, for one, want to know what the
11 frustrations are that every Board member has because if
12 the Committee is going to have to get together and then
13 still be uncomfortable with, you know, we endorse it
14 and Hillary endorses it, in it goes. Maybe no one will
15 say anything after that, but I--

16 MR. ENGELBERG: Let me make a suggestion of
17 something.

18 First of all, it may be a good idea to put this
19 off until tomorrow morning and let Leona and others--
20 because I think one of the things Dick said that if we're
21 going to have a timetable, let's have a clear time. I
22 think that's a good idea.

23 I think we've got two choices, and Revius, while
24 I initially agreed with your let's get it over with in
25 June thing, I think that's a mistake.

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1 I think the two choices should be either A,
2 let's just go with it with the long runs we've talked
3 about and say it's the best we can do, letter and final
4 report and not put it off at all or a final report
5 within two weeks--Howard's position.

6 If we're going to put it off, I would still pick
7 a date certain based on the timetable; but I wouldn't
8 make it June. I think that's a terrible mistake. I
9 would make it--but I'd wait for the staff's recommendation,
10 I'd make it something like September because, you know,
11 if we're going to put it off, we might as well go ahead
12 and try to do all the things we're talking about.

13 Dick, I'm not in any way arguing what you're
14 saying. I think it's absolutely incumbent upon each
15 Board member to specifically say the changes they would
16 like to see.

17 Although, again, it may be overstepping their
18 bounds in trying to manipulate data, which I don't think
19 is appropriate.

20 The kind of thing Bruce was talking about
21 seems legitimate, but it's going to take a little more
22 time.

23 I for one--I don't really care. I think I'd
24 go either way, but I think the worse thing, REvius,
25 would be to kind of get hung up in the middle there and

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1 tie ourself to a June deadline, which is really the
2 worse of both worlds. We're not going to satisfy what
3 Bradley needs by giving him a final report and yet we're--
4 from what I've heard almost certainly end up with something
5 which a large number of Board members and some people
6 from the general public is dissatisfied with.

7 So, I would recommend we take no action; that
8 we think about the two options, and as to the second
9 option; that is, put it off, that we get a recommendation
10 from the staff as to a clear time certain; but a realistic
11 timetable.

12 Now, if they say it can be done by July or
13 June, fine; but let's hear from them on that because
14 they are the ones that are going to have to do the work.

15 Now, in any event, of course, I think we all
16 agree if we put it off, we'll have to send a letter to
17 Congress. I mean, I assume no one is disagreeing with
18 that.

19 I mean, that seems to me the only two choices.

20 MR. ORTIQUE: The only part I agree with you on,
21 Steve, is that we not make the decision tonight because
22 I think we're not ready to make the decision.

23 I guess I agree with you too that it should
24 depend on the staff. I really don't think that we ought
25 to be talking about September because if we talk about

1 September, we're going to be talking about January,
2 believe me.

3 MS. SHUMP: The one thing that really upsets
4 me is when, and I don't mean it in a derogatory manner.

5 I've been sitting here and I've been thinking
6 and I think the one thing that has come out more strongly
7 than anything else is the fact that probably because of
8 all of your knowledge, probably because of all of your
9 experience the tendency to procrastinate is tragic.

10 I think if we're going to be a working Board
11 and if we're going to accomplish anything, we're going to
12 have to set down some realistic time frame insofar as
13 Dan is concerned, insofar as the Congress is concerned,
14 and insofar as the staff is concerned.

15 I think it's time we quit talking about
16 September. I agree with the Judge, and I also agree with
17 Dick.

18 If we're going to throw it at the Provisions
19 Committee, fine and dandy; but give us a timeframe, and
20 I'm not talking in terms of months.

21 You know, poor people get told about you will
22 have this, you know, as soon as possible. We've got to
23 stop that.

24 We've got to start really setting some time
25 frame and making every attempt to keep it and keeping it.

1 MS. RODHAM: Let me make a suggestion.

2 I think we are obviously not going to be making
3 any final decision this evening on what the options for
4 us are; but what I would like for each Board member to
5 try to put down in some form in writing, if that's possible,
6 and not just verbalizing it, by tomorrow what changes,
7 if any or what questions, if any, that Board member has
8 because I think that's the only way that we're going to be
9 able to focus the debate, which has gone on and on.

10 We've heard a lot about concerns about changes
11 in content or styling.

12 Dick is speaking from the experience of having
13 chaired a meeting for two days that went over this thing
14 with a fine tooth comb and created some very progressive
15 and good changes in the document, and it was because they
16 painstakingly reviewed it.

17 I think that it's a little bit irresponsible for
18 those of us on the Board to have feelings about it not
19 to express those feelings in writing in a specific way
20 so that somebody--Leona or her staff or someone can respond
21 to them.

22 I also think it would be very useful if Bruce
23 could continue and Leona could continue together and
24 provide for us maybe tomorrow a further listing of what
25 some of Bruce's concerns are in writing so that the Board

1 has access to them--

2 MR. ENGELBERG: With a timetable.

3 MS. RODHAM: With a timetable. What it would
4 take to get what Bruce thinks needs to be done; what
5 Leona's responses to those are and what we're talking
6 about in terms of weeks or months.

7 I share the feeling that we cannot postpone
8 this any later than the June Board meeting. I would feel
9 just--I mean, I just think that's not even an option that
10 should be considered.

11 We're going to provide something between now
12 and that meeting, depending upon what the Board decides
13 tomorrow, and then we can leave open the alternative that
14 we're going to pursue some additional avenues, if that
15 seems to be suitable; but we have got to provide a final
16 report before or shortly after the June Board meeting.

17 I would prefer that we provide that final
18 report before the middle of June so that we don't run the
19 risk of the political problems that Dan is talking about.

20 I'm not willing to take that gamble because
21 with all respect to Bob, I think that this report is just
22 going to sit in a dust bin somewhere along with most of
23 the other reports that have been written.

24 It will only be used by people who have already
25 preconceived ideas on any side of the spectrum as to what

1 they want Legal Services to look like because half the
2 people are going to use the documents and will never read
3 it, and I think that we're making it a lot more than it
4 needs to be, and I'm more concerned about the procedural
5 and political implications than trying to get down to the
6 final--fine tooth comb and that says more about me as
7 somebody who is not concerned about statistics and
8 methodology, I suppose, than it does about the report.

9 If any Board member who is here now and Steve,
10 if you would convey this to Mickey, have specific
11 suggestions, write them down and get them to Leona
12 either tonight or tomorrow morning so that we can have
13 some idea of what we're talking about and not just
14 talking in rhetoric and abstract ways.

15 Bruce, if you wouldn't mind doing that with
16 Leona to provide us with some sense of what the concerns
17 are and what Leona's responses to those concerns are
18 with a timetable, that would be very helpful so we could
19 make a decision tomorrow morning.

20 MS. VOGT: I'd like to make one other comment,
21 which is I would be more than willing, in fact, look
22 forward to marked up versions if you could share them.
23 We could always return them. I mean, it's easier than
24 sitting down and saying too detailed, not clear,

25 It's not helpful if you say not clear because

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1 I'm not sure how I'm going to clarify it.

2 So, anything that is as specific as possible,
3 it really would help a lot.

4 MR. ENGELBERG: I think it's very important
5 that the people on the Board who have changes do what
6 Bruce has attempted to do, and let Leona respond; that is,
7 the type of further analysis they want done, if any, so
8 that then Leona can then give us a time.

9 I just beg to differ with you, Romona. I
10 think that somehow--I mean, the only thing we're
11 embarrassing is ourselves and the fact that we've waited
12 two and a half years, I don't think makes a hell of a
13 lot of difference.

14 I think though that it is the height of insanity
15 to talk about perfecting this thing, and then cutting it
16 off before you can perfect it.

17 If you're going to perfect it, perfect it.

18 MS. SHUMP: I don't think we can, Steve; but I
19 do think--

20 MR. ENGELBERG: Then I go with Howard. I
21 think it's crazy to kind of take this inbetween position.

22 MS. HILLARY: I'm not talking about inbetween
23 position, but I think it's irresponsible for the Board
24 to sit here and throw out generalizations about this
25 and that without providing any documents.

1 MR. SACKS: I was ready three hours ago.

2 MR. ENGELBERG: But I think what you're going to
3 find is that a lot of what is wanting to be done, and
4 particularly some of the things that Bruce talked about
5 which sound to me maybe sensible are going to take some
6 time.

7 You know, we can wait until tomorrow to hear
8 about it; but all I'm saying is Leona--your staff tells
9 you that it's not going to be done in June. Several
10 of the things that Bruce suggested, she said could not
11 be done in June, unless I misunderstood.

12 Maybe you feel that some of the things that
13 Bruce is suggesting don't make sense; but we better decide
14 that very clearly.

15 Don't walk out of here saying it's going to be
16 done in June, and we don't care whether Bruce's suggestions
17 make sense.

18 If Bruce's suggestions are valid, then we've
19 got to give them time to get implemented. If they're
20 not valid, then let's decide they are not valid; but let's
21 quit playing expert.

22 We've got a lot of people here. Everybody is
23 trying to play expert, and I completely agree with you
24 about the unfairness to the Provisions Committee. I was
25 very impressed with the work they obviously did between

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1 the two drafts, and I think everybody is playing Monday
2 morning quarterback.

3 If the feeling is let's put it off, then let's
4 put it off. I think somehow the idea that you're going to
5 do that in June from what I've heard here is unrealistic.

6 MS. RODHAM: That's again assuming that we
7 want to go to that level that is going to be expressed
8 by Bruce in his comments that we'll have tomorrow.

9 MR. ENGELBERG: But it's very important that
10 whatever substantive changes are recommended by the Board
11 or by the people that we have those and we also have
12 the timetables for the amount of work that has to be done.

13 MS. RODHAM: Let's be ready to start at 9:00
14 and no later because we want to complete our decision
15 about the Delivery Systems Study and move into some of
16 the planning questions.

17 A.C. Worton is hosting a reception at 6:30
18 in the Berkley Room.

19 MR. BRADLEY: All of you in the audience are
20 especially encouraged to be there. There are going to
21 be representatives of the client community, A.C. and
22 his staff and the Board and other persons from this
23 Region. So, I hope all of you will come down and have
24 a drink with them.

25 (Whereupon, at 6:00 the meeting was adjourned.)