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LEGAL SERVICES CORPORATION

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MEETING OF THE BOARD OF DIRECTORS

- - - - -

Friday, April 23, 1976
9:00 A.M.

- - - - -

Room 426
Marvin Center
George Washington University
800 - 21st Street, N.W.
Washington, D.C.

Neal R. Gross
Court Reporters and Transcribers
Harwood, Maryland
261-4445

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IN ATTENDANCE

Board Members

Roger C. Cramton	Chairman
J. Melville Broughton	
Marlow Cook	
Robert J. Kutak	
Rodolfo Montjano	
Revius O. Ortique, Jr.	
Glee S. Smith, Jr.	
Glenn C. Stophel	
Samuel D. Thurman	

Staff

Thomas Erlich	President
C. Clinton Bamberger	Executive Vice President
Alice Daniel	General Counsel
Francis Hennigan	Budget Officer
Nelson Rios	Director of Administration
Judith A. Riggs	Director of Government Relations
Harriet W. Ellis	Director of Public Affairs
Charles Jones	Director, Office of Field Services
Charles White	Equal Employement Opportunity Officer
Richard Carter	Director, Office of Program Support
Alfred Corbett	Director, Office of Program Planning
Anthony Mondello	Office of Program Support

Also Present

Jeannette Sisson
Lynn Broyderick
Leona Vogt
Alan Houseman
Betty Mahoney
George Grob

TABLE OF CONTENTS

Page

Adoption of Agenda. 4

Approval of Minutes of March 5, 1976 Meeting. . . . 6

Reports by Committees:

Appropriations and Audit - Concerning Proposed Authorization Request to Congress 11

Provision of Legal Services - Concerning Proposed Arrangement with Urban Institute. 23

Regulations (Regulation Book) 83

(i) Previously published regulations:

1600 - Restrictions on Certain Activities. 89
1604 - Outside Practice of Law 102
1605 - Appeals on Behalf of Clients. . . . 106

Advisory Councils 116

Regulations:

(ii) Previously unpublished regulations:

1611 - Eligibility. 118

Reports by the President Concerning:

Structure and Function of Regional Offices. . . . 160

Support Centers 201

Affirmative Action Plan 210

Adjournment 225

P R O C E E D I N G S

9:15 a.m.

CHAIRMAN CRAMTON: The meeting will come to order. We are expecting momentarily the Honorable Mr. Kutak and Mr. Smith. Mr. Breger has indicated that he may not be able to attend because of the illness of his father. We hope that he will be able to join us tomorrow. Mr. Ortique is expected to join us momentarily. But in their absence, since a quorum is present, we will start.

The first order of business is the adoption of the agenda. I would like to orally make some adjustments and deviations from it.

We plan to go down the agenda as indicated into the regulations, to take up first Regulations Number 1600 and 1604 and 1605. Then we will jump to the items under Number 4 of the Agenda, which are reports by the President concerning structure and function of regional offices and continue down those until we reach the luncheon break which will be at 12:30.

At 12:30 we will break for lunch. It is contemplated that there will be an Executive Session. There will be a vote on that and a specification on the subjects to be discussed.

Immediately after the luncheon adjournment at 2:00 o'clock, we will take up the subject of eligibility which is

1611, when it has been arranged that there will be several experts here who will join us at that time.

When we complete eligibility, we will return either to the items under 4 which we have not finished, or if we have finished them, then we will return to the regulations that are under the headings, Previously Published Regulations, which are 1607 through 1610.

Then at that point, the next item on the Agenda will be the procedures for applications for refunding, which is Regulation 1606.

Presumably we may not get to some of these latter regulations until tomorrow morning. Then tomorrow we will continue with items on the agenda as they appear. This will break up the regulations and intersperse some other items and take the regulations in what seems to be a more logical order and also accommodate the experts who are going to be here immediately after lunch.

With those oral amendments of the proposed agenda, the agenda is now before you, and I would entertain a motion for the adoption of the agenda.

MR. STOPHEL: I am glad to see the suggestion that we take up Item 4 before we start on some of the other regulations.

MR. CRAMTON: What we are going to do is to sum up the regulations and then do something else and then go back

to the regulations.

MR. STOPHEL: It is our plan to hear Mr. Erlich today?

MR. CRAMTON: Yes.

MR. STOPHEL: I may have to leave this evening and I wanted to get to those.

MR. CRAMTON: We will probably get to those this morning.

MR. THURMAN: I move the approval of the agenda as amended by the Chairman.

MR. STOPHEL: Seconded.

MR. CRAMTON: Is there a discussion?

(No response.)

MR. CRAMTON: All those in favor, please say aye.

(Ayes.)

MR. CRAMTON: All those opposed please say nay.

(No response.)

MR. CRAMTON: I heard enough ayes to adopt the agenda. The agenda is adopted.

The first item on the Agenda after the adoption is the approval of minutes of March 5, 1976 meeting. Mr. Erlich has some suggested changes which he will make orally at this time.

MR. ERLICH: The resolution that is reproduced on page 5 should read in its first line, I believe, "Resolved,

that the Board of Directors proposes to adopt the following standard.".

MR.BROUGHTON: What line is that?

MR. CRAMTON: On the first line of the Resolution, we insert the word "proposes to" between the words "Directors" and "adopt".

MR. ERLICH: That same change should be made at the top of page 8. Then near the bottom of page 6 and the second indented paragraph of the Chairman's statement, it might be clearer if that paragraph read, "The President and the Board discussed several legal matters concerning the implementation of any action" and so forth.

MR. CRAMTON: I suggest that to make the sentence more gramatical and not to change its substance. Do you have anything on page 8, Mr. Erlich?

MR. ERLICH: The Chairman has asked that in the final full paragraph on page 8 a new sentence be added to read: "Mr. Cramton indicated that, if he had voted, his vote would have been in the affirmative.".

That is on page 8.

MR. CRAMTON: Is there any objection to those suggested changes?

MR. STOPHEL: I wonder about the appropriatness of that last change, Mr. Chairman.

MR. CRAMTON: It was a statement that I made on the

record at the time.

MR. STOPHEL: I recall that.

MR. COOK: He did make it. There is no question.

MR. CRAMTON: It did seem to me that it was important to have it in the minutes as a matter of record. It is my understanding that the Chairman is entitled to vote on all matters. Normally, I do not vote, but I think on some important matters it may be desirable for me to indicate on the record what my position is.

MR. STOPHEL: Why not vote? It would be simplier?

MR. THURMAN: Even if he did something illegal, he did it.

MR. COOK: What I think we are really debating about is something that is unnecessary to debate about. The fact is that it is in the record that he made the statement and therefore, there is no reason to have it part of the record.

If from here on out he wants to vote, then he can vote and if from here on out he wants to make that statement then I see no objection. If it is part of the minutes of the meeting, then it is part of the minutes of the meeting. That is all there is to it.

MR. SMITH: There is no problem, but in the future, if you vote, it would make it a lot simplier.

MR. CRAMTON: Would you like me to vote in the

future?

MR. COOK: I could argue about a lot of things, but not about that.

MR CRAMTON: Is there any objection to all of the changes suggested by the President?

(No response.)

MR. CRAMTON: If not, --

MR. BROUGHTON: Mr. Chairman?

MR. CRAMTON: Mr. Broughton?

MR. BROUGHTON: I have a change on page 9. This is in the first full paragraph, reading, "The discussion of the draft contract with the seaport centers of HR 10799 followed.". Mr. Kutak moved that the Board express its support.

MR. KUTAK: Do I hear my name?

MR CRAMTON: The record should note that Mr. Kutak and Mr. Smith have now joined the Board Meeting.

(Mr. Kutak and Mr. Smith take their seats at the Board table.)

MR. COOK: Where do you wish to make that change?

MR. BROUGHTON: Where I am referring to is where Mr. Kutak move that the Board express its support of HR 10799. The next follows that Mr. Broughton seconded the motion. I would like for the minutes, however, to show that I seconded the motion at the same time stating that I did not support the motion. I was doing so for the purpose of getting the matter

on the table.

Mr. Kutak might want to make some statement about that.

MR. KUTAK: I was honored.

MR. CRAMTON: Would it be all right if we edit the words "in order to permit discussion of the motion"?

MR. BROUGHTON: Yes.

MR. CRAMTON: Very well. "In order to permit discussion of the motion, Mr. Broughton seconded the motion.".

MR. BROUGHTON: Thank you.

MR. CRAMTON: Are there any further changes in the minutes?

MR. STOPHEL: I appreciate the opportunity for reviewing the transcript. Excuse my absence and my wife's surgery was successful, but I would much preferred to have been here that day than in the hospital as I was, but I would like the Board to know that the surgery was successful and I appreciate their concern.

MR. CRAMTON: Any further suggested changes in the minutes?

(No response.)

MR.CRAMTON: With the oral corrections made today, the minutes are before you for adoption. Is there a motion?

MR. KUTAK: So moved.

MR. CRAMTON: Is there any discussion?

(No response.)

MR. CRAMTON: All those in favor of adoption of the minutes as amended please say aye.

(Ayes.)

MR. CRAMTON: Those opposed, no.

(No response.)

MR. CRAMTON: The minutes are adopted.

The third item on the Agenda is reports by several committees. First we have the Committee on the Appropriations and Audit concerning proposed authorization request to Congress. Mr. Stophel?

MR. STOPHEL: Before proceeding to that, I would like to report to the Board on the Supplemental 1976 Fiscal Year Request which we submitted to Congress in the amount of $5.6 million. This was divided, as you recall, into three segments; for the alternative delivery study, $1.5 million, and for the migrant programs, $1.03 million, and for the CAP Program, such as the 221 programs, $2.77 million.

The House of Representatives has approved $4.33 million. This is a reduction of our request of $970,000. There would need to be an allocation. Although the House indicated that they were approving our alternative delivery study of $1.5 and the migrant program of $1.03 million, the reduction came from the 221 program section request. That is basically the increase we requested.

MR. KUTAK: What are those?

MR. STOPHEL: The Community Action Agency programs. This is primarily in the Northwest.

MR. KUTAK: I do not recognize those.

MR STOPHEL: Do you have any other comments on those as to the supplemental request or things that I have overlooked?

MR. ERLICH: No, only that. I would expect to write to the Committee -- Chairman of the Senate Committee, Senator Pastore, and express our strong hope that they not reduce the House amount and that we have some reason to believe that they will pass it.

MR. STOPHEL: Under Section 2 --

MR. THURMAN: One comment on that. The reduction means that there will be no increase on the 221.

MR. STOPHEL: That is correct.

MR. THURMAN: Many of those in my area up in the Northwest are concerned about that.

MR STOPHEL: I see. We have many other problems with funds also which I will discuss a little bit later.

Under Tab 2 of your materials you will find a discussion among with a memorandum from the President and other memoranda dealing with our authorization request.

For background you will recall that in our enabling legislation, we had what amounted to a three year authorizat-

ion. The first year was $90 million, the second year was $100 milion, and the third year, "such funds as may be necessary".

We were not even confirmed during the first year, so we do not have to worry about that authorization and we came into existance in the second year and asked for $96 point something million out of a $100 and received $88 million.

It is now time to submit an authorization request to Congress by May 15 of this year for 1978 and subsequent years. We have had an informal discussion among members of our Committee concerning this matter and with the President of the Corporation and the General Counsel of the Corporation. You will hear some comments from our liaison member of the staff dealing with this matter.

It is our feeling that we should adopt a resolution similar to the one in the materials requesting authorization for a three-year period, without specific amounts, but asking for such funds as may be necessary.

This is, of course, as a new program we are still in a situation where it is difficult to project three years into the future for our needs.

We feel a responsible way of doing this is to ask for authorization in an amount that will be necessary and then we will need to submit specific requests and dollar amounts with supporting documentation at a later time in the budgetary processes.

Mr. President, you might want to speak about this.

MER. ERLICH: If it is agreeable with the Board, I would like to introduce Judith Riggs, who is a new staff member in charge of Congressional Relations and Buck Hennigan who is in charge of Financial and Budgetary Planning.

Judith will say a few words about the specifics of the matter and Buck will be saying some words about our financial affairs vis-a-vis the Congress more generally. Is that agreeable?

(General assent.)

MR. ERLICH: Judith?

MS. RIGGS: Thank you.

MR. CRAMTON: Have you met all members of the Board, Judith?

MS. RIGGS: I do not believe so.

(Introductions made.)

MS. RIGGS: The reason we have to do this is that the new budget act of the Congress requires that requests for new legislative authority be made by May 15 of the calendar year preceeding the calendar year in which the new fiscal year will begin. That is to give the Congress plenty of time to look at our request and make decisions before their time-table, which is May 15 of the following year, by which time they would have to decide what to do with the request.

It is pretty much a formality. There is very little

likelihood that Congress will do anything with this request this year, particularly because next year we will start with a new Congress. It is most likely that they will wait until next year to actually do anything.

However, it is very important that we get in and take a position and defend it at such time as the hearings take place. Those hearings are likely to also represent our first real Congressional oversight.

MR. CRAMTON: Will those be in the Senate Labor and Public Welfare and the House Judiciary Sub-Committee?

MS. RIGGS: Yes, and Senator Nelson's Sub-Committee. The Resolution before you does two very simple things. It is all the Congress requires of us now. The first thing that it does is to have us make a decision about how long we want to extend this authority. Three years makes sense in terms of precedent.

It is also important to recognize that three-year cycle will then put us in the right position in the Congress. Unlike now when we are now making our request in the second session of an out-going Congress, at the end of the next three-year period, we will be in the first session of Congress, and very probably have an easier time.

It is a reasonable request. The open-ended authorization, as Mr. Stophel said, gives us a lot more flexibility in making decisions.

Even without the authorization, the Committees will have to make some decisions in their reports about how much money they expect.

It provides more flexibility for us.

MR. STOPHEL: There are basically two alternatives available to us within this resolution.

The first alternative is an open-end authorization or specific amounts. I have explained why we suggest the open-end.

The second is the period that we would request in our authorization which might be one year or two years or three years. We feel that three years was the one in our enabling legislation and we have a precedent and that gives a reasonable period. If you go beyond that, we are reaching too far out in the future where we cannot foresee at all.

Those are the two alternatives that are there.

MR. KUTAK: Mr. Chairman, the argument that was presented in our briefing book was very persuasive. It seems to me that the explanation given by my colleague, Mr. Stophel, was very cogent. I would not want to usurp any role, but I would certainly urge the adoption of any such approach and indeed of such a Resolution if it were now in order to suggest that being done.

MR. STOPHEL: I move the adoption of the Resolution that is in our materials. This resolution authorizes

legislation. Would you prefer that I read it into the record?

MR. CRAMTON: I do not think that it is necessary. The President did mention that he was going to introduce both Ms. Riggs and Mr. Hennigan. We would like to hear from Mr. Hennigan and I wonder if it would be desirable before we move to discuss and vote upon the resolution itself if we hear from Mr. Hennigan?

MR. KUTAK: That is fine.

MR. STOPHEL: That is fine.

MR. CRAMTON: Mr. Hennigan?

MR. HENNIGAN: I can talk from back here if you like.

MR. CRAMTON: If you speak up.

MR.BROUGHTON: Would you please come forward?

MR. HENNIGAN: Yes.

MR. CRAMTON: You know all the members of the Board, Mr. Hennigan, do you not?

MR. HENNIGAN: I do.

MR. KUTAK: Herein after we shall refer to him as Buck.

MR. CRAMTON: Mr. Hennigan has extensive legislative experience and he is an asset to our staff.

MR. HENNIGAN: Thank you. In the papers given to you this morning, you should have a legal size chart which relates to the Request for Authorization Extension in Relation to Actions on Appropriates. It is dated August 1976 through

March 1978.

MR. CRAMTON: This gives the timing in which various actions have to be done by the Corporation.

MR. HENNIGAN: I would like to guide you quickly through the chart by referring to the number in parenthesis above the columns and the month numbers in the left margin.

In Column 1, labeled Authorization Fiscal Year 1978 and Later, you will note, as Judy Riggs indicated, that we do not expect Congress to act on extension requests before 1977. On that assumption, the chart may help you to identify when the Corporation will be dealing with the Congress on financial projections, both before and after serious work starts on the authorization request.

In the months before January 1977, the Corporation will be securing the Fiscal 1976 Supplemental Appropriation and the Fiscal 1977 regular appropriation as shown in Columns 2 and 3 opposite months 1 through 7.

And the Corporation will be developing the Fiscal 1978 budget request as shown in Column 4 opposite months 2 through 9.

When Congress does start action on the authorization extension in January of 1977, at month 10 on the chart, the Corporation will be well into executing its Fiscal 1977 budget as shown in Column 3. We will be starting to justify our Fiscal 1978 request before the Congressional budget and

appropriation committees, as shown in Column 4, opposite months 11 through 13. This reads, Testimony before Budget and Appropriations Committees.

Further, the Corporation will be starting preliminary work on its Fiscal 1979 requests as shown in Column 5, also opposite months 11 through 13.

MR. CRAMTON: That is a very useful tabular presentation.

MR. HENNIGAN: Thank you.

MR. THURMAN: It really is.

MR. HENNIGAN: The chart suggests two things for your consideration: First, it is essential that the Corporation have well developed by December of 1976, financial estimates for Fiscal Year 1978, 1979, and 1980. Also, possibly for later years should the Congress be interested in discussing an extension beyond the three years.

These financial estimates will have to support, early in 1977, both the Corporation's testimony before the Congressional and legislative Committees on the authorization extension and its testimony on the Fiscal Year 1978 appropriation before the Congressional Budget and Appropriations Committees.

The Fiscal Year 1978 and 1979 will have to be studied.

The second point is that these projections will have

to be developed for the most part in the process outlined in Fiscal 1978 appropriation in Column 4 opposite months 2 through 9 or from May through December of this year.

To wrap up the displays on the chart, you may note that in month 19 on the chart, in October 1977, both the new authorization in Column 1 and the Fiscal 1978 appropriation Column 4 will take effect. The Corporation will be well into developing its Fiscal 1979 request as indicated in Column 5.

Finally, a few months later in March 1978, which is month 24 on the chart, the Corporation will begin preliminary work on the Fiscal 1980 appropriation as indicated at the foot of Column 6.

A few months before a three-year appropriation would take effect, the Corporation would be beginning its work covered by the authorization.

Thank you.

MR. CRAMTON: Thank you very much for that helpful presentation. Are there any questions for Judy or Buck?

MR. KUTAK: I could use something like this for my law firm.

MR. THURMAN: Like those two people, do you mean?

MR. KUTAK: Something like this chart.

MR. STOPHEL: The whole thing is the budget does not generate any income.

MR. COOK: You are not there often enough.

MR. CRAMTON: Perhaps it would be desirable to read the Resolution into the record at this time.

Does the Reporter have copies of the Resolution? It is entitled, "Resolution on Authorizing Legislation".

Mr. Stophel, would you like to read that?

MR. STOPHEL: I move the adoption of the following Resolution:

"Resolved, that the Board of Directors hereby authorizes its Chairman to submit to the Congress the request of the Legal Services Corporation for the enactment of legislation authorizing the enactment of new budget authority to continue the legal services program for a period of three years or more in the amount of such sums as may be necessary to carry out its activities under the Legal Services Corporation Act of 1974 (P.L. 93-355). Such request shall be submitted to Congress not later than May 15, 1976.".

MR. KUTAK: I second that.

MR CRAMTON: Mr. Kutak seconds that. Is there any discussion?

MR. KUTAK: I would like to make a footnote, Mr. Chairman.

MR. CRAMTON: Go ahead.

MR. KUTAK: I hope that when the transmit the request, that it might not just go over with a sterile letter

stating what the purpose is, but maybe we should anticipate that at the time it would be taken up, we would like to flush it out a little bit.

Perhaps by fall or something, I wonder if we could do that? Senator, are not resolutions like this entered as bills and acted on as a piece of legislation?

MR. COOK: No.

MR. KUTAK: It is not?

MR. COOK: Do you mean this?

MR. KUTAK: When the Congress responds to this legislation, do they pass a law?

MR. COOK: As far as an authorization is concerned, yes.

MR. KUTAK: I hope that would be a chance for us in the accompanying report to that bill when it is enacted for us to reflect some of the philosophies of the Corporation and some of the goals of the Corporation.

Maybe Tom could be the time when we pick up from our think tank session of the summer and begin to articulate the philosophy and the direction.

In any event, I hope that it would be an opportunity at that time that we could evaluate it. It might be appropriate for us to seize the opportunity to use it as a vehicle for articulating not only where we are and why we want to go this way, but what we are about in the big sense of the picture.

We would have that thought in mind as the legislation moves through the Congress next time. That is something I would urge Tom to think about.

MR. CRAMTON: I think that is something that we will do in the legislative hearings and in the presentations early next year on the authorization bill.

Is there any further discussion?

(No response.)

MR. CRAMTON: All those in favor of the adoption of the Resolution, please say aye.

(Ayes.)

MR. CRAMTON: All those opposed, please say no.

(No response.)

MR. CRAMTON: The Resolution is carried unanimously.

The next item on the Agenda is a report from the Committee on the Provision of LegalServices concerning proposed arrangement with Urban Institute. I call on Mr. Thurman.

MR. THURMAN: You are all familiar at this time with our mandate in Section 107-G, which sets forth three things. One is to make a comprehensive study of the existing staff problems and number two is to develop demonstration projects to discover alternative methods to delivering legal services to eligible clients and number three is to make a report to the President and the Congress by July 14 of next

year, that being two years after we were sworn in, or started work here.

It has already been reported that thre has been allocated, I suppose, $1.5 million from the Supplemental Appropriation, pretty much for this purpose.

I guess we have some discretion on that. I am not sure. In any event, we could use that $1.5 million if we saw fit to do so.

At our meetings previously, and we held a brief meeting last evening, we decided that obviously the first order of business is to set up a system, management information system. Tom Erlich has sent a memo to the Board which sets out in greater detail what I am talking about now.

This management system would have reference to all the existing programs. We would need that whether we were going to study alternative methods or not.

Secondly, that would evaluate those two. Those two would be musts. The third would be to establish these demonstration projects. With this reporting deadline, I do not think any one of us anticipates that we will have a final complete report to make to Congress by a year from this July. We are going to do the best we can, but if we set up demonstration projects and begin to test them you are certainly going to go beyond that. We are certainly going to make a good interim report by July 1977.

In any event, we have to get underway. We do not have staff in the Corporation at the present time to do this kind of study that ought to be done.

One of the immediate ideas was to look for some outside organization and at the same time build up our own staff so that we become self-sufficient. Talks have been going on with people in the Urban Institute. We have present today John Scanlon and Leona Vogt, whom we have all met before. Any questions you may have may be addressed to them.

I must confess that I did not know as much about the Urban Institute as I should have, but I have since become more educated. You have in your packet of materials today a revised proposed contract. Attached to it is a first page. Please take a look at that for a moment. The Board of Trustees of the Urban Institute are very impressive. They have people such as Catherine Graham of the Washington Post and Bob Mc Namara and John D. Rockefeller, IV, and William Ruckelshouse, and William Scranton and Cryus Vance and so forth. That is a very impressive group.

Taking a look at the Publications Catalog of what this Institute has been doing, I would like to say this. They are headquartered in Washington. This is set up as a non-profit research organization and was set up some eight years ago. It is independent and non-partisan. The statement says they respond to current needs for disinterested analysis and

basic information.

I think that one of their major contributions has been this matter of evaluating various kinds of programs. It goes on to say that their research findings in a broad range of interpretive viewpoints are published as an educational service.

If you took a look at their publications catalog, their studies and their reports in the field of transportation, housing, land use, urban economic development and state and local government management and manpower and social services and urban indicators and race and poverty and urban government and metropolitan government and so on, represent a broad range of studies that the staff at the Urban Institute has made.

We have already had the benefits of studies that the Institute has been making for the past several years. That came about because they were asked at a time when it became quite clear that Congress was going to ask the new Board when it did come into existance to make this kind of study.

So, they undertook to do that long before we were really in operation. They were asked to design an experiment. I will read you a description of this.

It says that, "would provide a fair test to the effectiveness of projects providing legal aid through salaried staff attorneys in comparison with projects using members of

the private bar.". That is precisely what we want to do now. In their report, they say they deal with information requirements, measurement instruments, analytic plans and costs and validation of experimental designs and handbooks for data collections and handbooks for implementing field texts and work plans and schedules for carrying out a national experiment.

We have the benefit of that. You have had presented to you that report at an earlier time.

The present proposal, after discussions with the Urban Institute people is that there be set up a Legal Services Corporation-Urban Institute Task Force. In your materials for today, under Tab 3, you have been sent some information in that regard.

Another report, Alternative Delivery System Study and Field Test Results and Proposed Implementation Strategy, and then the proposed contract, which has been amended by the material sent out to you today is at hand.

The proposal setting up the Task Force looks to a two-phase approach. Phase I would begin next week. This would go through August. Then by that time the Institute will have prepared a detailed plan on how they would proceed with Phase II.

In the meantime, we could decide to get out of the deal if we wanted to. Phase II, if it were entered into,

would go until September or October 1977. There is every indication that by that time the Corporation would have developed the necessary staff to continue all aspects of this enterprise.

I will not read to you again what Tom said out on page two of his memo as to what goes on during Phase I. If we want to talk about that later, we can. But the proposal is that Leona Vogt will spend full time and be housed at the Corporation offices, but still with the Urban Institute. She will manage it and John Scanlon will be the Project Director, as I understand it.

Leona will be working in the Office of the Director of Field Services. Other staff will be assigned in accordance with the budget and the needs here. A major job will be that of selecting and training staff for the Corporation to continue delivery systems research and to operate the information systems.

There is something we would like to consumate and that is to organize an advisory group to provide advice and counsel on the range of issues relating to alternative delivery systems. We could discuss this later if you should so decide.

You also have in your materials a memo from Alf Corbett to our President. He discusses the proposed arrangement with the Institute. Alf set it forth in a very logical fashion. These are the steps that would be taken up and the

approximate amounts devoted to these.

MR. ERLICH: Excuse me, Sam. That just went to the Committee members.

MR.BROUGHTON: I was just going to ask. I did not see that.

MR. CRAMTON: We have a three page memo from Mr. Erlich to the Board dated April 13 and we have a draft contract and we have the green covered document entitled, Alternative Delivery System Study: Field Study Tests and Proposed Implementation Strategy, authored by the Urban Institute.

MR. THURMAN: That is all under Tab 3.

MR. STOPHERL: Has the draft been changed?

MR. ERLICH: Not in material part.

MR. THURMAN: Was each member given a copy of the change?

MR. ERLICH: Yes.

MR. THURMAN: It is headed Urban Law Institute.

MR. STOPHEL: Is that dated 4-22-76?

MR. THURMAN: Yes.

MR. BROUGHTON: Are there other copies of that draft?

MR. CRAMTON: I can get you some.

MR. THURMAN: According to Tom, these only went to the members of the Committee.

MR. ERLICH: We can get them for you. It just gives some more detail. That is what this is. I can certainly get

them for you right away.

MR. THURMAN: We took up these matters before a small group last evening at our Committee meeting and a number of good questions were asked. It was pretty much of an informal discussion and I would like to open it now for the Board to discuss the approval of this kind of arrangement.

I am talking about an arrangement with the Urban Institute.

MR. CRAMTON: Would you like for us to move the adoption -- or the Resolution?

MR. ERLICH: No, I did not expect that the Board would want to approve the specific arrangement. The President is so involved with the general operation of alternative delivery study --

MR. BROUGHTON: Is this a matter that the Board has authority to approve or disapprove?

MR. ERLICH: You have authority to approve or disapprove anything.

MR. CRAMTON: As I understand it, under the statute the President has the authority to make grants, pursuant to policies set by the Board. The question before the Board right now for discussion of any policy discussions that are involved is just exactly that.

I gather that the view of the Committee is that no formal action is necessary and that the President is then

proceeding on the right course. If the policy that he is pursuing is not correct, then let us raise that issue right now.

MR. STOPHEL: The first policy question is: "Are there other organizations that ought to be considered?". Are we eliminating any organizations that could not do it for various reasons and what criteria would we use for selecting?

MR. ERLICH: The problem is identifying the "it" of that statement.

It seemed in the course of extended discussions that we needed three things done: The design and development of an information system; the design and development of an evaluation arrangement and criteria that we would use; and the design and development of the demonstration projects.

I wanted to find a way to insure that this Board and the staff would be key to establishing the projects and what we were looking for at each step of the way, but to have a process to do that and some people here who would help us do that. They would do so in a way that the Corporation could build up its own staff.

If that is the "it", then I do not know of another arrangement. I do not know of one or have not heard of one that would begin to do what the Institute could do. I did ask if there were other organizations that we might look into, because there are some like the Rand Corporation that have some

capabilities. I did not hear of any, however, that have the expertise and background in evaluations and setting up of this kind of arrangement that is particular in legal services.

Leona Vogt and John Scanlon have devoted so much time in the last few years to just do this kind of arrangement in the Legal Services. That is what seemed to be so important and attractive if we could work out a satisfactory arrangement.

My own arrangement, in short is the answer is no to your question.

MR. CRAMTON: They have acquired the experience and knowledge that is somewhat unique. Because they are highly qualified, it seems advantageous inasmuch as we do not have permanent staff to perform the job, it will be advantageous for us to rely on their qualifications.

MR. THURMAN: Were the members of the Board given the materials?

MR CRAMTON: Yes.

MR. COOK: No.

MR. THURMAN: On the Urban Institute?

MR. COOK: No.

MR. ERLICH: That is just on the institute in general.

MR. THURMAN: I have some materials here that tell you about the Institute in general.

MR. COOK: Mr. Chairman?

MR. CRAMTON: Mr. Cook?

MR. COOK: I am amazed, Mr. Chairman, that you say an organization which is created in 1968, is now the only organization in the United States that has the capability of doing this. We are in the process of ultimately letting out a $435,000 contract. I am really concerned -- I may well be in favor of the Urban Institute getting this contract.

I wonder what position we are in, in not trying to get some input from other facilities throughout the United States that are going to sit back and say, "We have that same capability.".

There is another thing that bothers me. Somehow or other, I mean no offense, if we called on the Institute over one year ago to start developing something along this line with no contract at all, we apparently feel some obligation to give them a contract purely and simply because they have devoted time, obviously at the expense of the Urban Institute. They have put themselves in the position to be the only organization to get a half million dollar contract.

I raise purely and simply, in all fairness because I have no idea how much this organization has spent.

We get no print outs of one single thing that has been expended. We do not know if we have a balance in the bank or do not have a balance in the bank. We have no idea

what those expenditures constitute. This Board member has no idea what employees they have or what salary ranges there are.

All of a sudden we are faced with passing judgement on a $435,000 contract, with no one else to say they have the capabilities. I assume there is no one in this room that represents any facility throughout the United States.

I have a strange feeling that somehow or other we have been put in the position where we almost have no alternative.

I have been told there is an organization created in 1968. I am well aware of when it was created, but is there no other organization in the United States that can do this? I find that awfully strange to believe.

I just throw this on the table because I think that as members of this Board we have the same responsibility as any member of any other Board in any facility in the United States. You are looking at a $435,000 contract and we are only going to have a 15-minute discussion?

What about discussing the capabilities of any other people in the United States to do the same?

I just question the wisdom of passing on this today. I would hope that someone would give some input into this discussion, purely and simply because I feel very frankly that it is important.

MR. ERLICH: If I could make a few comments. By all means, I would be delighted to have you and others, Marlow, involved in terms of this. I would like you to go through this and what our expenditures are and what our staff is and what our income in. I would love to have you come up to the Corporation office and see what is going on and see the operation.

We would be delighted to provide any kind of information you like that we can. All you have to do is ask me.

That is in general terms of the finances. I would like to particularly for you and because it is a special pleasure for us to have you here.

For the contract in general, I understand the concern. Given our druthers, I would rather build this up ourselves.

It may be that there are other ways to go. I would only say that we looked and I do not know of any other ways. I do feel because of the tremendous time pressure to carry out our mandate, that it seems to me this is a way that we can watch, very carefully, and do what we are called upon to do with involvement by the Staff and by the Board.

MR. THURMAN: Marlow, I had very many of the same concerns as you did, but my concerns centered on what did we know about the Urban Institute?

I did not feel that we did not have to go around

this and open it up for bids all around the country. I felt that here is an organization that has already done a very significant report in this field.

After the checking I have done on the Urban Institute, I feel very satisfied that we have a very able outfit.

MR. COOK: The question has not been answered whether there is anybody else in the country, that on a competitive basis in a presentation to this Board, might be just as well qualified. That is the only point that I am trying to make.

What you are saying to me is that it was given to you as a fait accompli and you then went out to see if they were qualified. The only word I heard mentioned so far is the Rand Corporation.

I am raising the point about others and I think the point ought to be raised.

MR. CRAMTON: Mr. Smith and Mr. Broughton?

MR. SMITH: I had a question which related to the overall capability of the Urban Institute for this particular job. Related to the question that has just been discussed, it seems that this comes within the general authority of the President to make contracts and grants. I think some input by us is desirable as far as ideas and suggestions go, but we do not have to go into all the details of making the decision that this is or is not.

MR. COOK: Suppose this contract were for $5 million or $10 million? Then suppose they had to alter all kinds of funds within the framework of the budget to get this money. Because it was a contract submitted by the President, do you feel that we should not go beyond the authority of the President of the Corporation?

MR. SMITH: No, I thought that the President would have the authority to make the decisions on the shifts of funds and so forth. In this particular case, as in all individual cases with private Boards of Directors or with us individually, if we find a contracting party or a potential contracting organization such as the Urban Institute that has the capability and proven effectiveness to do a job, we do not have to keep looking to see if there are others that can also do that.

MR. COOK: Are you totally convinced of that?

MR. SMITH: I have operated like that for many years.

MR. COOK: Are you totally convinced that they are capable and there is no question about it?

MR. SMITH: I am not the Chief Executive Officer. I just have to be satisfied that my President is totally satisfield and that would be fine with me. That applies both in the public context or in the private context.

If you find some organization that can do the job that has the proven capability and the expertise, and you feel

that everything is justified as being a reasonable contract, then you do not have to spend a lot of time looking to see how many other alternatives are possible.

My question really relates to the Urban Institute and I do not really want to be misled by its name. It seems to me that the proposed contract relates to the alternative delivery systems in every area of this country for every place where the indigent clientele can be found. I note the statement here that says the Urban Institute was established to study problems of the nation's urban groups.

I wonder if in the nature of its total thrust in the past eight years is directed totally toward the urban areas, when in reality perhaps our most difficult segment of clientele to reach is located in the rural areas.

MR. COOK: The best example would be migrant workers.

MR. SMITH: I am not sure whether you satisfied yourself on this point, but I wanted to hear from you about it.

MR. ERLICH: Yes, I did satisfy myself that they have done a good deal of work in rural and urban settings as well. This relates to most of our existing programs and most of the poor that are served under existing programs are in urban areas.

Maybe John Scanlon or Leona Vogt would like to comment on this, but I know they have.

MR. SMITH: The very thing that you just said is

that most of our clientele are in the urban centers. That is because I think they have been easier to reach and easier to organize.

MR. ERLICH: Right.

MR. SMITH: So that we should also include in our alternative delivery system how to reach other people who are in the rural and more scattered areas because there are great numbers of poor that are not being reached at all.

MR. ERLICH: With the Board's permission, would you like to hear from Ms. Vogt on that?

MR. BROUGHTON: I wonder if we could not finish up the questions that the Board members might have before we turn this over to the members of the Urban Institute to comment?

MR. CRAMTON: Go ahead.

MR. BROUGHTON: I had a few questions. I would like to ask Mr. Smith a question. So far as the Board is concerned, while the President has authority to enter into this, nevertheless, the Board has certain responsibilities so far as policies are concerned with this type of approach.

I would like to hear Mr. Smith comment on that. What do you envision the Board's policy to be as far as this type of approach is concerned?

MR. SMITH: That is exactly the question I just

asked. I wondered whether inquiry had been made by name and direction "the Urban Institute" whether they were qualified and whether they were interested in studying the delivery of legal services in rural areas as contrasted with urban areas.

I wanted to know that and I think that is the kind of inquiry is what we should make.

MR. BROUGHTON: I am still hazy about what you mean by overall policy. What do you mean specifically?

MR. SMITH: That was very specific. I want to know whether the proposed contracting party is also capable of studying alternative delivery systems in rural areas, even though their name suggests urban. I do not feel that the Board can have sufficient time or ability to get into details of the contract. That is why the law gives contracting authority to the President of the Corporation.

MR. BROUGHTON: Yes, I understand what you are saying. The limits of the Board's determination is the grantee is qualified and beyond that the details of the contract fall on the President. Our determination should simply be limited to the determination of the qualification of the grantee.

MR. SMITH: I think the policy determination responsibility always rests with the Board.

MR. BROUGHTON: I am talking about this Board.

MR. SMITH: I think the policy determination responsibility always rests with the Board.

MR. BROUGHTON: I am talking about this Board.

MR. SMITH: My question is about one internal policy.

MR.CRAMTON: It is that last remark that I would pick up, Mr. Broughton, and add to the question of the function of the Board on this issue. The Board surely can define the general policies having to deal with how we go about making contracts for all kinds of things.

In fact,we discussed that on a number of occasions and made it quite clear that when the time and circumstances permit and when the nature of the particular kind of services we are looking for permit, we are going to engage in competitive bidding. We have made that very clear in our selection of accounting firms and of suppliers and a variety of areas.

So, there is that general policy. It has to be modified sometimes by circumstances of particular exengency when you have a time deadline and by the fact that here we are dealing with a research program in which the outside organization has to work very closely with the staff and Committees of the Board.

Further, the time to let out what are called RFP's and give people three or six months to submit detailed proposals of how they would perform the research and then evaluate

those against each other and make a grant -- the circumstances in this case may not exist. At least the President though they might not exist.

Secondly, I would like to mention policies which are important having to do with this particular approach to studying alternative delivery systems. If you or other members of this Board feel this is an improper approach and this is wasteful of a potentially one half million dollars in a grant because of its substance, you have the opportunity now to raise those general questions and have the Board discuss and decide them so that the President can be guided in his efforts to make contracts.

MR. BROUGHTON: That conflicts with some extent to the question of the administration working out the details of the contract, the details including the amount of the contract. I am not in a position to pass on that at this point, having just received this a few days ago.

MR. ERLICH: Mr. Chairman?

MR. CRAMTON: Go ahead.

MR. ERLICH: I would like to try to articulate the general kind of approach that I have had in this area. These comments have made sense and they were desirable. Here we have a Committee that deals specifically in an area covered by this as opposed to trying to deal with all the Board every step of every aspect.

I realize this is the Board's desire to deal with the Committee on Appropriations and appropriation matters and with Regulations on regulation matters and with Legal Services on its baliwick.

So, I have tried, however inadequately over the last few weeks, almost since the past Board meeting, to discuss this particular kind of arrangement, first in general terms and then as the discussions went on, we got more specific.

I gain a sense from the Committee members who are involved that this seemed an appropriate approach to go along. It is not that this contractor is the only conceivable one, but it is appropriate in that the timing constraints on us are such that we must do it this way.

We are thinking in general in terms of the future and looking to the Committees, if there is a matter within the Committees' area, for continuing guidance. I feel that is an acceptable way to proceed because otherwise it is terribly difficult. I want to be sure I have a sense of what you want and you have a sense of what is going on.

Here, the best we could do, was to send these materials ten days in advance. We did that and we are doing better than we did before. We are not doing as well as we should do, and it will still take some time before we have a staff. We are nowhere near that, yet. We will go on and try to have that continuing exchange back and forth the best we can.

MR. BROUGHTON: I would like to ask a question. The work that the Urban Institute has heretofore done -- was any of that done under a grant from the Office of Legal Services?

MR. ERLICH: Yes.

MR.BROUGHTON: Do we know how much? In other words, they have had a grant?

MR. ERLICH: They had a prior grant and produced a brown covered document.

MR. THURMAN: That is what I was reading to you from.

MS. VOGT: The experimental design.

MR. THURMAN: That was reported to you, the Board, some months ago.

MR. BROUGHTON: I remember that. I am just trying to refresh my recollection. So the Urban Institute has had a grant.

MR. CRAMTON: Yes.

MR. BROUGHTON: Over a period of time or only one year or each year for a number of years or what?

MR. CRAMTON: Leona, why don't you describe the past relationship?

MR. BROUGHTON: Perhaps other members of the Board know this.

MR. COOK: Does Mr. Scanlon have those figures?

MR.CRAMTON: Ms. Leona Vogt has those figures and she is a representative of the Urban Institute and she can comment on that.

MR. COOK: Don't we know from our own records?

MR. BROUGHTON: I do not know.

MR. ERLICH: Yes, we do, but she can tell us about that.

MR. CRAMTON: This is Leona Vogt. The question is regarding past contracts or arrangements of the Office of Legal Services with the Urban Institute. What is the amount and the extent of those and what was performed under them?

MS. VOGT: First, maybe I can address the issue about the Urban Institute doing policy analysis that affects both rural and urban areas.

When we were set up, we were set up by the Executive Agency of the Federal Government to address social policy areas that have long-term impact on the Federal Programs that are sponsored by Federal monies.

Because of the focus or because of the concentration of so many Americans in urban areas, it was named the Urban Institute. In fact, we do research on rural communities. Our program evaluation staff right now, for example, have two studies with the Appalachian Regional Commission to study both health and education.

So, we do have a mixed type of program. I thought

I would mention that first.

MR. CRAMTON: Thank you.

MS. VOGT: We started with the Office of Legal Services approximately two and one-half years ago. We were asked to come in initially to do a specific task, to assess the evaluability of some proposals from the California State Bar Association to study Judicare.

What the office of Legal Services wanted to know was what could be learned from that design. Would it in any way address the Congressional requirement for the alternative delivery system study?

We submitted a report to the Office of Legal Services indicating that additional work would have to be done to make that into an experiment. It was not an experiment and would not be generalizable to the United States because of the nature of the California law and the California population.

It was at that point that we were asked to prepare, because of the time limits that were already anticipated, experimental design options for the Corporation to consider. So, when the time came to focus on the study, the Corporation would be somewhat prepared to know approximately what questions could be asked and at what cost and what would be involved in interpreting the data and getting that data.

We anticipated that the Corporation would be in

existance at that point and that there would be Chief Executive Officers to make decisions about those designs. So, what we really thought we would be doing is making a series of briefings and that the Corporation would make decisions and then we would set out a work statement so that the Corporation could go forward with the study.

For those of you who remember that part of the history, there was no Corporation, so we prepared a document which you have all seen which should have been talked through and not written about. We wanted to have documentation of what all those steps were going to be to remind the Corporation of the complexity of the study of design.

At that point we wanted to ask the Office of Legal Services if there were anything that could be done to carry the study forward without pre-empting any decisions by the Corporation. I say this because we mentioned two things that had to be done.

One was to specify what the models were that were to be tested in operational terms so that everyone would understand what a pre-paid plan would be. We wanted to know what expectations there would be for a prepaid plan. That had to be done but it should not be done by researchers.

We could not assist the Office of Legal Services in that way at that time. People in the delivery system would have to actually develop those policies.

We did say, however, that from the study of the literature and from our own observations of existing data, that some evaluation measures or criteria should be tested to determine whether or not the data collection methods would be feasible.

We did undertake another study which was a field test of a set of evaluation measures set by the Office of Legal Services.

That is what I reported to the Board on, in the winter meeting. We have just completed that work.

The total dollar amount that the OEO and CSA, Office of Legal Services committed to the Urban Institute was approximately $250,000 for those three grants over a two and a half year period, actually.

MR. CRAMTON: Thank you very much. Mr. Corbett, do you have anything?

MR. CORBETT: Thank you. I think it is apparent that there are two kinds of problems that have been involved. First, the Urban Institute has done background studies to become informed about the legal profession and what Judicare is and some study on pre-paid legal service.

They have acquired a tremendous amount of knowledge about the programs themselves and about the law as an instituion and delivery of service to the poor.

We have another kind of job which is "how do you

carry out the various studies that Congress has said should be made?".

It seems to me that there are three or four kinds of problems that Mr. Cook -- Senator Cook -- has raised in his discussions.

One of those problems is the time that is faced by the Corporation. We have to make a report next July on the staff attorney method and on the delivery system and to also prepare information for that purpose.

If we went out on an RFP, it would take another 60 to 90 days, and there would be information that would have to be acquired by the person who is selecting --

MR. BROUGHTON: I hate to interrupt you. Mr. Thurman said that he did not see how we could make the deadline. Are you saying that we would go to Congress and have the deadline be extended?

MR. THURMAN: We expect to have a rather substantial report ready by July 1977. I do not think there is any hope that there would be a final report.

MR. COOK: So we will not meet the deadline?

MR. BROUGHTON: What are you saying?

MR. THURMAN: I think we will have a rather substantial interim report by July 1977.

MR. CORBETT: One of the factors is certainly time. How long will it take to produce a product?

The second problem is knowledge. This is knowledge which the Legal Services Office has already paid for and whether the Legal Services Corproation wishes to avail itself of that knowledge.

The third would be the ability of the Urban Institute itself.

The fourth would be the contract arrangement which, as I see it, gives to the Corporation a staff which says we have the expertise and with that we will start on the first of May to do the job that has to be done. We will do it under an arrangement such that as soon as the Corporation wishes, we will drop off and corporate staff will assume it.

At least you have the guarantee that this job will be performed in required steps. There will be a gathering of information and a working with the Corporation to set up the evaluation criteria and there will be an establishment of management information systems and the specific design work of placing these experimental programs will be done.

One of the difficulties in the past was that Legal Services did not feel that it could presume to make decisions for this Board. So, we were not able to select and give policy guidance to the Urban Institute in some of the reports that it made.

Now, it comes about that these policy decisions will be made through the Corporation itself. I would like to men-

tion one other item.

I would like to mention the money. I have attempted to set out that in the report to the President. In our 1976 budget presentation, we laid out certain tasks and set aside money to carry those out. What Ms. Vogt has done in the proposition to the President is to bring together all those pieces that we put in the budget and formed them into a logical progression of collecting information which will be part of the basis of the report and to design the management reporting information with policy input from the Corporation along the way.

Further, there is the creation of the evaluation criteria and the selection of them. Further, there is also the specific decisions that have to be made to select where to place these experimental programs, new programs and modified programs.

These are things that require a give and take and a working relationship.

I think we have a rather unusual contract in that you have people who are knowledgeable in the organization and the Corporation can, at any time it wishes to take over and assume these various tasks.

So, in terms of the money that Senator Cook was concerned about, we did set aside money. I think if you went out and contracted individually for these various pieces, you

would use more money than under an umbrella contract of this sort.

Thank you.

MR. BROUGHTON: I have a question.

MR. CRAMTON: Go ahead.

MR. BROUGHTON: Mr. Corbett, the previous work that the Urban Institute did for the Office of Legal Services involved three grants totaling $250,000.

I would like to have my recollection refreshed. Were the results of that expenditure put together in published form and utilized by the Office of Legal Services in any way?

MR. CORBETT: No, sir. That was work preparatory for the Corporation. When it started we thought the Corporation would be in existance sooner than it was.

MR. BROUGHTON: Is that work in published form?

MR. CORBETT: Yes.

MR. COOK: Are you saying that the analysis of the California proposals were made preparatory to --

MR.CORBETT: No, sir. That one was not. In that instance the Director of OEO felt, as did the Advisory Panel, that the Office of Legal Services would be ill-advised to proceed with the California experiment.

This is because we would have tested five disparate programs and would not be able to come up with comparable data and make conclusions as to the comparative value of

particular kinds of programs.

MR. COOK: Was it a study on alternate legal services?

MR. CORBETT: The initial contract was to do a design to evaluate California projects. We called together an Advisory Group and there was common agreement that we should not proceed with the California experiment in that form.

The Urban Institute was asked to go back then and to design a broad experiment that would apply across the country that would be available at that point to the Corporation.

Mr. Arnett particularly asked that the study be broad enough to cover the provision in the statute.

MR. BROUGHTON: Was there never a grant for the California project?

MR. COOK: Oh, yes, there certainly was.

MR. CORBETT: There was a grant to design some projects. There were several projects that were submitted, requesting funds.

MR. BROUGHTON: But you concluded not to go beyond that?

MR. CORBETT: Yes, because we were so close to the establishment of the Corporation, for one thing. Furthermore, the California experiment would not have produced the kind of definitive information that would be useful.

MR. BROUGHTON: But there was money for a grant for that project that was carried out?

MR. COOK: Would you yield?

MR. BROUGHTON: Yes.

MR. COOK: I am confused. I thought you said after they finished an analysis of the California Legal Services proposed Judicare program, you then said that for the Institute to go back and make an overall analysis --

MR. CORBETT: Design.

MR. COOK: Ok. So that it did not stop there. There was then another grant for that.

MR. CORBETT: Yes.

MR. COOK: How does this all fit into this contract and can we have all of that made available to us? I say this because I am wondering whether there will be a duplication or least a utilization of that existing material that has already been paid for that may show itself up.

MR. CORBETT: I see.

MR. CRAMTON: Let me state my impression. I have seen two of the report of the three grants that have been referred to.

I gather that the first grant was a request by the Office of Legal Services to have the Urban Institute review some submissions that came in from California and so on. The decision was made, on the basis of their report in part, that Legal Services should not go ahead with that California project. You then wanted to lay the ground work for the Corporation

and you wanted to establish a design for examining alternative delivery systems more generally. That is the large document that all of us got shortly after the Corporation began.

Then there was the third one which was the field testing of parts of the design which we have also gotten.

The last two documents have been distributed to members of the Board. I presume all of us have read them. Both of them have been discussed, both by Leona Vogt and others at Board meetings.

The output of all of that except for whatever they wrote in connection with the California request, is something that we have long since had and read and studied.

It has formed background which has informed them and given them very special knowledge about Legal Services and experimental work in Legal Services. However, it does not do in advance what we now need to do.

MR. ERLICH: They will certainly utilize that.

MR. COOK: May I say that I wish that I knew when we were reviewing all of those that we were looking at those for a continuation. Were we looking at those for continuation and utilization of the contract in front of us today? It is an easy analysis to make, but I find myself in the difficult position of saying just because those have been submitted, then we would have to go ahead on it.

When we first came to the hotel, we were given a

very large stack of papers. I was delighted to carry it all home and go through that which I could. However, I would still like to say that I am now wondering, relative to a half million dollar contract that is in front of us, whether anybody in the Executive Branch of the Corporation can give us a run-down of how those things fit and how they materially fit into this study.

I say this because I now consider this is not really a new study at all, but no more than a continuation in an ongoing analysis of the ultimate program that we are supposed to submit to Congress.

I do not look at it any other way. I must say in all fairness to the Urban Institute that I feel much better about them than I did before because I find out that we have spent a quarter million dollars with them.

To that extent, I am satisfied.

MR. CRAMTON: We and our predecessor agency.

MR. COOK: Of course.

MR. BROUGHTON: We are still talking about public expenditures.

MR. CRAMTON: Of course.

MR. COOK: What is going through my mind is with all that expertise could they have done the Polikoff study?

(No response.)

MR. COOK: Could they?

MR. THURMAN: Marlow, you may recall that we had a meeting here in December of the Committee. We had another meeting in Austin and this is the third one. In each instance, Leona was there. We have been talking about these things and the involvement of the Urban Institute, which has all been a prelude to what we are presenting at the present time.

Maybe I did not make that sufficiently clear at the time we were talking about using them. At that time I was not sure that we would be proposing a contract with them. It has evolved into that. We are not just now jumping into that.

MR. COOK: I now find that out.

MR. BROUGHTON: Let me ask a question. The $250,000 that has been spent up until this time -- is it the judgement of your Committee that that money and that work that was done as a result of that expenditure is of benefit and will be of benefit in the relationship that you are recommending be continued with the Urban Institute? Are we getting credit for that?

Or, to put it another way, would the contract be $250,000 more but for the work already done?

MR. THURMAN: I do not think we discussed it in that particular language. I think the answer would be yes. We certainly looked upon the background and knowledge and reports that they had made in that way. I have got them at home and in my office and consider them to be an integral part of what

is being proposed right now. I think the answer to your question is yes.

MR. ERLICH: Mr. Chairman?

MR. CRAMTON: Mr. President?

MR. ERLICH: It is essential that not only in terms of the money, but also in terms of the time that these three different agreements are understood. They did take quite a long time and they provide an essential basis.

On the one hand they mean a great deal in terms of analyzing the criteria that might be used for evaluating performance in terms of quality and cost and access and client satisfaction. Without reaching judgements, it is again the kind of issue that I want to come back to with the Board.

Those are the things we are looking for in measuring performance.

They went out and analyzed those in great detail as you will see if you have read the documents.

Secondly, they said in looking at staff attorney programs and Judicare programs and staff programs with a Judicare staff supplement and a staff program with a Judicare supplement, what are some of the problems that would have to be gone through in thinking of those many different models?

They went quite a long way in that analysis and in my view it is essential and provides a basis for this contract.

MR. ORTIQUE: Mr. Chairman?

MR. CRAMTON: Mr. Ortique?

MR. ORTIQUE: I do not know whether you have had the opportunity to raise the questions that I was raising last night.

MR. THURMAN: Why don't you do it right now?

MR. ORTIQUE: I think they would fall right in line. The thing I think should be sent to the Board in all fairness is that in the presentations that have been made, I suppose the Committee felt that we were attempting to indicate that these people have had some expertise and some activity in the past.

This goes to the heart of the question that Mr. Broughton raised. I would be the first to admit that it was not postulated to you in that fashion.

MR. BROUGHTON: It is not in this report.

MR. ORTIQUE: Exactly.

MR. BROUGHTON: In the report we do not have the figures. Perhaps in the past we have had them.

MR. ORTIQUE: I think you are just being kind. I do not think you have had the figures.

MR. BROUGHTON: It would give me a better picture of the total if I had that.

MR. ORTIQUE: In terms of who could move immediately and get the job done or get something that would be representative done, between now and the deadline, I would suspect that

all of that background would have to be taken into consideration. Some type of summary statement should have preceeded the offer of a contract.

I know that would have made you feel much better and I am sure members of the Board would have felt better as well.

However, I am still concerned not about their capability, but rather in terms of whether this proposal includes all of the types of things that we need to see before we can make an appropriate decision.

I think, for example, that we as a Board need to have somebody to look very expertly at what is done during the first four months, rather than have our staff conclude that "they hav done fine these first four months and let us go on with the contract".

Therefore, I have grave reservations about voting right at this time on a complete package. I would think that this Board needs to hear from people who are very knowledgeable about these other systems, before deciding on that second phase.

I say this because I am conviced that, unless we as a Board receive some expert outside opinions, much of the bias -- and I expressed this last night and if someone feels that bias is too strong a word, that is unfortunate -- much of the bias that is going to be built in by Project Directors

or could be built in by Project Directors, will appear in this report.

I do not think that is what Congress wants us to do. For example, I would like a man like Earl Johnson. I have a tremendous respect for his knowledge. I would like a man like Earl Johnson to look at what is going on in Phase I.

MR. BROUGHTON: You mentioned this in Texas, I recall.

MR. ORTIQUE: That is right. I would like the NLADA to look at what is going on in Phase I. I would like the client's counsel to look at that. I do not see any of these components built into this project that would protect this Board's integrity.

I do not see what the National Bar Association, black lawyers who have a great contribution to make, in terms of who get represented. I know in your part of the country they have struggled a great deal.

MR. BROUGHTON: Yes.

MR. ORTIQUE: Those are things that I would like to see before I am ready to say that Phase II has to go on. I recognize that we have got to get something started.

I would say, "Ok, I am willing to vote that we go ahead with Phase I,but that before Phase II is approved by this Board, I am going to want to know that there are certain things that have taken place for the protection and integrity of this

Board.".

I think that is all tied up with what you are saying.

MR. BROUGHTON: As to your last point, there is a letter in here on that. It follows the green covered document. It is labeled draft, but the letter goes to Ms. Vogt from our President.

It says, "Please move ahead with all possible speed to organize the Task Force, composed of Corporation and Institute staff, to carry out the work identified in Part I and Part II of the contract.".

That would tie us up for Phase II, which I understand you feel we should hold back on.

MR. ORTIQUE: That is true.

MR. BROUGHTON: I think that is unclear as to what we have before us.

MR.COOK: Mr. Chairman and Mr. President, I get back to the original discussion that Glee Smith raised. They are going to propose a design quite seriously.

It will ultimately be relative to a proposal that we submit to Congress. Therefore, it seems that Glee might reassess the recommendation that it should be automatically accepted. I would say this because I could envision proposals and criteria submitted to this Board which, upon a vote of this Board, would be totally unacceptable as a presentation

to Congress.

Therefore, all of this money would have been spent for naught. Otherwise, we would have to put it on a shelf and utilize it from a study that would be a continuing ongoing study.

Therefore, I think we should be vitally interested in every step of it. The ultimate responsibility for presenting a program to the Congress, which we are compelled to do under the law, is not the Urban Institute's responsibility, but our own.

Therefore, it seems to me that our total involvement in it is apparent from the very first step that you take. Would you agree with that?

MR. SMITH: Yes, but I would not agree with your statement that you attribute to me that we would accept whatever they would present.

MR. COOK: I may have broadened it.

MR. SMITH: I did not say that and you broadened it quite a bit.

MR. COOK: You used the phrase,"as any other Board whatever the President would recommend and if they are qualified".

MR. SMITH: But that is because they are qualified.

MR. COOK: Let us say they are qualified but there are no guidelines from this Board relative to how we feel

this ought to move and what recommendation ought to be to Congress. Then we find ourselves in a position of having entered into a contract for the Urban Institute on its own volution to come up with a recommendation for us, whether those recommendations are acceptable or not.

MR. SMITH: But our President, acting on our behalf, has developed guidelines and has given them guidelines and they are approved in the line of procedure and in the proposed contract.

It just seems to me that continuation of work with the contracting party, in this case the Urban Institute, or whoever else might have the contract, and the continuation of working with them, is up to the President or people on his staff representing him.

You mentioned the fact in the beginning that we were concerned with the amount of money. It seems that our position as a Board with regard to money is the same as many public and private boards of directors. When we adopt a budget for a fiscal year and allocate such monies to certain areas for expenditure, then we must delegate to the President and people on his staff to expend money in those areas which we have authorized.

It seems as though our budget authorization, when we have determined how much to expend, then that is set.

One of the policy matters that needs to come before

us and the very first broad policy matter in regard to something like this is the policy of whether this particular kind of study can be or should be or has to be done within our own staff and by our own people or whether it is something because of the exigency of time and other factors, that we need to contract out.

That is the first broad policy that we should face. Once we reach a decision on that, and we decide it should be contracted, then we come to the point that within the funds we have allocated for our budget, it would be suitable for our President to draw up proposed guidelines and a contract.

We have already had quite a bit of input this morning which all has a bearing on how the President will enter into the final contract and how he will conduct relationships on our behalf with the contracting party.

But I guess a ten-member Board cannot, as a Board, or even as a Committee exercise the complete continuing contact that the Executive Officer of the Corporation can.

I think the President has proceeded by working through the Committee and working out proposed guidelines and we have the Committee's recommendation on the broad policy matter. Then the President can go into the contract and do the kinds of things that we are talking about so that all of the things that we have discussed today and all of the things that have been brought up in past meetings can be carried out.

He does exercise a direction in that regard with the contracting party. In the end, the result that is produced is much more likely to be acceptable to us. They did not produce it in a vacuum and we do not have to approve it.

But because our President and people on the staff have worked with them on it, it is likely that it will be approved because it has been developed with our guidelines and with our contact.

MR. COOK: Mr. Chairman?

MR. CRAMTON: Go ahead.

MR. COOK: I hear what you are saying to me. However, in reading through this, it seems as though all the guidelines and recommendations have not come from the administration of this Corporation, but from the Urban Institute.

I would only refer you to the input from Legal Services. I refer you to the two and a quarter page memorandum at the front. I would only say to you on page two, during Phase II, it says, "Prepare the report to the President and the Congress of the United States.".

What I would like to ask Sam as Chairman of the Committee is this. Have there been any indepth discussions with the Urban Institute relative to your own philosophy, Sam? Do we know what direction they are moving in? Have you indicated to them any directions to move in? Has the Committee indicated any directions to move in? Are we really

saying that we have hired the Urban Institute to give us a program to submit to the President and the Congress on alternate legal services? Is that what you are saying?

MR. CRAMTON: Your question is more properly directed to the President of the Corporation, because his staff has dealt in great detail on the formulation of the proposal. All details have been told to the Committee on Provision of Legal Services.

MR. COOK: All I have to say is that the next time we have to ask the Chairman of the Committee. I do not mean to be offensive, but whoever wants to answer may please do so. It is all right with me.

MR. SMITH: Marlow, quoting from Page 2, has said that the Urban Institute has been directed to prepare the report to the President and the Congress. He overlooked three lines above that in saying that the Urban Institute will work with the Corporation staff to do that.

MR. COOK: Where does it say that?

MR. CRAMTON: They will surely be doing it at the direction of the staff and of the Board.

MR. SMITH: It says here Urban Institute will work with Corporation staff to do that.

MR. THURMAN: Let us go back to all the times Leona has appeared before us. We had a debate on this in Austin as well as to what kinds of guidelines we wanted to lay out.

We have really been in communication to a great extent with the people from the Urban Institute. Tom has been in much greater detail. I am in Salt Lake City, but Tom is here in Washington and has been doing quite a bit of it here. Tom and I have been in great consultation over this as well.

One of the questions I raised with Tom was what should be the function of the Committee and our Board with reference to this very important project. I think it is very important that you suggest that we get this out on the table to have everyone get a clearer understanding which we have not had before.

I want to clarify something. Should we go out now and get bids and so on? It seems to me that first of all we are dealing with a very reputable outfit.

MR. COOK: There is no question about that.

MR. THURMAN: They now have expertise and have done studies in the past that would be terribly wasteful if we were to say, "We are going to forget about that and we are going out and hire X, Y, and Z.".

In the initial phase, that is quite clear in my mind?

As to what we do in the future, that is terribly significant.

MR. BROUGHTON: Mr. Chairman, for the benefit of the Court Reporter and myself, I would move a ten minute

recess.

MR. CRAMTON: We are going to have a coffee break very soon. Do the members feel this is an appropriate time for our coffee break?

(General assent.)

MR. CRAMTON: We will break for 15 minutes.

(Short recess taken.)

MR. CRAMTON: The meeting will come to order. We are in the midst of a discussion of the proposed contract with the Urban Institute. Before we reach that, I would like to elaborate on Mr. Breger's absence. His father unfortunately is very seriously ill and he had to go to him to be at his bedside. He could not be here today. I think it would be appropriate if we instructed the President to communicate our regrets and our hopes that his father has a very prompt recovery.

Can we accept that with acclamation?

(General assent.)

MR. CRAMTON: It is so adopted uninamously and the President will communicate our regrets as to Mr. Breger's absence and our sympathies and best wishes for his father.

MR. ORTIQUE: I would like to make a motion.

MR. CRAMTON: Go ahead.

MR. ORTIQUE: I have checked with other persons on the Board and I do not think there is a motion on the floor.

MR. CRAMTON: No, that is right.

MR. ORTIQUE: I would move that the President be instructed to move forward with dispatch on the execution of the contract, but that the contract be corrected so that it reflects very positively this Board's ability to make some decisions prior to Phase II.

MR. CRAMTON: How about an understanding with the President through the Committee on the provision legal services to come back to the Board before committing the Corporation to the second Phase of the contract?

Would that be enough?

MR. ORTIQUE: Come back to the Board?

MR. CRAMTON: Yes, through the Committee on Provision of Legal Services?

MR. ORTIQUE: Yes.

MR. SMITH: I second that.

MR. CRAMTON: We have a motion that has been duly seconded. Is there a discussion on the motion?

MR. ERLICH: I would expect to do that at the September meeting.

MR. CRAMTON: That is scheduled for September 9 and 10.

MR. ORTIQUE: That would be too late.

MR. ERLICH: We would not start Phase II until after that.

MR. ORTIQUE: Ok.

MR. COOK: You are only talking about two weeks after August.

MR. ORTIQUE: Written into this is that the Urban Institute would be notified before August 20.

MR. CRAMPTON: That provision could be changed to read September 10.

MR.SMITH: That could be one of the directions. The contract and the letter would be corrected to reflect the intent of his motion.

MR. BROUGHTON: As to what?

MR. SMITH: That the President would come back to the Board after the end of Phase I.

MR. COOK: The dates would be corrected accordingly.

MR. MONTJANO: Mr. Chairman?

MR. CRAMTON: Mr. Montjano?

MR. MONTJANO: Very briefly I am in support of the motion, but there are two questions that have to be resolved, not in this motion, but in future discussions. One would be specifically whether a half million dollar grant should go out to bid. I feel that it should, regardless.

Number two, whether the Board should approve certain contracts. The question is in what dollar amount? I think those questions need resolution. Not in this motion, but I bring it up now because there should be some understanding as

to how the Board is going to function. I would support the motion, however.

MR. CRAMTON: Is there further discussion?

MR. BROUGHTON: Mr. Chairman, I am still unclear as to the memorandum of April 22, yesterday, from Mr. Corbett to Mr. Erlich with regard to the proposal of the Urban Institute. I see this is a sort of long range project. I would like to get the Committee's opinion on some of this.

I think this relates to it. At least I understood the Chairman to have said that. Most Board members may already have it now.

MR. CRAMTON: Mr. President?

MR. ERLICH: I would like to respond and ask Alf to identify for me on paper exactly the dollar figures that we would use in terms of our budget for this contract in both Phases I and II. As this memorandum indicates, we have allocated in our budget funds for assessment.

Out of $125,000 for Fiscal Year 1976, and for design and testing of the MIS, the amount of $150,000 and for the electronic data system design in Fiscal Year 1976 the amount of $25,000, for the total of $435,000.

We would expect both Phase I and Phase II to move forward and to the extent necessary those funds would be utilized for the agreement and that agreement in turn would do the task, with the Corporation staff indicated in that

memorandum. I really ought to emphasize something. I think it is important and has been emphasized at our last three meetings that the effort here is not to have the Urban Institute to design models and not to have them select evaluation criteria and not to have them set program goals.

The Corporation makes the selection of the models to be tested and the sites to run the demonstrations. This is the way to organize a process of soliciting and developing concepts and implementation for those. We will make every possible effort to insure as much direct involvement as there can be from client counsel and other client groups on the issues.

The Urban Institute would be responsible, under this supervision of the Corporation staff and those working in office of Field Services would be responsible for the technical aspects of the MIS design and the development of management systems and statistical analysis.

That would be under the supervision of the Corporation and the Corporation Board would be setting the policy and the staff would be working on it on a day-to-day basis. In the same sense that I was very much involved in the paper which you have before you, and asking questions and raising concerns, so to would I expect to be involved, both myself and others and members of the Committee, in all steps of the operation.

MR. BROUGHTON: Mr. Chairman?

MR. CRAMTON: Mr. Broughton?

MR. BROUGHTON: I still sense some uncertainty on the part of members of the Board and some confusion. Mr. Thurman has readily acknowledged that this discussion has been helpful. I recall, of course, the appearance of Ms. Voght at the Board meeting in October.

At that time there was a motion that I supported to set up a special committee at that time. I voted for the motion. I do not recall who else did. The motion was not carried. A majority of the members of the Board felt that at that point it was not necessary to set it up at that point.

That failed and the Committee was not set up until some time later.

Mr. Thurman has indicated that they would not comply in totality with that. In view of the uncertainty that I have and I think other members have about this -- and I think there is some uncertainty as to whether we even need a motion or not, under the premise that the President is able to go ahead on this, then I will make a separate motion that we defer this.

MR. THURMAN: I was unavoidably detained and I would like to ask what the motion is.

MR. CRAMTON: The motion by Mr. Ortique and seconded

by Mr. Smith is to authorize the President to enter into the proposed contract, corrected, with the Urban Institute, subject to the provision that the President report back through the Committee on Legal Services on September 9, prior to committing the Corporation to the second phase of the study.

They would enter into the contract, but the terms of the contract would be revised so the Urban Institute would conduct the first phase and work with the Corporation on that and we would have a report from the President and the Committee on Provision of Legal Services toward the conclusion of that first four-month phase as to whether or not it was desirable to go ahead with the second phase. That would be considered by the Corporation at its September 9 Board Meeting.

If the Board decided to go ahead with the second phase, they would immediately proceed with that second phase.

MR. STOPHEL: At this time we are committing $68,000 which is Phase I.

MR. THURMAN: Are you moving to table?

MR. CRAMTON: I am going to rule that is a motion to table and I have not heard a second.

MR. COOK: I will second it for the purpose of debating it.

MR. BROUGHTON: I do not move to table. I move to defer it until the next meeting. That was my motion.

MR. COOK: I would like to open it to discussion.

MR. CRAMTON: There is a motion here before us.

MR. SMITH: Did you rule there is no debate or discussion on this, Mr. Chairman?

MR. COOK: Once there is a second, then we can discuss it.

MR. CRAMTON: I take it as a motion to table and it is not debatable. It has been seconded. All those in favor of the motion, please say aye.

(No response.)

MR. STOPHEL: What are we voting on?

MR. CRAMTON: The motion is a motion to table this matter until the next meeting of the Board which is in June.

MR. COOK: That is not a motion to table at all.

MR. BROUGHTON: I did not say table. My motion is this and I repeat it. I gave some preliminary statement as to why, but I will say that my motion is that the current motion be amended so as to defer this matter for decision until the next meeting.

I think that is a far cry from tabling.

MR. COOK: As a matter of fact, Mr. Chairman, to debate your ruling that it is a motion to table -- if in fact it were a motion to table, it could not come up at the next meeting until such time as we move to take it off the table and it would have to have a majority vote at the next meeting to take it off the table.

MR. CRAMTON: So we are into discussing it anyway. Is there a motion to discuss Mr. Broughton's substitute?

MR. COOK: Yes.

MR. CRAMTON: Mr. Cook?

MR. COOK: I am very much in favor of Revius' motion. I would like to inquire as to the basis of your motion because I am really now in a position where we can evaluate what has been done on Phase I.

We are in a position to have the September 9 meeting to evaluate what has been done on Phase I. We will have three more Board meetings before September to raise the points that Rudy has raised, namely that we should discuss whether contracts should be put out for bid and whether there should be a dollar amount of contracts that should be submitted to the Board.

Certainly, I think we will pursue those things very much during the course of the summer. I have a habit of seconding your motions and you give me problems with this one. I really want to ask you why.

MR. BROUGHTON: We are in bad shape here.

MR. COOK: No.

MR. KUTAK: He seconded my motion, if that is any help.

MR. THURMAN: What happened to it?

MR. COOK: I may second a motion of yours someday, Bob.

MR. KUTAK: Where there is life there is hope.

MR. COOK: Could you give us some more explanation? That is really what I want before the vote.

MR. BROUGHTON: All right. You have expressed yourlse fnad I have no feeling whatsoever but that we will come back to the Urban Institute for the whole phase of whatever we do in this area.

This motion commits you to Phase I. We have had a discussion and it has been brought out, I think for the first time clearly, that the Urban Institute has had a grant from our predecessor agency, the OLS. They have done a considerable amount of work in this area.

I am wondering, if we decide on Phase I now, whether we are not really saying that we are going to continue with the Urban Institute throughout or whether we are going to go with somebody else.

If we do, do we not lose the benefit of the thousands and thousands of dollars involved?

MR. COOK: May I respond to that, Mr. Chairman?

MR. CRAMTON: Go ahead.

MR. COOK: The thing that bothers me about that is that I am afraid we will have the same discussion next month. I am afraid it would elicit the same kind of comments and I wonder whether we would continue to go along that way.

Frankly, we are spending $68,000 for four months work and we can evaluate it. We can evaluate the input and evaluate their staff and we can have an opportunity to look at it after $68,000 and then make an evaluation in September and be prepared to make an evaluation in September relative to the majority of the contract and the most significant part of the contract.

In the meantime, I think it gives all the members of the Board an opportunity to do our own inquiries to really find out more about the Urban Institute and other facilities in the United States that might be eligible and on the input that Revius feels should be part of this thing.

I am concerned about our putting ourselves in the position of delaying inadvertently for another four months. If we find ourselves on opposite sides with management, I would rather blame management than to have management blame me, if that makes sense.

MR. SMITH: Mr. Chairman?

MR. CRAMTON: Mr. Smith?

MR. SMITH: I would like to make some short comments on that. In making his motion, Mel made two points. One was that he thought it should be deferred because there was a certain amount of confusion on the Board and the second was that he thought possibly Revius' motion was unnecessary. I seconded Revius' motion, but I do think it is unnecessary as

far as giving authority to the President because I think he has that authority.

I very strongly support that and that is the reason I seconded it. That is the reason I want to get this terminated because I think this discussion has gone on too long already.

In answer to his first point about confusion, I do not think there is any confusion at all. I think we are all clear about what we should do and how we should do it. I think the thing has been well laid out before us and I think a delay of several weeks until early June, which may be six weeks away, is not appropriate.

For the reasons Marlow gave, I do not think delay is appropriate at all, so I would hope that we would reject Broughton's amendment and take up Revius'.

MR. CRAMTON: Are we ready for the question on the substitute motion?

All those in favor, say aye.

(No response.)

MR. CRAMTON: Those opposed, say no.

(Nays.)

MR. CRAMTON: The motion is defeated. We are now back to the Ortique motion, seconded by Mr. Smith. Is there further discussion on that?

MR. THURMAN: I would like to ask the President a

question. Do you envision any difficulties in living with this motion?

MR. ERLICH: We will naturally live with whatever motion is adopted. In this case, we will change the contract, assuming the motion is adopted, in the way it has been suggested and keep in close contact with the Committee during the next months in terms of what is happening.

We will have a plan that can go into effect immediately after the September meeting, if the Board approves it. If not, I hope the Board will give guidance on the alternatives that we should follow.

MR. THURMAN: Thank you.

MR. COOK: Mr. Chairman?

MR. CRAMTON: Go ahead.

MR. COOK: Is the basic explanation that we are approving Phase I and $68,000 and there is no clause in the contract that there will be a second phase, but that the second phase will be considered later?

MR. CRAMTON: No, I think we will consider Phase II as potential.

MR. COOK: Obviously, but it is not part of the contract and there will be no reference to Phase II in a contract for the $68,000?

MR. CRAMTON: It may be referred to, but there will be no committment.

MR. COOK: Ok.

MR. ERLICH: Part of the work of Phase I is planning Phase II.

MR. CRAMTON: Yes.

MR. COOK: I understand that.

MR. CRAMTON: There is no commitment to Phase II until after the September 9 Board meeting.

MR. COOK: All right.

MR. CRAMTON: With that understanding, do you understand the motion before you?

(General assent.)

MR. CRAMTON: All those in favor, please say aye.

(Ayes.)

MR. CRAMTON: Those opposed, say no.

(Nays.)

MR. CRAMTON: Let us have a show of hands because our by-laws require that. I better go back and do that on the other motion as well.

My understanding is that Mr. Broughton was the only person that favored the substitute motion.

MR. BROUGHTON: I thought somebody seconded it.

MR. CRAMTON: Mr. Cook seconded it but voted against it.

MR. BROUGHTON: Thank you.

MR. CRAMTON: The record should reflect that on the

earlier division, Mr. Broughton was the lone supporter of his motion.

Let us now have a show of hands on this motion.

(Show of hands.)

MR. CRAMTON: All those in favor, say aye.

(Show of hands.)

MR. CRAMTON: All those opposed?

MR. BROUGHTON: One response.

MR. CRAMTON: Mr. Broughton is the only no on that Ortique motion. Ortique, Cook, Stophel, Smith, Montjano, Kutak, and Thurman all voted yes.

I think that now brings us to the report of the Committee on Regulations. I would like to welcome our new General Counsel, Alice Daniel and hope she will join us at the table.

MR. KUTAK: Mr. Chairman?

MR. CRAMTON: Mr. Kutak?

MR. KUTAK: Mr. Chairman, I have some good news and some bad news. The good news is that we decided, notwithstanding the letter which you all got from me, that there is another way to make this package of regulations attractive.

That is not to give you the whole dose at once.

MR. THURMAN: That suggests that there was a first way.

MR. KUTAK: I see. So, with your permission what

we are going to do is this. We are going to break them up and do a little bit before lunch and then actually do one immediately one after lunch and possibly even scatter the rest.

They break in three categories. There are three regulations. The first is 1600 - Restrictions on Certain Activities. Then there is 1604 - Outside Practice of Law and 1605 - Appeals on Behalf of Client.

We think these make, from a procedural standpoint, a very logical group to discuss as a package. Then what I would like to do, immediately after lunch, is to jump to 1606 which is one of the two most significant regulations, perhaps indeed, one of the two most significant problems that this Board will wrestle with at least in the foreseeable future.

That is, the question of eligibility. I do not want you to worry about that regulation because in consultation with my committee, and further consultation with General Counsel, I decided that we are just not ready to bring that to you as a regulation yet.

We think the question of what consititues eligibility is such a profound problem and far reaching problem that we would like to discuss the question with you and seek your guidance and get your inputs. Then we would go back and draft a regulation that would reflect your thinking.

After lunch, then on the assumption that this would take us to lunch going through the first three that I mentioned, we would then go to 1606. That is the regulation on Applications for Refunding.

MR. CRAMTON: Not according to the schedule that I outlined earlier. We would take up 1607, 8, and 9 first and then 1606.

MR. KUTAK: Ok.

MR. CRAMTON: That, at least was what I told the Board at the beginning.

MR. KUTAK: All right. I guess I was not here at that time. That is fine. I did not realize that what I was saying is something you already heard.

Ok. Since our last Board meeting, your Committee met and had a very productive meeting in Kansas City. At that meeting, not only did Glee Smith and Rudy Montjano actively participate, but we had the benefit of our Chairman, Roger, and also our Counsel, in both Marty Mendelson, who has been with us almost from the beginning and our new Counsel, the Corporation's General Counsel, whom I met for the first time at that meeting, Alice Daniel.

I think that although it looks like a big job ahead of us, the way we have it organized, you will find that it is going to move rather productively and efficiently if we concentrate on the following approaches and procedures.

Now I ask you to turn to your alternate book, the book that has the regulations in it. What I have asked Alice to do, and what we will proceed with in all of our regulations, if this meets with your approval, is first to focus on the issues. We would describe very briefly what the regulations addresses. Then we would describe what are the issues that are involved.

Following a description of the issues, or what we would like to call the commentary that identifies the issues, and then if it is needed and desired, we could focus on the language of the regulation itself. Then it would be my pleasure to be able to move you to whatever is indicated or appropriate action.

In the first three regulations I would move their approval and make final and publish on that basis. With respect to others, I would ask for Executive Authority on the part of your Committee to proceed with finalization, subject to further comments.

On one or more we might defer. So, first, let us then start out. I will turn, with the leave of the Chairman, the chair over to Alice who will address regulation 1600, 1604, and 1605 for purpose of your considering them for final adoption.

MR. CRAMTON: Ms. Daniel, before you do that, I would like to welcome you to the Corporation. Those of us

who had the pleasure and benefit of working with you in Kansas City are enormously impressed with your qualifications that you bring to the position.

MS. DANIEL: Thank you. It is a pleasure and an honor to be here.

Before we get into the regulations, I want to point out, with apologies, the fact that the envelopes you received contained replacement parts for Sections 1600, 1604, and 1605. You cannot accuse us of casting these regulations in concrete.

MR. THURMAN: They are about that heavy.

MS. DANIEL: If you have not already made the substitution, it will facilitate things if you do that before we get into the discussion.

MR. KUTAK: Alice, I think that is a good point. I think you should walk everyone through together to have everyone bring their book of regulations up to date so we do not have any confusion in what we are looking at.

MS. DANIEL: In addition to receiving booklets containing the statute and my commentary and the proposed regulation, the members of the Committee have received copies of all the comments of all the regulations. Those were available to all members of the Board; they were not put in their books, however.

I have taken the comments out and they are in another book.

MR. SMITH: Thank you.

MR. THURMAN: What pages do we throw away in 1600?

MR. CRAMTON: Do you have the text there?

MS. DANIEL: In 1600 the comment and the text are replaced. The first place of replacement part say in the right hand corner, replacement part. If it does not say replacement part, then it is obsolete.

That is also true for 1604.

MR. KUTAK: Take out the commentary.

MS. DANIEL: Is that Tab B for those who have letter tabs?

MR. SMITH: Is that Tab Letter B?

MS. DANIEL: Yes.

MR. KUTAK: And then you go to the commentary and take out the regulation and consider it replaced with a new commentary and a new regulation.

MS. DANIEL: And 1605 also includes the statute, a, b, and c.

MR. KUTAK: Does everyone have that?

And then on 1605, take out a, b, and c, both the statute and the commentary and the appeals, because we have changed the statute as well as the commentary, as well as the appeal.

MR. THURMAN: You changed the statute?

MR. COOK: I did not know that, Bob.

MR. STOPHEL: You have passed a miracle.

MR. KUTAK: It was a lot easier drafting those regulations.

MS. DANIEL: Ok?

MR. KUTAK: Ok? Let us now go to the Regulation 1600, the regulation for Restrictions on Certain Activities.

MR. THURMAN: With all the work you have done we cannot question anything on that?

MS. DANIEL: We have anticipated that the replacement part anticipates all your questions.

MR. KUTAK: Let us go.

MS. DANIEL: The Act contains a number of provisions designed to prevent Legal Services attorneys from engaging in activities unrelated to the provision of legal assistance to eligible clients.

The legislative history shows that Congress was not attempting to prevent Legal Service lawyers from giving advice as to lawful alternatives to litigation, or the lawful conduct of such alternatives, but what they were concerned about was situations in which the attorney went beyond the bounds of professional responsibility and actually participated in these activities, himself, or organize those activities.

The word, insofar as Congress prohibited direct participation by attorneys, the statute presented no problems and we have simply drafted the statute and the regulation.

But the word the Congress chose to express its desire to prevent overstepping the bounds of professional responsibility was not the best choice perhaps. The word they chose was "encouraging". They said that an attorney should not encourage others to engage in certain kinds of activities.

Therefore, the major problem that we had in this section was to construe the term "prohibition against encouraging" in such a way that it would permit the advice that a lawyer is bound to give to a client. But it would prevent the lawyer from overstepping the bounds of professional responsibility and usurping the clients' right to make decisions for himself.

The word "encourage" seemed to me to be so ambiguous that any attempt to write a regulation that incorporated the word was going to become prolix and perhaps impossible to perform. I turned to the American Bar Association's Code of Professional Responsibility, Ethnic Considerations 7-7 and 7-8, in an attempt to find out what the lawyer's professional responsibilities are in this situation.

Drawing on that, I attempted to substitute for the word "encourage", a phrase that would really be co-extensive with the ethical constraint against overstepping the bounds of a lawyer's proper role.

Therefore, what we now have in the statute is a

replacement of the prohibition against encouraging and we now prohibit "the lawyers shall not exort or direct or coerce others to engage in such activities or otherwise usurp the rightful authority of the client to determine what course of action to follow.".

In other words, as long as the lawyer stays within the bounds of the Code of Ethics, he is staying within the bounds of this regulation. I think this reading is consistent with the intent of Congress and helps us to avoid some difficult constitutional problems that are presented by the ambiguities of the word "encourage".

Further, it does give pretty clear instruction to the lawyer as to what may and what may not be done.

The next change that I made was to introduce mens rea requirement. The statute does not have any. I think that a court that was interested in upholding this would read mens rea in. A court that did not want to uphold it might strike it down because it was absent.

Therefore, it seemed to me to be the safest course to put it in.

As far as direct participation by an attorney goes, the mens rea requirement is that the activity be engaged in knowingly, to protect against a person who without realizing it wanders into a demonstration, as he turns a corner or something like that.

As far as the prohibition against our synonyms for encouraging that, because of the ambiguities of language and speech, and the difficulty of preducting how one's words may affect another who is listening, I thought it best to put in the mens rea requirement of intentionally saying that the lawyer does not violate this section unless he gives this advice with the intention of leading a client into participating in a demonstration and so forth.

The third change that I made was to attempt to limit the phrase "other illegal activity". The statute prohibits attorneys from engaging in riots or civil disturbances "any activity which is in violation of an outstanding injuction or any other illegal activity.".

As written in the statute, that phrase alone is very broad. I think it has to be read in the context of the whole section. I am not sure exactly what Congress means. I am pretty sure they did not mean parking tickets and littering or feeding the pigeons against the law.

On the other hand, I rejected the approach that had been suggested by some saying that any illegal activity that was not directly related to the job should be excluded. I think that the course we have taken is a middle one.

The question I posed for myself is: In what situations should the Corporation add its sanctions to those that are already imposed by law?

There are some cases in which we say those imposed by law are enough and there are other times when we would like to add our own.

The formulation that I have come up with is to prohibit illegal activity that is inconsistent with an employee's responsibilities under the Act, Corporatin regulatins, or the Code of Professional Responsibility.

MR. STOPHEL: Could you give me an example of illegal activity that is consistent with the Code of Professional Responsibility?

MS. DANIEL: As I say that, it is hard to think of every example. I was trying to think of parking tickets and so forth.

MR. STOPHEL: What about mis-appropriation of funds?

MS. DANIEL: Then I think that is clearly inconsistent with the duties under the Act and to the Corporation and to the recipient and under the Code of Professional Responsibility. There is no question about that in my mind at all.

MR. STOPHEL: What about assault and battery?

MR. CRAMTON: On the part of the client or the Corporation Office or what?

MR. ERLICH: The Code simply does not address a number of activities.

MR. STOPHEL: That is my point. I am not sure what

is consistent or inconsistent with the Code of Professional Responsibility. It concerns me that we go about limiting illegal activity with regard to our employees or the employees of a firm.

On what basis is this?

MS. DANIEL: This was a troubling provision. I think that it is entitled to some of our thought. As far as assault and battery goes, it might be what this provision would say to the recipient and the Corporation is "Take a look at the facts. There are technical assaults and batteries that really might be regarded as very minor.".

On the other hand, the facts of the case might be such that to discredit to the recipient and to the Corporation and to the program and to the bar --

MR. STOPHEL: That may be true.

MR. ERLICH: The point would simply be to say there is nothing in here, as far as I would think that would intend to say on the part of Congress a preclusion against drunk driving. We do not like drunk driving, and so forth, but that is not what I think this provision is aimed at. Drunk driving is not inconsistent with the Code and therefore would be excluded here.

MR. STOPHEL: But a local program may say that they want to have the right to fire an attorney who is arrested for drunk driving. Here we say it is not inconsistent with one of these things, then you have to find another ground.

MR. SMITH: But a lawyer who is convicted of drunk driving can practice law.

MR. ERLICH: That is not what this provision is aimed at. Many programs can and many programs do; that is not what is under this provision, however. That would be under a general supervision category.

MR. CRAMTON: Before we get into this point, do you want to finish the commentary and then the Board can take up any one of the four or five major policy situations that are in the provision?

MS. DANIEL: Fine. The definition of legal activity. Some of the prohibitions in this section apply during the period when employees "carrying out legal assistance activities".

We thought it best to define that term. The definition in the published version had the phrease "lawyers carrying out legal assistance activities" when he could be reasonably expected to provide legal advice or representation. The Committee concluded that phrase was unfortunately vague and broad and deleted it.

The present definition of "carrying out legal assistance activities" covers the situations during office hours and during the time when a Corporation or recipient's resources are being used or when the lawyer is, in fact, providing advice or representation.

The published version of this section had a number of disclaimers and provisos and exceptions that some people read as a manual of instructions on how to evade the statute. The Committee felt that was not the proper way to proceed. Those provisions have all been taken out and we have substituted for it a single provision on the attorney-client relationship.

This simply says that we do not intend to intrude upon the attorney-client relationship by this regulation.

If you would forgive me for making some amendments even on these replacement parts, Section 1600.4 which has just been added in your replacement forms on the use corporation funds, upon reflection, I have decided, does not belong in this Section.

It properly belongs in the section on eligibility, where we are going to deal with the question of eligibility groups. I would delete this from this section with the understanding that the problem it deals with with be dealt with at a later time.

The Act prohibits Legal Services employees from engaging in legislative or administration representation, which we all think of as lobbying, unless such activities be undertaking on behalf of an eligible client.

I have, at the request of the Committee, and at the request of a comment and question received added an explanation

saying that this does not mean that you cannot call or write an agency asking for information and it does not mean you cannot tell your clients what is going on in the legislature. It should be obvious that you do not mean that you cannot comment on what the Corporation is doing, since we are not a Federal Agency.

There have been enough questions about whether the prohibition does apply to commenting on the actions or proposed regulations of a Corporation, so that just as a prophylactic measure, I think we should put that in.

MR. KUTAK: Mr. Chairman?

MR. CRAMTON: Mr. Kutak?

MR. KUTAK: As I promised my colleagues on the Board and what we are now set out to do in short order, is to give you, as members of the Board, a regulation that really tries to meet three requirements: Certainly to be clear; and to correctly reflect the intent of Congress; and to appropriately be responsive to the requirements of the Corporation and to its programs that it is charged to administer.

In this first regulation that is before you, which has already been published, in areas for comment and comment has been received and your Committee has considered it, and debated it and now after that debate and discussion it is reflected in this present form, we believe we have responded faithfully to your charge.

I would move, Mr. Chairman, that this regulation, 1600, be adopted, with the amendment as mentioned by Counsel. I think it should be adopted for publication in final form.

MR. SMITH: Seconded.

MR. CRAMTON: I think there are also going to be some very minor and stylistic changes, which the Committee talked about last night.

MR. KUTAK: Yes.

MR. CRAMTON: Those changes were not sufficient to spend time on at today's meeting.

MS. DANIEL: That is right.

MR. CRAMTON: With some stylistic clarification by the General Counsel, it is moved and seconded that the regulation be adopted in its final form.

It is now open for discussion.

MR. STOPHEL: 1600.2(b).

MR. CRAMTON: Go ahead.

MR. STOPHEL: Do I understand you that the intent of that sub-section is to provide only working hours during the period for which he or she receives compensation?

MS. DANIEL: That means during the entire time. That applies to off-duty time as well as on-duty time.

MR. STOPHEL: I see.

MS. DANIEL: 1600.2(a) applies to working hours, anytime the attorney is using resources of the Corporation

or actually giving advice.

MR. STOPHEL: I see.

MS. DANIEL: Perhaps an attorney meets with a client in the evening. That may not be working hours, but he is carrying out legal and assistance activities and is bound by 1600.2(a).

However, 1600.2(b) is for off-duty hours.

MR. STOPHEL: I wonder if the word "during" might not appropriately be "for". During the period for which Section (b) applies, is what he is being paid for during normal working hours.

MR. BROUGHTON: Do you mean 9:00 to 5:00 in the question of whether after that he is not?

MR. STOPHEL: The explanation is correct, but I wonder whether the language makes that clear?

MS. DANIEL: I see.

MR. STOPHEL: Does this cover all of that? I do not like the word "during" to be in there.

MS. DANIEL: How about"during the period of employment"?

MR. THURMAN: "While employed by the Corporation"?

MS. DANIEL: By a recipient?

MR. STOPHEL: He is not employed by the Corporation. He is employed by a recipient.

MR. KUTAK: What line is that?

MS. DANIEL: It is sub-paragraph (b) of 1600.2. "While employed by a recipient" --

MR. CRAMTON: Does this cover Corporation employees?

MS. DANIEL: Yes. It should be "while employed".

MR. CRAMTON: During any period of employment?

MS. DANIEL: Yes. By the way, I should point out here that in case you had not noticed, we now have a section of new definitions at the very beginning of the book. The word "employee" as used in this regulation means an employee of the Corporation or of a recipient, unless in any particular part a different meaning is intended.

In that case, we have tried to make that clear in that part.

So, we could simply say, "During any period of employment, no employee shall" --

MR. THURMAN: Yes.

MR. KUTAK: That strikes a blow for Roger as well.

MS. DANIEL: Yes. We have managed to avoid the he or the she.

MR. CRAMTON: Do you need a "funded under the Act", because some of these people who are employees might --

MS. DANIEL: Funded under the Act?

MR. CRAMTON: I am asking the question.

MR. ORTIQUE: That seems superfluous, because our funds are coming.

MR. KUTAK: Mr. Chairman, as accepted by the Committee, that is an improvement.

MR. ORTIQUE: What is accepted as an improvement?

MR. CRAMTON: During any period of employment, no employee shall --

MR ORTIQUE: I see.

MR. CRAMTON: Is there any further discussion on 1600?

MR. STOPHEL: Are you all debating 1600.4?

MR. KUTAK: Yes.

MR. CRAMTON: Yes.

MR. KUTAK: And when it is published in final form, Glenn, we will also publish the commentary so the reader will be able to see the changes from the draft as it was published and as it was proposed. It carries a long legislative history. Are there any questions?

MR. STOPHEL: Is that true?

MR. CRAMTON: Go on.

MR. STOPHEL: I am still concerned about this illegal activity section, but I do not have any alternative to propose.

MR. CRAMTON: The Committee was very concerned that if it were left totally untrammeled, hypotheticals might be raised to a court that could create a serious constitutional question that was unnecessary. We wanted to restrict its

ambit somewhat and we felt this was not only consistent with what we assumed was Congressional intent, but also to avoid problems.

MR. STOPHEL: As I said, I do not have an alternative proposed, so I cannot say too much about it.

MR. CRAMTON: If there is no further discussion, 1600 is before you for vote. All those in favor of the adoption in final form, with the amendments indicated, and possibly some stylistic changes, please say aye.

(Ayes.)

MR. CRAMTON: All those opposed say no.

(No response.)

MR. CRAMTON: The Regulation was unanimously adopted.

MR. KUTAK: Let us go to 1604, the Outside Practice of Law.

Again, Alice, would you hit the issues that are highlighted in your commentary?

MS. DANIEL: Thank you. Section 1007(a)(4) of the Act in its legislative history, show that Congress contemplated that outside practice, by outside practice by Legal Service lawyers would be permitted.

They felt the Corporation should adopt regulations guiding attorneys in carrying out any outside practice. We permit outside practice for compensation in only two situations. They are both situations in which the Committee believed

that an attorney has a professional obligation to render service. One is if the attorney is recently employed and has an obligation of finishing outstanding cases and does do so expeditiously.

Here we are assuming that before the Director of the program hired an attorney who had been in outside private practice, that he would inquire to the extent of the obligation and if there were a lot of them,the lawyer would be told to finish them and come back and apply again.

If there were only a few, the lawyer would be permitted, or could be permitted, if the Director or a recipient found that it was consistent to carry those out.

The other situation is the one in which the attorney is appointed by a court under a rule or practice of equal applicability. Here the question arose as to whether or not the Legal Services attorney should be entitled to accept compensation.

The Committee decided that compensation should be accepted in that situation, although it must be turned over to the recipient and could not be retained by the attorney.

To permit Legal Services lawyers to accept cases in which compensation is generally made by a court, but to bar the Legal Services attorney from accepting that compensation would be a form of unfair competition against lawyers in private practice and it might encourage a frugal court to make

the appointment of Legal Services lawyers instead of private lawyers, so it could lead to exploiting our own attorneys and unfairly competing with those in private practice.

As far as uncompensated outside practice goes, the Director or a recipient may permit that kind of practice if it is consistent with the attorney's full time responsibilities and then only if the outside practice is done expeditiously or accepted under a court rule or practice of general applicability or on behalf of a close friend or family member or for a civic or charitable group or pursuant to court appointment under a generally applicable rule or practice.

We feel that this is so much a part of being a member of the bar and of the kind of expectations that the community places on members of the bar that it would be inappropriate to prevent Legal Services lawyers from carrying out those obligations.

I have one technical thing to point out here. We have defined outside practice in such a way that it would not be outside practice for a lawyer who is engaged in the services activity to do work on behalf of clients of the employer who are not eligible.

That is, if we contract with private law firms or with programs that also serve people who are ineligible, as long as the attorney is doing work for that employer, it is not considered outside practice.

MR. KUTAK: Yes. I have only one amendment that I could add to your comments. We thought the commentary would be more reflective of the regulation and certainly more reflective of the Act, if you would look at line 3, the first paragraph on page 1 of your comments.

Strike the word "permitted" and insert the word "regulated".

MR. CRAMTON: Are you going to put in the word "should"?

MR. KUTAK: Yes, "should be regulated" and not "would be permitted".

MR. STOPHEL: I am glad you said that.

MR. KUTAK: And the regulation would reflect your feeling.

MR. CRAMTON: Go ahead.

MR. KUTAK: Again, Mr. Chairman, the regulation was out for public comment and published for public comment on March 12, 1976. Your Committee again considered and carefully evaluated the comments received.

As you can see, the Committee made amendments and revisions in accordance with those comments during our further deliberations. We feel that we have caught the spirit and we move that the Board adopt the regulation in the form as proposed for final publication.

MR. SMITH: I second that.

MR. CRAMTON: Is there any discussion on Regulation 1604?

(No response.)

MR. CRAMTON: Since there is no discussion, are you ready for the question? All those in favor, please say aye?

(Ayes.)

MR. CRAMTON: All those in favor, no.

(No response.)

MR. CRAMTON: Regulation 1604 is adopted. Let us move to Regulation 1605.

MR. KUTAK: Let us move to 1605, Appeals. Here, before we even engage in the discussion, we have found that further tinkering with the text would be helpful and productive, so therefore before we embark on the commentary, I would like to ask Alice to report certain changes which, while stylistic, might be significant enough to mention.

MS. DANIEL: Yes. The Act requires the recipients to establish guidelines for review of appeals. The purpose is to insure efficient utilization of resources. The technical changes in the draft that we would like to make is to insert the definition of the word "appeal".

There was a definition in the published version that you will find in the page immediately behind the replacement part. That is the definition that should be inserted into the regulation.

If the Board approves it, then that is what we are going to do.

MR. STOPHEL: Excuse me a moment.

MS. DANIEL: Yes.

MR. STOPHEL: How long has that been for?

MR. CRAMTON: It is the next sheet.

MR. KUTAK: It is in paragraph 5(2)(c).

MS. DANIEL: Do you have it?

MR. STOPHEL: Yes.

MS. DANIEL: The second change is the one that really got most of the change of the scope of this review system. What kinds of actions are commonly done?

On the one hand there are many states that have courts of limited jurisdication where, moving up to the next court is not really deemed to be an appeal. In other states, however, the next step after a court of limited jurisdiction may be the highest court of the state. We wanted to take into account both of those situations. The draft in front of you does not do that because it only talks about the appeals from courts of general jurisdiction and therefore, we would strike those words.

The other thing that was unclear here was whether the review system should apply to administrative type units. What the Committee decided was the review system should apply whenever a review is sought by an appellate court.

If review is being sought by the lowest court of general jurisdiction, then the review system would not apply but anytime you move into intermediate or highest court in the state, that is a significant state that would be subject to review whether the appeal is taken from a lower court or from an administrative tribunal.

So, there is some technical change in the language of 1605.2 that should be made to reflect that intention. With the Board's dispensation, I would prefer to have the authority to make the stylistic change that is necessary to make that.

MR. CRAMTON: Read the language that you are essentially substituting for the language that is in the report.

MS. DANIEL: "The governing body of the recipient should adopt the policy and procedure for review of appeals --

MR. CRAMTON: No, the other.

MS. DANIEL: But then it does not make the sentence right. It does say "review sought by appellate courts of decisions.".

MR. CRAMTON: Of a decision.

MS. DANIEL: "Of a decision rendered by any court or tribunal.".

MR. ORTIQUE: Could you give it to us again?

MS. DANIEL: "The governing body of a recipient

shall adopt a policy and procedure for review of"--

MR. CRAMTON: For review of a decision of any court or tribunal. You need the "by an appellate court". This would be for review by an appellate court of a decision of any court or tribunal.

MR. KUTAK: Yes, that is it.

MR. CRAMTON: Undertaken on behalf of clients and so on.

MS. DANIEL: I think the end of that sentence can be dropped because the purpose section indicates that this part does not apply to any case or matter in which assistance is not given under funds provided by the Act.

So it is really redundant to say "undertake on behalf of clients who are being represented under the Act.".

MR. BROUGHTON: Review of appeals of any court?

MR. CRAMTON: A court or tribunal. This governs both Federal and state.

MR. BROUGHTON: I see.

MR. CRAMTON: So an appeal to the D.C. Court of Appeals would be covered as well as the Supreme Court.

MR. KUTAK: Do you want to put that in there?

MR. CRAMTON: Yes.

MR. STOPHEL: Would this cover an appeal from a Commission where their writ certiorari lies in that it is not an appellate court by an original court of jurisdiction and

has the authority.

For example, in our state, the action of a city commission is appealable by certiorari to the chancery court.

MR. CRAMTON: Court of general jurisdication would not be covered.

MR. STOPHEL: Would not be covered?

MR. KUTAK: Right.

MR. STOPHEL: Because it is not an appellate court?

MR. CRAMTON: If, under Kentucky law, the final judication of a state workmen's compensation question is reviewable by the Kentucky Supreme Court, then -- or the Tennessee Supreme Court -- then it would be.

MR. STOPHEL: Right.

MR. CRAMTON: That is why we have the word "appellate court" in there.

MR. COOK: We are safe now. We just got a Supreme Court.

MR. STOPHEL: Only to an appellate court?

MR. KUTAK: Yes.

MR. STOPHEL: Thank you.

MR. KUTAK: Is there any discussion?

MR. CRAMTON: It is open for discussion. Because this is new, Alan Houseman of NLADA has his hand up. Do I have the unanimous consent to allow him to address the Board?

(General assent.)

MR. KUTAK: Mr. Chairman, in light of the fact that this is Mr. Houseman's 33rd birthday, I would like to make special note of, I would so urge and so move.

MR. CRAMTON: Mr. Houseman, I hear no objection.

MR. ORTIQUE: The only thing there is envy.

MR. HOUSEMAN: You suggested taking out the phase "undertaken on behalf of clients who are being represented under the Act"?

MS. DANIEL: Yes.

MR. HOUSEMAN: What I understand you might be doing then would be applying the appeals section to all appeals taken by the program?

MS. DANIEL: No.

MR. ERLICH: No.

MS. DANIEL: Because 1605.1, purpose, says this part is intended to promote efficient and effective use of corporation funds. It does not apply to any case or matter in which assistance is not being rendered with funds provided under the Act.

MR. HOUSEMAN: I am sorry. I did not read that clause.

MR. THURMAN: Can I ask questions to this? Have we had any public comment?

MR. COOK: Yes.

MS. DANIEL: Yes.

MR. KUTAK: Yes.

MR. COOK: The major comments are all included and reflected.

MR. KUTAK: Yes, that is right.

MR. CRAMTON: Is there someone else who has something to say?

MR. MONTJANO: The State Bar of California raises some statement about a case by case and client by client review. Does this answer that question?

MS. DANIEL: Yes, in view of that constraint that is reflected in ABA 334, which talks about the extent to which the governing body -- At the meeting in Kansas City, Chairman Kutak said to me, "I think it would be useful to have you read Opinion 334.", and it turned out to be a bible for me. You will see it cited many times.

MR. COOK: I am glad you read it.

MS. DANIEL: At any rate, 334 does indicate that any external interference by a govering body in a case by case decision would be interference with professional responsibility, but because all members of the program are members of the same law firm, so to speak, as a staff attorney is, then a review procedure that involves consultation with the Project Director would not violate that ethical constraint.

Since we say this system of review taken shall not interfere with the professional responsibilities to the client,

I think that makes it clear.

MR. MONTJANO: The particular grantee should have a specific review provision which insures that there is consultation with the staff attorney.

MS. DANIEL: Yes, that is what this regulation seeks to do. It says the governing body shall adopt a procedure and insure that this policy and procedure does not interfere with the responsibilities of an attorney to a client.

MR. KUTAK: Mr. Chairman?

MR. CRAMTON: Go ahead.

MR. KUTAK: With the amendments that have been recorded and adopted, for the purposes of action on this regulation, I would move that it would be published and adopted in final form and published in final form.

MR. SMITH: Seconded.

MR. CRAMTON: Is there a discussion?

(No response.)

MR. CRAMTON: Are you ready for the question?

MR. MONTJANO: Yes.

MR. CRAMTON: All those in favor please say aye.

(Ayes.)

MR. CRAMTON: Those opposed, no.

(No response.)

MR. CRAMTON: Regulation 1605 is adopted. We have now reached a convenient stopping point. I would like to raise

the question about the Executive Session during our luncheon.

MR. BROUGHTON: Before you do that, I would like to commend our General Counsel for the brevity and clarity of her presentation. It is no reflection on her chairman.

MR. KUTAK: What a clear insinuation. You have not seen anything yet.

MR CRAMTON: The Board has plans to meet together for luncheon with the President and the Executive Vice President and General Counsel. It has been suggested that the Board could usefully receive a report from the President concerning some current personnel considerations that he has underway.

Secondly, we would receive a report by the General Counsel concerning pending and potential litigation involving the Corporation.

Is there a motion to have an Executive Session limited to those subjects?

MR. SMITH: I so move that we have an Executive Session during lunch hour and discuss the subjects that you have just mentioned.

MR. KUTAK: Seconded.

MR. THURMAN: Seconded.

MR. CRAMTON: Is there any discussion?

MR. COOK: The only thing I would like to say is I cannot be in attendance at lunch and would like to know

what time the Board will be back here.

MR. CRAMTON: Instead of at 2:00 o'clock, we will be back at 1:45 p.m. We are adjourning 15 minutes early.

MR. COOK: Thank you.

MR. CRAMTON: We will be back at 1:45.

MR. KUTAK: At that time, Marlow, we would like to start with Regulation 1611, which is the one on eligibility. That is a regulation we are not going to ask the Board to focus on for adoption, but simply for commentary and then we will go back and draft it.

MR. CRAMTON: There has been a motion on the Executive Session during lunch. I call for the question.

All those in favor, say aye.

(Ayes.)

MR. CRAMTON: All those opposed, no.

(No response.)

MR. CRAMTON: The record will show that the vote was unanimous. We now stand adjourned until 1:45 p.m.

(Whereupon,

at 12:15 p.m., the above-entitled meeting was adjourned for lunch, to reconvene at 1:45 p.m.)

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AFTERNOON SESSION

1:45 p.m.

CHAIRMAN CRAMTON: The meeting will come to order. Our General Counsel is out of the room for a moment, but will be here shortly. We will begin our discussion of eligibility very shortly.

Before that, we have a brief report from Harriet Ellis, who has joined the Corporation, to our good fortune, in a Public Relations capacity. Ms. Ellis?

MS. ELLIS: Thank you. I just want to report on the status of the Advisory Councils that have been appointed thus far.

In Tab 7, it shows 13 states, but since that time six more have come in with official notification and now there are a total of 19. We are in the process right now of getting letters out to each member welcoming them. Also, there is a form to get biographical data on each one of them and then we will get this information to each of you.

So far, I have found it very interesting to see the composition of various councils. There is a broad cross-section of the legal community as well as citizen representation.

The Governors that we have not heard from have been alerted that they have until mid-May to make appointments.

In line with the statute, the Board will make appointments.

MR. BROUGHTON: I was told by a member of the staff yesterday before I left that the Governor was going to have a meeting with the staff tomorrow at which time he would complete his study and make his appointments.

MS. ELLIS: Thank you very much for telling me that, Mr. Broughton.

MR. ORTIQUE: Could you give me the name of the six additional ones?

MS. ELLIS: Colorado, Vermont, Virginia, Alabama, Georgia, and Kansas.

MR. KUTAK: Have made theirs?

MR. CRAMTON: Yes, in addition.

MR. KUTAK: The Governor is announcing his intention to do so in Nebraska?

MR. CRAMTON: She does not have that.

MR. THURMAN: Harriet, do I understand that it will be possible for the Board to get the names of the people in each of these states?

MS. ELLIS: Yes.

MR. CRAMTON: As soon as she puts the biographical material together, she will send out lists of each state council to all of us with biographical detail.

MS. ELLIS: I would like to get the names out as soon as possible.

MR. CRAMTON: All right.

MS. ELLIS: Then this will actually preceed biographical data which will come as soon as I get it.

MR. CRAMTON: Thank you very much.

MS. ELLIS: You are very welcome. Thank you.

MR. CRAMTON: Proceed, Mr. Kutak.

MR. KUTAK: Mr. Chairman, as we mentioned shortly before adjournment, we would like to break the sequence of the regulations as they are set out in the book and move by a sort of special procedure to Regulation 1611 concerning eligibility.

You have in your book not only the copy of the law and a set of commentaries, but also a proposed regulation. I wish you would not even look at the regulation. The regulation is, after our consideration, so tentative and so preliminary that we do not feel that it is in shape, in terms of form or substance, that is ready to bring to you for consideration as a regulation, even for publishing for comment.

But the issues that are raised in that commentary, nevertheless are valid and are nevertheless pertinent. What I would like you all to do under guidance of our Counsel, is to sit back and mentally relax and let her focus on the questions as she sees them.

Then we will introduce you to people whom we have requested to come to be experts and who are experts in the

field regarding the definitions and questions of what constitues poverty. This will help us structure some thinking. As you assimilate the issues and the questions that are raised, you will give us your reactions which we need before we can come to you with a proposed regulation.

Alice, if I may, can I turn over the discussion to you?

MS. DANIEL: Thank you. At the outset, I would like to point out what the statutory framework is, within which the Corporation is faced with a decision of how to establish the maximum income level for eligible clients.

Section 1007(a) of the statute directs the Corporation to establish maximum income levels in consultation with the Office of Management and Budget and Governors of the several states.

I would like to make a footnote. We have had a number of meetings and exchange of correspondence and phone calls with the Office of Management and Budget and we expect to continue doing so.

As far as the Governors go, there has been one piece of correspondence with the National Governors Council. What the Committee thought would be most appropriate would be wait until the Board believes that it has a regulation in shape that could be looked upon as a talking paper. At that point, the regulation could then be sent to each of the

Governors in the 50 states, but it would not be appropriate or productive way of approaching the Governors if we did not have something that could be regarded as a pretty fairly well worked up regulation to submit to them.

Therefore, we had not written to members of the states yet.

In the course of consulting with the OMB, we discovered that the Legal Services Corporation is not the only agency that is concerned with what is poverty. It turns out to be an extremely complicated problem. This is one of the things that one person said, "Poverty? What do you mean by poverty? Define your terms.".

We were looking for dollar levels, but we found out it was much more complicated.

We learned that Congress had established by public law an inter-agency poverty task force, which was given the task of defining poverty and coming up with the various definitions of poverty that are now in use by various agencies and they would make regulations as to what might be the preferred one.

When I wrote a formal letter to the OMB, proposing a long series of questions, geared really to finding out whether it was appropriate for us to adopt the OMB's own definition of poverty, they said, "Well, we can answer some of your questions, but if you really want the answers, you will have to go to the

inter-agency task force.".

So, that is what we did.

We are very fortunate this afternoon that the Chairman of the Task Force and the Director and the Staff Director are here with us. I do not see them here yet, but they will be shortly, and they will be here to answer questions that members of the Board may have.

One thing that all of the people we talked with impressed upon us was the difficulty of saying exactly what poverty is. Also, the difficulty we would have in meeting statutory mandate as to the factors that we should take in consideration.

The statute directs the Corporation to establish maximum income levels taking into account family size, urban and rural differences, and substantial cost of living variations.

We discovered that of all the available measures of poverty, they all do take account of family size differences. None of them take account of urban versus rural differences. They do take account of something called farm and non-farm, but we have established that does not correlate with urban and rural differences.

So, at the outset we faced that problem.

Another is that there is no measure of poverty that is in current use that adequately takes into account the cost

of living differences among different areas.

Everyone agrees that the cost of living differs between one area and anot her. The factors that come into account or decide the difference in the cost of living are so numerous and so difficult to measure that the expense has been regarded as prohibitive and no one has attempted to do that.

The differences that are measured, for example, by the Consumer Price Index are not comparisons among areas. What the Consumer Price Index does is to measure the change in a given area from one time to another, but does not form a basis of comparison from one area to another.

Yet, it is essential to take into account cost of living differences. First of all, the statute tells us that we have to do that. Second of all, if we define poverty in terms of subsistance -- and that is the definition that the staff is recommending, should be the definition adopted by the Corporation -- subsistance is defined as the amount of income that is required to sustain basic health and working capacity.

What amount of income is required for subsistance then will vary from area to area where the cost of living is higher or lower. Where it is higher, it takes more income to achieve a subsistance level.

The data is not available that would permit us sitting

here in Washington today or even next year to promulgate a schedule that would be geographically isolated setting maximum income levels.

I do not think that is what the statute requires us to do, however.

The Senate report seems to recognize the problem that we are up against because it says, "Since the Corporation's eligibility levels would have to cover widely varying circumstances, on a nation-wide basis, these maximums should provide sufficient lattitude so as to allow local problems to set local eligibility standards which meet local circumstances, but in such a way to not compete with local attorneys.".

What we have then from the statute is on the one hand a direction to the Corporation to establish national maximum income levels that take into account family size, urban and rural differences, substantial cost of living variations.

On the other hand, the statute directs the Corporation to establish guidelines for use by recipients in determining eligibility of possible clients. The factors that are to be taken into account by the recipients include: The liquid assets and the income levels of a client, the fixed debts and medical expenses and other factors which affect the client's ability to pay, the cost of living in the locality, and such other factors as relate to financial inability

to afford legal assistance -- shall include evidence of our prior determination of an individual's lack of income results from unwillingness or inability to seek or accept unemployment.

What this means is that there is some division of responsibility between the Corporation and the recipient. The Corporation is to provide an umbrella that will set a national maximum. It will establish the safeguard to assure that the Corporation's resources are indeed used to give legal assistance as a priority to those who are least able to afford legal assistance.

Under that umbrella, we have over 300 recipients who have to take into account a number of things. One of those is the cost of living in the area, insofar as it can be determined.

But there are a whole range of local circumstances such as: The availability of other sources of assistance in that particular area and so forth.

Also, the program's own resources and the size of the poverty population in that area are some others. So, taking into account these kinds of factors, the recipient is to establish its own maximum eligibility -- maximum income level -- I am sorry.

In many cases that might be substantially below the national average.

It is necessary in our view to have this umbrella

level chosen by the Corporation and have it be high enough to permit those areas where the cost of living is above the national average to set their maximums at a figure about the OMB poverty line.

That again is because in an area where the cost of living is exceptionally high, the cost of reaching even subsistence levels will be higher than the OMB level. Therefore, to impose the OMB level as the maximum in such an area would mean that many truly poor people would be disqualified.

In addition to taking into account local circumstances and its own resources in establishing its own maximum eligibility level, the local program also has to be given leeway to take into account individual factors that are enumerated in the statute, factors having to do with the unique characteristics of the situation, of the potential client who walks in the door.

Frankly, at this point, we are not sure how all of these factors should mesh. That is the principal technical problem that faces us in drafing this regulation.

It is the recognition of this problem and the complexity that led our Chairman to feel that we should go back to the drawing board on this before coming to the Committee.

MR. KUTAK: Before the Corporation.

MS. DANIEL: I am sorry, before coming to the Board.

I do not see our experts here at the moment, if there are any questions on this.

I realize that I have been a little disorganized in presenting this and I did present it very quickly just to summarize some of the points that I wanted to make.

First of all, I would like to point out that it is very difficult to define poverty. Therefore, we have to approach this subject with a great deal of caution, least we make a wrong judgement and either disqualify those who should be entitled to our help or make the kind of commitment that would over-extend our resources.

I think that we are going to have to use something like the OMB poverty definition, even though it does not seem to satisfy all the statutory criteria, because there is nothing better available.

However, we should recognize the inadequacy of that definition. We will probably have to adopt a feeling that is above that definition.

I understand that almost all the Federal Agencies that do use the poverty line as some criterion of eligibility, do make some modification of it. I was told by the Poverty Task Force that if were in the neighborhood of 125 percent, we would be well within the general practice of Federal Agencies.

Certain programs such as Child Nutrition Programs

go up to 195 percent of the poverty level. Others like CETA which are aiming at the unemployed, simply do not count welfare income because they are trying to get people off welfare, so they do not want to disqualify them.

Of course that brings their eligibility level well above the poverty level.

Many of the HEW and Agriculture programs come in at about 150 percent of the poverty level.

So we think that 125 percent, as a talking figure, seems to be within a reasonable range.

First of all, we will use the OMB line and allow some programs to go above it, at least to 125 percent and tentatively I would recommend that it not be automatically authorized to go above it, but that they be directed to assess their own circumstances, such as their local situations and priorities and resources before going above it.

So, at least we would be sending out a signal which says, "You are supposed to be serving the poorest of the poor, and before you go above the poverty level, be sure you are able to do that.".

However, we would authorize them, if they have reached that level, to do it.

In addition to that, as I say, I think we have to recognize that whatever regulation we finally come out with, it has to give local programs the flexibility to deal with

the individual potential client to walks in the door in a humane way. I am not sure exactly how we will work it out, but we will be working at that hard at the next meeting.

MR. KUTAK: Mr. Chairman, so the Board will know what we have contemplated as far as strategy goes, I would indicate the following.

We hope we can get some initial inputs for your consideration this afternoon. We hope we can, through the outline and analysis that I have made and the input of our experts, have some reaction from the Board this afternoon.

Then we would propose to go back to the drafting board and try to come up with a regulation, proposed regulation, that would reach a state of design that we could publish for comment and have so we could get the response not only of the audiences and groups that are concerned, but also get their inputs.

I would contemplate, because this is perhaps the most critical area, that this will be the most fundamental one, philosophically, that this Board will address. I feel that we may even schedule a full hearing on the subject.

I have not talked with my Committee members, but we have explored that idea.

At which time, we will come back to you with an exhaustive, if not exhausting, record and justify to you the best thinking that we have.

Since our people are not here right now, Mr. Chairman, I wonder if it would be appropriate to suspend our consideration of this regulation at this moment and turn to some Regulations that are far less difficult and could be addressed in short order and brought to you for your judgement and action?

Would that be agreeable?

MR. CRAMTON: I wonder if it would not be better to get whatever views there are on the other subject. Perhaps we do not need the experts at all.

MS. DANIEL: As far as our outside experts are concerned, they are not here yet. Appendix G, which was in the envelope which was distributed to you is a letter from the Chairman of the Task Force asking --

MR. CRAMTON: Is that Betty Mahoney's very detailed statement?

MS. DANIEL: Yes. Betty Mahoney has very generously taken the time to answer the questions that I proposed to OMB. She has also sent me other materials, including a rather thick book that explains the way in which every Federal Agency determines eligibility.

I hope it would not be too much of an imposition on the Board if I continued to send materials to add to this appendix as I gather them and I do expect to go on with research in this area and share with you everything that I

learn along the way.

MR. KUTAK: Roger, the only reason that I suggested my route is that I feel so helpless and also I feel that perhaps the Board and the Committee as well in that we do not know how to get a handle on the problem until we can hear from the experts first.

We would want to have a dialog with the experts instead of having the blind leading the blind.

MR. STOPHEL: Mr. Kutak, I think that you will find after having dealing with this for every how many years you have been on this Board you will still not have a handle on this. I have dealt for five years that I have been on a local board and it is something that has to be reviewed.

Therefore, I think our guidelines have to be pretty broad leaving maximum flexibility for local folks. Right now those folks do not have to worry too much about minimum income, because they are going way below that in restricting cases because of other factors. They just cannot handle them all.

When we give them guidelines that say, you must consider liquid assets and fixed debts and medical expenses and cost of living in locality, we just about can say just say and let them develop their own guidelines.

All we really need to do is to consider a maximum income level. In my view, that is not going to be all that

difficult, because we are going to have to review it very frequently.

It is an extremely complex thing. Our difficulty in dealing with all the locals is in attempting to say that this is a guideline that will fit each of the circumstances.

I believe that the local Boards are in a much better position to do that.

MR. CRAMTON: It is possible, on the basis of the statute, to distinguish a number of questions that we have to wrestle with. The statute appears to contemplate three factors or three tiers in a situation.

One is maximum income level and the second is the so-called eligibility guidelines for local programs which point primarily to individualized factors, presumably over and above the maximum income level and then there is this priority point that we need to come to grips with. This is the establishment of priorities.

In each one of them there are a whole series of questions. For example, on the maximum income levels, what constitutes income for that purpose? Is it gross income? What about the high school student who is living with a family and earns income. Is that to be included in the household or family income and do we include income in kind which is now very substantial in terms of food stamps and other programs or is it merely cash income?

MR. KUTAK: Somehow that motion to table, we are in the discussion, so I will withdraw my recommendation that we defer it.

My fellow Board members can frankly educate their Committee chairman on this, so let us do so. Let us have the discussion. I welcome the views and the guidance from my colleagues. Your Committee on Regulations is going to need all the help we can get.

MR. CRAMTON: That was my thought. Counsel has presented it and if the Committee is going to do some drafting, then to the extent that the Board identifies problems that they want the Committee to consider, this would be a good time to discuss this.

MS. DANIEL: Perhaps Senator Cook knows more about this than any of us regarding what the Federal Agencies do about this.

MR. COOK: What you have really found out is that everybody has their own standard. That is the whole problem. I think what you are really going to do is to find some kind of equation that you equate to the necessity for legal services. You can talk about how one adds this or that, but certainly if you are talking about a program whereby you receive funds, you can talk about the inclusion of the value of food stamps.

But we are not talking about funds to the recipient from an Agency. We are talking about the necessity for legal

services.

So, I could listen to you and only say to you that you can review all of them that you want to. We have had that problem in food stamps ever since we started enlarging the program.

Many think that it has gotten way out of hand and yet, I can say that there are still elements of society that ought to be receiving them that are not.

However, you know, I do not know how to cross that equation or how you would even find it. I think what you are really saying is that we are going to come up with the establishment of a criteria and we will be able to live with it. I do not think anybody is going to question it.

How you get to all those little items that Roger is talking about, I just do not know.

I think you could break it down. You talked about a student. I think you have got to make up your mind whether within the framework of this we hold the individual responsible for his own criteria.

In legal services, I believe you should. I do not think you should go to a person's family or anything else. Some around this Board may think otherwise. Perhaps some think otherwise.

MR. STOPHEL: I thought the family unit concept written into the draft was an appropriate one from my

experience.

I suggested the idea of gross income because we found that the simpliest to determine.

I will give an example. The question arose about net income after withholding and FICA as the take home pay, in effect. It is not really the question of the take-home pay being the guideline, if you recognize that is only a factor.

If you use a different factor and talk about gross income, you are not necessarily talking about a different figure. It is just simply easier to figure out the gross income. If you filled out your W-4 form differently from the next man you will have a different take-home pay from the same gross income that he has.

I feel at the local level this determination would be made. The lawyers time ought to be taken up in advising and counseling and not in a 30 minute session or 40 minute session with every client trying to determine his eligibility.

MR. COOK: That is a front office responsibility before they get to the lawyer, very frankly.

MR.STOPHEL: Yes, it is to a certain degree. Somebody has to do it. Somebody has to review it. Generally, that is not an assignment for a secretary.

MR. THURMAN: Are you concerned about the dignity of the process and so on?

MR. COOK: When you start talking about family income to me, I can think about a dozen ways to get around it, if I need help, "Oh, my parents haven't looked after me.", "My parents haven't supported me.", "Oh, he has left me.", and so forth.

When you equate legal service to an individual and then entwine that individual with a multitude of other factors, all you do then is teach them how to get around it. I think you ought to find a way where you do not have to put them in that kind of position in the first place.

MR. STOPHEL: Then my daughter becomes eligible for legal services because she has no income.

MR. COOK: She is eligible for food stamps whether you like it or not.

MR. STOPHEL: But she ought not to receive services from our funds when there are so many others who need them and on a family unit basis would qualify.

MR. THURMAN: This is an insoluable problem.

MR. COOK: It is insoluable because one has to make a determination about how many people you have who are abusing the system right now. I do not think you have very many right now.

I think the onus is on the young lawyer and the old lawyer in the field. They have the responsibility to abide by rules and regulations. It seems to me what we are

doing is trying to find an air-tight way to resolve a problem that is not going to be solved that way. I firmly feel that way.

MS. DANIEL: As far as the problem is concerned, there is nothing in legislative history to indicate that the Congress felt that the Legal Services programs were being abused in the sense that they were being used by people who were not financially eligible. That is one of the few things that does seem to emerge from the legislative history.

MR. COOK: If you want to get a local bar down on you, that is a good way to do it.

MS. DANIEL: The statute does indicate that we should take into account family size, so I think Mr. Stophel's daughter does not qualify.

MR. STOPHEL: That is a relief.

MR. CRAMTON: Other questions are extremely difficult. I am referring to the reference to urban and rural differences.

MS. DANIEL: Right.

MR. CRAMTON: I take it that there is a farm and non-farm differentiation.

MR. COOK: I was just going to say, "Solve that one for me.".

MR. CRAMTON: But you may have trouble giving an effect to the other criteria if you just go by non-farm and farm. Then there is also the question of cost of living

variation. I gather that does not depend on income figures.

MS. DANIEL: As far as what effect we can give to rural and urban factors, I would like to turn and introduce Betty Mahoney, who is the head of the Inter-Agency Task Force on Poverty Definition and George Grob, who is the Staff Director.

They have come here today to answer our questions. Perhaps, Betty, the first question that I would like to have answered is: In view of the fact that urban and rural differences do not correlate to farm and non-farm criteria, would we do better to proceed if they do correlate or to ignore the non-farm and farm difference?

MS. MAHONEY: I do not know that I can answer that in that way in the sense there is no information about rural-urban differences to know whether you would be doing any better by ignoring them or using the farm and non-farm criteria.

I do suspect, however, that given the opportunity to have the local group choose some of the differences, I think you might be better to ignore it and set a level of income that is high enough so that you permit some variance in the standard at local options.

Part of the problem is always one that there are farms in areas that you might consider metropolitan. I understand that there are farms still on Staten Island in New York. Obviously someone looking for services in Staten Island is

going to have to pay New York prices, even if he lives on a farm.

MR. KUTAK: I would be interested in the Inter-Agency Task Force. What is it and could we get a little perspective because this is an opportunity for us to get acquainted with the richness of this effort.

MS. MAHONEY: We had a mandate. By the way, I mean the Department of Health, Education, and Welfare and specifically the Assistant Secretary for Education. This was under the Educational Amendments of 1974.

Under the Educational Amendments of 1974, we had a mandate to examine the current measure of poverty which is used in the appropriation formula, which allocates funds to states under Title I of the Elementary and Secondary Education Act under Aid to Disadvantaged Children.

Because the definition of poverty is one which is used by so many parts of the Government, we felt that it was necessary that other agencies regard the education agency, both within HEW and outside HEW, should both be very much involved in such a study.

In fact, there were 18 agencies both within the HEW and also elsewhere in the Government that were involved in our task force.

There were probably something like 100 people at the staff level who had been working on a report.

That report on the measure of poverty is now complete and it is sitting on the Under Secretary's desk awaiting transmittal to the Congress. We expect that it will be released within one week or so, as soon as it is printed and the transmittal letter is signed.

The report is a somewhat disappointing report in that there were a number of things the Congress was very much interested in. One of them was the cost of living differentials, generally. The report's findings are strong, but basically negative in that there is no existing data that we felt we could use for making a cost of living comparison.

MR. CRAMTON: It is better to have a national figure with possible exceptions for Alaska and Hawaii and have the figure high enough so the local groups could take the cost of living and apply it.

MS. MAHONEY: That is essentially our approach at this point. There are just a lot of problems with this.

MR. CRAMTON: Should the income determination include the kinds of things that we have been discussing around this table or what?

MS. MAHONEY: That is an area which we fought a great deal over. Part of the problem is how you value that kind of income.

MR. CRAMTON: It is in substantially larger amounts?

MS. MAHONEY: Yes, but the problem for the individual

is that is not income which he has much discretion over. Food stamps, for example, he can only spend on food. If he needs housing or legal services, there is no way he can use food stamps for them.

MR. COOK: I tried to get to this before.

MR. BROUGHTON: I will give you two more tries.

MR. COOK: I will only try one more time. My problem is that when you take into consideration the cost of food stamps, you are talking about their eligibility for another program. We are talking about eligibility for another income supplement or something else.

Our problem is that we have got to wrestle with that kind of in-kind income in that we are dealing with legal services and this is a different kind of thing. Do you see what I am talking about?

What I am really talking about is that we are not talking about whether someone is eligible for another check or another program or another something or another. We are talking about whether this individual is eligible for the right to receive a legal service.

For me, this puts it in a whole new connotation.

MR. CRAMTON: Surely the question is whether their economic situation puts them in a position where it makes sense for society to provide them with subsidized legal services.

MR. COOK: I do not argue with that.

MR. CRAMTON: The fact that one person comes in and has a rent subsidy that reduces the total rent that they pay by a thousand dollars a year or two thousand dollars a year and another person comes in and has no rent subsidy and therefore pays that $2,000 in rent -- you are saying that is an irrelevant factor in the determination of eligibility.

I think this is a question about which reasonable people may differ.

MR. COOK: I am not saying it is irrelevant. I am just saying you have to look at it in a different connotation. This all indicates to me as though we are going to come up with a formula that will be awfully hard to work with.

MR. STOPHEL: Another factor here is the period of time when this income is determined. A large number of these kinds of prospective clients have not been employed for a full year. To say the annual income is such and such, would be totally irrelevant in their particular situation. They may have worked for three straight months and now are unemployed for four months and now they will go back to work for two months.

Are you going to take an annualized figure from their earnings during the past two months or something along those lines?

MR. COOK: That is the biggest problem in your farm-

ing areas. It is really a difficult area.

MR. STOPHEL: Do you have a concept on that, Ms. Mahoney?

MS. MAHONEY: This is a fairly serious problem in determining just what accounting period you use. It makes a big difference. If you look at the number of poor by a number of different definitions over more than a year period, you find it much different in numbers than if you look at them within a year or only a month.

I think generally annual accounting periods have been used, but that is not true of welfare programs. The welfare programs do not use annual periods. Currently they are talking about using some form which looks at a weighted average of previous months.

MR. STOPHEL: We have tried to keep ours simple.

MS. MAHONEY: I agree. I also think once you get out into the field, there is a lot more flexibility built in than any of our rurals ever admit.

MR CRAMTON: The individual factors allow flexibility also.

MS. MAHONEY: Yes, what you may want to do is to set some kind of maximum and allow for that flexibility. The individual lawyer, if he is concerned about not wanting to serve the middle class, is going to be able to tell the difference whether someone is middle class or poor over the last

period of time, no matter what his income has been.

The maximum then serves to keep out those people who would be grossly over the figure and it allows for some flexibility.

MS. DANIEL: I was struck by the question that Senator Cook was asking. To me it is a very profound one. I suspect, like most people, there are questions that cannot be answered.

If I understand you, Senator Cook, you are saying, "Could we identify what it is that is unique about the need for legal assistance so that we will tailor our definition to the purpose of our program?".

We know, for example, in certain programs that the CETA program is concerned with getting people to work. Therefore, it ignores certain forms of unearned income, because they are saying they want people to drop that income and be trained and go out and earn money.

They have a very clear purpose and they know what their need is and they think they know how to tailor their eligibility to meet it.

I do not know if we can do that because we are just beginning to try to find out what the legal needs of the poor are. It may be impossible to define poverty in terms of legal assistance in a highly specialized way.

Again, that is something that would interest me.

That is a task which we could begin to undertake.

MS. MAHONEY: Yes, one of the problems with our study is that we look at a measure of property as though all the programs or all the people are in fact, poor, by this somehow statistical definition.

That has always struck me that the real question for Title I in the Elementary and Secondary Education Act and for family planning and for a whole number of other plannings is whether you need a definition that fits a particular program. We have not done that.

My favorite example has always been, family planning where, using the standard kind of poverty definition, you are eligible for family planning services if you have one more child and no change in income. That is counter obviously to the intuitive understanding that you would feel a family planning program should have.

On the other side, those people with more children at the same income are in need of family planning. So, I think it would be desireable to look at the program's needs. I do not think it is very easy to do.

That is part of the reason why we did not do that. I guess you are not really asking that question.

MS. DANIEL: I have another question. I am just beginning to approach the articulation of it. Assuming that we set a maximum income level, which is the umbrella or ceiling

and we give programs the flexibility to set their own ceilings below that because they have a great number of poor people or their resources or low or whatever reason, can we also -- and should we not also -- give them the flexibility to take exceptional circumstances into account and go above that, on the basis of individual factors, for example, that are enumerated in our statute?

MS. MAHONEY: I guess it depends on where you choose your level. You have an option of choosing a level which would be a minimum and permit people to go above it or you could take a maximum and say, "Under no circumstances should people go above it.".

Personally I think it would be easier to have a maximum which is a little higher and permit the flexibility below it.

I have nothing other than personal feelings in that.

MR. COOK: I hope we take that position and I would like to ask about this. I do not mind getting in arguments with everybody around this table when the time comes. When we talk about all the eligibility levels that you all try to establish or try to come up with x program or y program or some other kind of program, the ultimate end of that program, or the funding of that program or the availability of funding is that it will take care of a particular group of people that fall within a particular level.

So, therefore, you can look for being an effective, efficient program. You know, I am looking at these regions. We have Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

In all of these states I have read, we have 290 lawyers that are in the existing programs. Just how many people in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont can 290 lawyers look after?

What we are trying to do is establish some kind of level. I hope you would consider taking whatever maximums you want throughout the country and let discretion be the better part of valor to 290 lawyers in six states who are going to work themselves to death.

My point is that we can sit here and listen to all of these other programs such as food stamps and supplemental income programs, but they take care of a problem.

If we want to establish an income level, let us go to the Congress and say, "All right. We need 6,000 more lawyers.". We are looking forward to the day when we might be able to say to Congress, "We have got one legal service lawyer for every ten thousand people.".

We are worrying about what kind of level we are going to put, purely and simply because the law says we have to.

MR. STOPHEL: Are you talking about ten thousand

people that qualify?

MR. COOK: Yes.

MR.STOPHEL: What we are talking about now is how you define that ten thousand people. That is what we are trying to come up with.

MR. COOK: You can come up with any figure you want to, Glenn, because if there are ten thousand people in any one of these -- let us take the Virgin Islands where there are only three lawyers.

They may be better off than anybody else because there may not be 30,000 on the island that are eligible.

But if you take Puerto Rico where the statistical unemployment rate is 22 percent, and want to be honest about it, the real unemployment rate is better than 30 percent.

How many lawyers do we have in Puero Rico? We have 90. You know, I just think that you would be very safe, gentlemen, in coming up with a rather liberal evaluation of how you say someone is eligible because the manpower is not there to take care of it anyway. It truly is not.

Then I think you should leave to the logic of that local organization how they will handle the situation.

MR. BROUGHTON: Are you saying the liberality and flexibility should remain local rather than originating out of this program?

MR. COOK: In the first place, you have to be

liberal because you have to put Puerto Rico in with New York State and you have to put Alabama in with New York State. If you are going to throw the words at me that Glenn and Alice did and say, "Well, we have got to take care of the family group.", I would suggest to you that it is in brackets and that this is a consultation with the Office of Management and Budget and with the Governors of the several states with maximum income levels and then taking into account family size, urban and rural differences and so forth.

If OMB says to you, this is what we are going to do, then all 50 Governors have just as much right to say, no you can do something else. You wind up considering 50 different criteria based on the fact that you not only have to consult with OMB, but you have to consult with every Governor in every State.

MR. STOPHEL: I feel we should go to a lower figure and allow flexibility above it. I will tell you why.

We need the support of the local bar associations in the rural areas where this has been a big factor in their fighting our legal aid programs in those areas.

You are taking a client that could pay over a period of 15 months, $5 a month for service. If we come in with a very high figure that sounds extremely high, then he is going to continue his opposition. If we come in with a lower figure but give his local program the option of going above it, and

thus increasing the eligibility, then it seems to me that you will be putting it down at the local level where it can be best made.

MR. COOK: That makes good sense.

MR. THURMAN: You hear that quite often out in the sticks. That is a complaint you hear a lot.

MR. COOK: You are just talking about part of the sticks. There is a big debate at my part of the country. This is a question of whether you will have a big percentage of nine lawyer judges where you have communities where you do not even have a lawyer.

If you are talking about the sticks, I want you to put two sticks where I am talking about. I want to take you way out in the sticks.

MR. STOPHEL: I mention that because it brings it into focus. This battle is being fought in larger towns and metropolitan areas. We simply need to put the flexibility back down there where it can be best exercised, I think.

MR. THURMAN: I think you are both saying the same thing on that.

MR COOK: May I say there is one thing that really is fair about what he is saying? If you do it that way, then you also give a great deal of responsibility to that agency to be able to keep its head above water in relation to the accomplishment of its work.

As you really think about it, if you do it on that basis, at least he has got the option of not only being so overworked, but they may not get anything accomplished.

MS. MAHONEY: The problem we run into is at what point do you get concerned that by putting in the flexibility they have gone over the bounds and are now serving people who you do not want to be served?

That is where you decide where a maximum would be important.

MR. STOPHEL: Could you go to 125 percent of our figure or 150 percent? In other words, you would give a certain degree of flexibility.

MS. MAHONEY: That would be another option.

MR. COOK: What is the biggest flexibility in Federal programs that you are talking about?

MR. GROB: 195 percent for school lunch program is a large figure.

MR. COOK: Thank you.

MR. GROB: I would like to make a comment. A proper interpretation of the legislation will have to come from the people who have drafted the legislation.

I say this because as I read it, they have asked you to do exactly what you just suggested. That is, to let the people out there figure it all out, but in no circumstances should the people above a certain level be allowed to get

that assistance.

So, it seems to me that if you were to say something like, "Look, generally the maximum is such and such an amount. Now, in certain cases you can take care of unusual circumstances by allowing the amount to exceed that maximum. But then do not ever go above this.".

Then they will always be talking about the one on top. They will say, "Give me that later number.". I really think that the way to avoid this problem is that when you come out with a maximum level, the field is going to use that as their regular level, because they think you have done all the work here. They feel you have held the meeting and done the study and you know what the proper levels are.

They said that headquarters has said it is this amount of money so we have no reason to disagree. Even though you have meant it to be a maximum level, they are going to end up right there.

You are saying it is a last-ditch number and they are going to make it the regular number. There is one way to overcome that. Do not be so cryptic in the regulation that you issue. You have to issue not a set of instructions or a booklet, but a regulation that says, "Generally speaking, we would expect that you would set eligibility criteria that would be near this level such as the poverty line or 125 percent or something like that.".

Then you may, from time to time, have to go up to a 125 percent figure of the poverty line, for example, to account for very exceptional cost of living situations as you may determine, but in no case would you ever exceed such and such an amount.

I think you have to be verbose about that. I do not think you can say it in a sense or say, this is a maximum eligibility criteria. If that is all you say, that will eventually become the regular eligibility criterion.

Now the question is the extent to which this sentence is in the law may be a reflection of some concern that many of the other programs of assistance that are available have, in fact, going to people well above the level of need and they do not want that to happen here. That is why that particular wording is in here.

MR. STOPHEL: I think it is there because there was some concern among Governors that Legal Service lawyers were representing non-eligible clients. One of the factors of non-eligibility was the income level. It was true in the South without question. I know specifically this is true.

I think, therefore, they brought in this thing of letting the Governors know what is going on. I am not sure how to do it and I am not going to say that the legislation is poor in that respect, but there is the possibility there for us to do it.

I think your ideas are probably correct and I think that is what I am arguing for. It is to give some broad guidelines that they can rely upon and yet not feel so restricted that they cannot serve clients who ought to be served.

MR. COOK: The only other thing that I disagree with you on a little bit is this. This program is unique. When you say they are going to look at this and qualify it, what you are talking about is to send a slip of paper into somebody who is going to be eligible for a particular program.

You are talking about somebody who comes into a situation and says, "I need help now.". If that person has to qualify him outside, he has to send somebody in the back and say, "Here is the problem. You take care of him now.".

I do not think we have that kind of problem in this program. The only problem is the over-abundance of work in many of the areas that just is so overwhelming that people are not going to get taken care of, even if they are eligible. That is the whole point.

MS. DANIEL: Yes, to footnote what Senator Cook has said, I would like to say that in some programs when an intake worker makes a decision that somebody is eligible, it means "Hand out some tax payer dollars.".

In this program it says, when you say somebody is eligible, some lawyer is going to sit down and do some work. So, we have a certain built in safe-guard, against over-

extending in that direction.

Another thing is when you suggested whatever we set would end up being the upper limit and having that being taken as the norm, the past experience of legal services does not bear that out. CSA put out guidelines which were not mandatory. In certain areas, particularly in the Northeast, programs went above that.

In other areas, programs did go below it, either because their own resources were so limited, or because there were so many people who qualified at 75 percent of poverty level, they could not begin to get toward 100 percent.

I do not think we would have that automatic acceptance of the higher level. A reason for setting a maximum, but specifically saying you may go above it in exceptional circumstances, rather than setting an absolute maximum, and assuming they would go to it, is that we have thus established priorities.

We have made a statement of our priorities. We have said our priority is to serve those who are least able to obtain legal assistance.

So, the norm should be geared to this lower level but we realize there must be flexibility to go above it. I think that our standard should give flexibility in both directions and that we can do it without the kind of dangers that might be encountered in other programs.

MR. KUTAK: I have one footnote and then perhaps we can take this and see how we can translate it into acceptable language.

We are doing more than opening the door. If I were to use Marlow Cook's words, we are setting something with such a need. There is such a need here that opening the door is not really a right choice of words.

We are setting a tone here for our appropriation in this regulation. We are enunciating a philosophy as to the need for legal services and encouraging the use of legal services.

We have not even tapped or measured the dimensions of them. I struggle with that awareness. Whatever we come up with, I would like to think that we do not pass the buck.

We try to hammer out and be as clear as we can so that we really give directions to our organizations. By giving those directions, we signal our meaning as to the need for legal services and the encouraging of the use of legal services and the exploration.

Despite whatever definitions we come up with, we will always be limited by the budget. Our expectations will not be realized, irrespective.

Nevertheless, we are doing more here then simply opening a door. We are attempting to articulate a philosophy about the function of legal services to a sector of our society

that indeed is not even aware of their availability of what it can do to their lives.

I hope what we are going to be able to do here is to reflect for you and with you what will be basically the attitude and the value of the service of which this Corporation is created to perform.

Perhaps, Mr. Chairman, at this time, without attempting to foreclose any discussion, I could speak for our Committee by saying that we need all the help we can get.

Not only will our Counsel be in touch with you, Ms. Mahoney, and your people, but I hope you will volunteer to keep in close touch with us as we pound through this because we do have a job here that is deceptively simple.

If it can be documented right, it will be very socially significant, not only for this Corporation, but for wider areas.

MR. COOK: I would like to add something before we finish. I could not agree more with what you said. I am just wondering, Alice, if we got any input of one percent of the caseload from various agencies throughout the country to get high income level and low income level.

Have we gotten input from our own facilities? Have we asked them to give us a random look? Do we know exactly what they are living with now and what they can responsibly live with in relation to the amount of service that they really

give? Are you going to tell me that it is in here?

MS. DANIEL: There is something in here. Appendix E is a table showing comparison of the CSA poverty guidelines in 1975 with the eligibility standards used by Legal Services programs in August 1975.

MR. COOK: You are giving me the guidelines.

MS. DANIEL: No, these are the programs that follow. I am not sure that these are reliable. This is a survey carried out last summer attempting to find out what the practice was in our own programs.

Since the time that we distributed that, I have been told by a number of people at the PAG they have a doubt as to whether this has an inaccurate statement of what the program is.

One of the things we want to find out and one of the purposes of the kind of hearing that Bob Kutak is talking about or that Congress would want to know is this: What do those in the field think about this? When it comes down to the numbers, do they play right?

MR. THURMAN: Just having returned from Alaska, this is a purely academic discussions. In Alaska, the level ought to be 6,000 or 7,000 or 8,000 dollars. But in practice they never run into that. Their clients are primarily natives up there and they have almost no income to speak of.

MR. COOK: And they are not even taking all that

needs to be taken.

MR. THURMAN: They would say they do not run into that problem.

MR. COOK: I indicated this when we started off. I wonder what we are doing? What I am trying to say is you do not want to have 100 percent efficient programs. You do not even have a 15 percent or 10 percent efficient program.

Therefore, our own inability to perform locks us into statistics that I do not know whether you will ever be able to find.

I was looking through here and in Puero Rico the average income level is $1,200.

What are you going to do with somebody who earns $1,500? Are you going to send him to a lawyer? Obviously there is a tremendous influx of Alaska right now because of the Alaska Native Claims Act. I would think that the Legal Service facilities in Alaska are going to be damn busy for the next ten years.

MR. THURMAN: Yes.

MR. COOK: On nothing but the establishment of Alaska Native Claims Act cases. Whether that will shift into something else after that is over, becomes another matter, but I expect they are just up to their ears in it.

MR. CRAMTON: I think this discussion has been very useful and I wonder if it is not time now to switch to another

item on our Agenda and thank our guests very much.

We thank you very much for your help on this and your advice and we would like you to come back and be able to give us more help and advice. I would like to encourage members of the Board and members of interested organizations and groups to provide the Committee and Alice Daniel with suggestions and advice about how we ought to address this eligibility question.

The Committee on Regulation will be committing this at its next meeting and we hope we can have a draft to be discussed by the Board at the next meeting in June.

MR. STOPHEL: Are all Board members invited to all Committee meetings?

MR. CRAMTON: Do you want to go to Palm Springs?

(No response.)

MR. THURMAN: Well, Robert, you tried.

MR. CRAMTON: Thank you very much.

(Whereupon, Ms. Mahoney and Mr. Grob were excused.)

MR. CRAMTON: Now we will go back to our Agenda. I would like to refer to the items dealing with the report by the President. Before we do this I would like to say I forgot to make a report on the Executive Session after we returned after lunch.

I will do so now for the record. At its Executive

Session held during the luncheon adjournment, the Board discussed the following matters: First, the President asked for the views of the Board concerning certain individuals who are under consideration for an important staff position.

Second, the General Counsel discussed current status and other matters relating to present and potential litigation in which the Corporation is or may be involved. No action was taken on any matter.

We now turn to the Report of the President as on the Agenda. There are four reports. Mr. Jones does not appear to be here right now, so we will go to affirmative action.

MR. COOK: Yes, he is.

MR. CRAMTON: Thank you. We want to hear on the structure and function of the Regional Offices and support centers and affirmative action plans and State Advisory Councils.

MR. ERLICH: Have all the Board members met Charles?

(General assent.)

MR. ERLICH: We will start with the structure and function of the regional offices. All of you are aware, I know, of the intense pressures to move forward with arrangements on the Regional levels in terms of providing regions with the assistance they need and particularly in filling unfilled positions. There are currently five unfilled

Directorships.

Charles, even before he started full-time focusing on this issue talked to a great many people in and out of Legal Services and then developed some tentative ideas and sent them out to the field and got a great many comments. We are now talking about fulfilling our mandate to assist the programs in their need for moving as quickly as we can in terms of filling the positions and fixing the arrangements.

Charles, go ahead.

MR. JONES: It is important for me to emphasize that I am still getting comments back and I am still reviewing them. It is my expectation that I will continue to get comments for a brief period of time.

Interestingly enough, a great many of the comments, as you can imagine, have to do with the particular functions that are outlined in the report. I should add that these comments have been very helpful in terms of helping us focus in on issues.

I can also start by saying that it seems to me that time is of the essence. The Corporation is six months down the road now and there are a great many things that we should pay attention to.

While the list of functions is as complete as we could make it, it is clear to me that there are additional functions that one would have to look at, though a natural

tendency would be to prioritize, based on some of the criteria that we used in terms of trying to estimate how long it would take us to complete the functions within the regions -- on the other hand, the reality is that ultimately priorities will be decided by what is found in the regions.

Further, we see as our responsibility that of providing all of the resources that we can provide to insure that the Corporation mandate of providing services -- quality services -- to those least able to afford it is fulfilled.

I could go on like this, but it seems to me that it would probably be more helpful if I responded to questions that any of you might have.

MR. ERLICH: It does seem to be very important that before Charles comes in with his final version of the arrangements that the Board view in terms of the function of Regional Offices, ought to be expressed. We would like to hear your views about other kinds of functions as well.

MR. STOPHEL: Charles, I am interested in knowing in which respects you consider the functions of the Regional Offices as outlined here different from that under OLS.

MR. JONES: I do not know that any of them are different except to the extent that it seems to me that there are two things that occur.

We have to let programs know what our expectations are as well as let Regional staff know what our expectations

are in terms of having them do their job and do it effectively.

There are two things that ultimately will be different. We will have a much more presence. It seems to me that once you indicate specific things that one ought to look at, you will find that we will have much more presence in the Region. I hope the lines of communications, both up and down, will be utilized more effectively and there will be more participation in the process and much more feeling by the program that they have an opportunity to involve themselves and also to input with their ideas.

I think it is fair to say that under the old system that did not always occur and that there was some basis for suggesting that there was not an even-handedness in terms of treatment of programs. We seek to do that. Obviously, the final effort has yet to be received.

However, I think this has the potential for doing that and has the potential for being flexible enough to respond to what we find.

I have some expectations as to what we will find and as you can see, at this stage, it is difficult to do anything aside from attach various hypotheses.

We will know, and I hope my expectations will be realized.

MR. STOPHEL: What about accounting at the Regional

level?

MR. JONES: In a sense that is true that there is not any.

MR. STOPHEL: No Regional auditor?

MR. JONES: No, not at the Regional level, but in the national office.

MR. STOPHEL: That is what I am getting to. You would not have that staff in the Regional Office?

MR. JONES: But in place of that auditor -- and I think we should use that term very carefully -- we have suggestted very initially that until we have some idea of how much assistance is needed by the program in terms of internal management activities -- and by that I mean no more than this as an example:

If a program has had some difficulty in setting its accounting system up, then we will get someone in the field to provide that assistance.

If a program has difficulty in putting together procedural manuals, we will have a person to help with that. Fortunately, we do not have to recreate the wheel because there are materials available and it is just a question of making them available and tailoring them to the program's needs.

MR. THURMAN: Charles, are we ready to talk at all about the realignment of states?

MR. COOK: Before we get into the realignment, I

would like to get into something else. Could we turn to page 10 and could you give us an idea of where the Regional Office would be in each one of those so we would have that?

MR. JONES: In some of them, I would be very honest and say that I do not know at this point. In others, it is clear because existing offices are there. In Region 1, the Regional Office is in Massachusetts -- Boston.

In Region 2, it is New York City. In Region 3, there is an office now in Philadelphia.

MR. CRAMTON: That is very convenient for New Jersey and Pennsylvania.

MR. JONES: In Region 4, I do not know. There we did some calculations based on Washington, D.C., but it is not unlikely that it might be in Virginia somewhere, for instance. There may be some reasons why it could be.

In Region 5, an office exists in Chicago, and in Region 6, the office exists in Atlanta. In Region 7, there is no Regional Office right now, and very frankly, the likely candidates are Detroit and Cleveland. The only reason for this is that they are likely candidates and transportation is best from those two cities.

In Region 8, an office exists in Denver and in Region 9 an office exists in San Francisco. In Region 10, an office exists in Seattle.

MR. THURMAN: Could I ask this? The overwhelming

size of the California program is at issue. California has twice as many lawyers and they have $16 million compared to New York's $10 and they have 38 programs compared to New York's 17, but did you ever think of dividing California in half into a northern California and a southern California?

MR. MONTJANO: Every day.

MR. COOK: By referendum.

MR. THURMAN: Do you have more back-up centers in California?

MR. JONES: Yes.

MR. KUTAK: There is a whole study on that.

MR. JONES: I thought I should leave that to the legislature in California. I do not say that facetiously. If you happen to know as much as I know about Southern California, you might think the office ought to be in Los Angeles instead of San Francisco.

Obviously, there is a difficulty. The difficulty is that you do run into all kinds of considerations that may or may not be relevant. To answer you best, I believe that the functions which are outlined can be completed in California in spite of the fact that there are substantial number of programs presently in existance that will have to be visited.

It is interesting that the Regional Director from California, were he here now, would suggest to you that what they need is a few more states added to it.

I do think that the function can be performed.

MR. COOK: Why would he feel that? That would be an interesting point.

MR. JONES: In part, because I think he may desire to travel a little more.

MR. COOK: Oh, I see.

MR. STOPHEL: I do not think the number of lawyers is very significant.

MR. THURMAN: It is not just lawyers. It is back up centers and dollars and programs and so forth. California started into the program early and got a lot of money.

MR. BROUGHTON: While we are being sectional, I would like to say that we illustrate something else here. I want to be very sectional and speak about North Carolina. In population North Carolina stands ninth in the whole country, and yet there are 32 states that get more money than North Carolina gets.

MR. THURMAN: I see.

MR. BROUGHTON: Does that impress you?

(No response.)

MR. STOPHEL: Not very much.

MR. THURMAN: I see.

MR. BROUGHTON: I want you to do something about that.

MR. SMITH: I thought there was something in the

original comment about the Regional Offices remaining in place and yet when you went over Region 5 you mentioned Chicago and there is also a Regional Office in Kansas City.

MR. JONES: Yes, there is a Regional Office in Kansas City, Missouri. It is possible that -- the only limitation in talking about where Regional Offices would be located, from one standpoint would be as logical to have it in Kansas City as in Chicago.

MR. ORTIQUE: Not if you live in North Dakota.

MR. JONES: Yes, please notice that in terms of travel you are going to do a lot better in getting a substantial number than you would from Kansas City.

MR. SMITH: In the Regional functions, how much emphasis are you placing on the Regional function in establishing new programs? That is the thing I get the most questions about. I did not notice any emphasis on that here.

MR. JONES: There was not much on that, Mr. Smith. The answer to your question is that the Regional staffs, at this point in time, are sufficiently large so that development, which all of us recognize as essential, can go on. In a sense it is alluded to in our discussion of in-house functions and the relationship with bar associations, which naturally would have to be some things that would have to be done also in terms of the development aspects.

If I were to do this report over, as I am undoubtedly

going to do anyway, that will be clearly indicated as one of the functions.

However, it seems to me that my earlier statement here has applicability. The priorities by and large are going to be determined by the area.

My expectation is that almost every area, to a greater or lesser extent, will have to have some redevelopment work go on.

We have been focussing on BSSR statistics, but as one who has recently left the program, I have great difficulty in telling more than 300,000 people that we could not serve that we were actually covering an area.

Certainly, in terms of programs existing, that is so. But the reality is that we are going to have to do development if that is clearly one of the functions that we anticipate.

MR.CRAMTON: Why are we necessarily stuck on the number 10?

MR. JONES: We are not.

MR. CRAMTON: The only reason to maintain 10 Regional Offices is that it fits with a Federal pattern, or because we independently reach a conclusion that 10 Regional Offices gives about the optimum scale for the services and functions that we want to provide.

MR. COOK: You just saved Kansas City.

MR. CRAMTON: It seems that we might have too many offices and a number of them might be too small in terms of the number of people and the kinds of specialists they can have on their staff and the services they can perform for the programs in their area.

MR. COOK: I want to ask the $64 question. With the study that we asked for in 1975 for the Regional facilities and the fact that there was recommendations that the Regional Offices stay where they are and the Regions stay where they are, then what went through your mind to decide that recommendation should not be accepted and that you should proceed to realign the Regions?

I am not tied to them, but having had a study and having a determination made that they should stay where they are, why was the decision made with regard to realignment?

MR. JONES: Clearly, that was the recommendation. Also inherent in that was the notion that what one had to do was to determine what functions you wanted to perform. We felt that structure should follow function.

At best, one could argue a variety of things in terms of leaving things where they are until you work out structure. The difficulty with that is if you leave them there, you will find some Regions uncovered. You would have to hire people and take on staff and when you discover what structure is, then you will found that you have obligated

yourself in terms of people and leases, then you might find you have to make changes.

It occurred to me we ought to look at structure and that we ought to make the plan as flexible as possible -- rather function. We ought to make the plan as flexible as possible.

We wanted to be able to respond to needs that we found. It made more sense to do it that way to the extent we could.

I hope I am not over-characterizing the notion that structure follows function, because that clearly was one of the keynotes.

MR. COOK: There is nothing sanctorum about the Regions in the way they were before.

MR. ERLICH: In response to that question, it is fair to say that the Spangenberg Report did say that you ought not to change the Regions until and unless you had a clear idea of what the functions are and then do so in light of the functions.

MR. COOK: Functionally, why would you put California and Nevada together?

MR. JONES: It would have been just as simple to put Nevada into the Region next to it. The only reason was that geography does play a part. The region which ended up with Arizona and various other states, in terms of number of

programs and various other factors, was relatively small. The reality is that there are two programs in Nevada at the present time. Even if additional funding becomes available, there will be very slight increase in the number of people. They are easy to get to from San Francisco.

MR. COOK: I see.

MR. JONES: They are not as easy to get to from other places.

MR. COOK: I see.

MR. JONES: Let me say that I am not tied directly to all of these things. What I am tied to, however, is a notion that Dean Cramton raised earlier. This is the notion that whatever we set up ought to respond to the function and we ought to be able to perform the functions.

The priorities will be set by what we find in the programs and the needs will be identified by the programs. The answer to the question in terms of why 10, rather than 8, is that it seemed an optimum number in terms of clients.

You are left with the question -- if you reduce me further -- how much further do you reduce them? California has 407 right now. Short of cutting the State, that is clearly going to be an upper limit. The answer is that there could have been fewer.

MR. CRAMTON: Are there economies in having a larger Regional Office? It just so happens there are more

lawyers in that area.

The problem with the Regional structure is that we have two Regions or even three that are really too small. I refer to Region 7 and Region 8 and Region 10. By getting rid of a couple of Regions and compacting some of those in the West, we might have a more efficient alternative.

I wonder whether some of the other changes are really useful? Region 4 already now covers an enormous territory of seven states.

MR. COOK: Regions 8 and 10 cover a very large territory.

MR. CRAMTON: You are adding another state to an area that is probably very rapidly growing in number of programs.

MR. ORTIQUE: That is the question I want to know about as well.

MR. CRAMTON: So that is what I want to know.

MR. ERLICH: The key is there has to be the flexibility so when we have the resources to expand and develop new programs, there has to be some new changes. This plan does take into account to some degree that flexibility.

MR. CRAMTON: I think flexibility at a later time will be harder to get than one might think.

Once we rearrange the Regions, they are going to tend to get to stay rearranged and will be difficult to jockey around

from time to time.

There are also costs of jockeying because you have staff with a lot of expertise with some programs who might be lost and you might have some commuting and so forth. The question is whether it is worth it.

MR. JONES: There is another factor here. There is an advantage to stablity. One of the ways that one can respond is this. If Regions grow dramatically because of the infusions of new funds, we can increase staff.

There is another point. We could cut the Region. Obviously one has to balance. Certainly change is tramatic for everyone.

MR. COOK: Are you not really saying that if you could recommend this change, the fact that you have regional areas is a flexible thing and it is good to keep it that way? May be you want to change it again.

MR. JONES: Exactly right.

MR. COOK: Is that not really a good thing instead of getting totally frozen?

MR. JONES: Yes.

MR. KUTAK: Mr. Chairman?

MR. COOK: I am waiting for the day that someday somebody takes something out of Atlanta.

MR. CRAMTON: Mr. Ortique and then Mr. Kutak.

MR. ORTIQUE: I want to know what happens, given your

theorum, when New York, which has 267 lawyers and you say that has got to have its own Region for 267 lawyers, but Louisiana, and North Carolina, start locking horns in saying, "Look, you have got this additional money and we know we have got to have some additional support.".

I cannot understand how or why we would permit ourselves to get into this at this juncture. We have given New York a Region when it will take than our powers to take it away from New York if the time ever comes.

MR. COOK: Then I get back to the discussion that Mel had with me when he came back from his trip in New England. One thing he said to me all the time was, "They do not have the problems and they do not get the priorities because New York gets it all.".

Do you remember you talked with me about that?

MR. BROUGHTON: Yes.

MR. COOK: You said they have different situations down there and so forth.

MR. BROUGHTON: We traded. You seconded a motion and now I am going to let you say that.

MR. COOK: The only way you can break up those dollar bills is to do what Roger is talking about and make far more districts rather than to make fewer.

MR. THURMAN: That gets more expensive.

MR. CRAMTON: I am talking about fewer and having

larger staffs. I am talking about eight.

MR. BROUGHTON: I am wondering about something. At this time we are going through a shake-down on a lot of things. Have we reached yet the point in the operation of this new organization that we want to start shifting around Regions?

I can see a lot of interruptions at this juncture and I wonder if this is not something that we ought to keep on the back burner for awhile and not make any changes in it right now.

MR. CRAMTON: Mr. Kutak and then Mr. Thurman.

MR. KUTAK: I was able to follow the redistricting of circuits. I am aware of the complexity and all the emotions that are attached to a problem of that type.

However, I am hard pressed to understand that if you keep the same number, why you would move away from the logic that OMB has as District or Regions or whatever you want to call them? They are basically aligned. There are a lot of governmental or administrative merits in the principal that they are there and that is all there is to it.

For one reason or another, OMB has located them there. Are there not already ten regions?

MR. CRAMTON: Yes.

MR. KUTAK: And there are inter-relationships with all kinds of senior heads. Each Region has a Council of

Executives that work together in inter-departmental ways. At least in our Region we find this extremely profitable with regard to the using of governmental planning resources, and indeed even the operational resources.

I cannot hold a brief for change if there is dramatic reduction. If you go from 10 regions to 5, or 3, then there that might be on the basis of the OAG, rather than any other basis. That is about the only thing that I use in my law office.

I am hard-pressed to account to my people when they come to me, as you might understand, and see that there is a change out of an old region, established at a Federal Regional Center and move away when the same number of Regions remain at the end.

As I say, I do not think it is our office to argue sectionalism. But for facetious occasions, none of us will be given to do so and all of us will resist it as much as we would resist anything on a partisan basis.

I would think, however, if there is an establishment today, based on Federal or OMB logic, and it is compatible with Governmental design and we are not reducing the number, but simply shifting the locations, how can we account for it on many considerations that are not entirely all on the balance sheet?

I submit, Mr. Jones, that it is really just as easy

to get from North Dakota to Kansas City as it is from North Dakota to Chicago. Those who have to travel welcome going from North Dakota to Kansas City a lot more than they would welcome going from North Dakota to Chicago. One who is right in between can attest to it. They are much more welcome going from Nebraska to Missouri than from Nebraska to Chicago.

MR. COOK: Do you hitchhike?

MR. KUTAK: We do everything we can to avoid going to O'Hara Airport.

I think, sir, that in your re-examination of the logic and the merit, you might very well not want to look at any sole criteria -- and you have not, of course -- but rather you should look at the merit that OMB has attached to their design if you wish to keep their same number, ten.

Also, you might evaluate what is an important value. In those regions that have not in the past been able to grow strong or do well, but because they have hung together and stayed together and developed well -- to have them broken up is tough and it ought to be explained to them on other matters other than simply an organization that is of the same numerical size, but just placed in geographically different locations.

MR. CRAMTON: First Mr. Erlich and then Mr. Thurman.

MR. ERLICH: Go ahead, Mr. Thurman.

MR. THURMAN: I would like to give a partial answer

to my esteemed colleague. I agree with the report that says that a key thing is the number of attorneys involved. I found that I learned more in going to Alaska and getting acquainted and talking with attorneys up there and getting a feel about how good they are.

If you look at the present set-up here, Region 9 has 416 and another one here has only 98. That is almost five times.

MR. KUTAK: You need more lawyers in Section 7. That is the answer.

MR. ERLICH: Your comment is in part the response to Mel's also. I know that Charles Jones has weighed this very carefully. The reality today is that we have five regional offices without a Director. There is no direction right now at all. There is a great deal uncertainty. We are not doing the job we ought to do in terms of arrangements.

To go ahead on an existing basis and then try to shift could be quite difficult. There is nothing magic about 10 regions or nothing magic about any number. Charles tried to look very carefully to what are the functions and how big are the staffs to be to serve the functions.

There is honest attention given to geography and travel and the number of employees and other matters that he mentioned. He came up and said the dominant issue ought to be the number of attorneys. We felt that about three hundred

attorneys, given the current situation, was about right.

If you say that, then you work it out as he worked it through and you will come up with 10 regions. However, they are 10 regions that are based upon a very different georgraphical setup than the existing ones for the Federal Government. Those exist -- not OMB's alone -- but the Post Office as well were designed around their own priorities. These were designed around Legal Service centers.

Whether one thinks this particular design is a sound basis or not, and you must remember Charles is still working on this -- while one factor is coordination with the other's Regions -- there are a great many other factors under consideration.

MR. ORTIQUE: Would you address the numbers of poor people in these areas, because that is the one area that troubles me the most?

I have no problem with changing these Regions from OMB or any of the other agencies, because I think that is smart to consider function.

But our number one function, it seems to me, is people that we serve.

MR. COOK: May I add one thing to that? Listening to Mr. Kutak and all of a sudden Mr. Kutak totally and totally woke me up. The longer he talked, the more I came to the conclusion that, Charlie, you are going to lose. Let me tell

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you why I think you are going to lose and why I think you ought to consider this, not only in regard to people, but I think you ought to think of this in terms of its political implications.

I am going to be honest enough to face it. Every body out in the State of Kentucky, and that means seven Congressmen and two Senators, are going to jump all over your back because they are going to be moved from Atlanta to Richmond or the District of Columbia.

There are a couple of guys out in Nebraska who are going to jump all over you because you are going to make Nebraska go to Chicago when they do not know anybody and are not familiar with working out the programs and not familiar with the camaraderie that has existed out of Kansas City. They are going to jump all over you.

Every Congressman that has anybody in any of their areas that has been dealing with "x" will now have to deal with another city and a new set of circumstances and a new set of this and that, and they are going to jump all over you and you are going to get the brunt of all of it.

I just think it is difficult. I agree with you. Very frankly, there cannot be anything magic about it. But there sure is going to be a lot of foot stomping. I can just see it coming. I am talking about moving from Atlanta and this man from Chatanooga sitting here is saying, "What are you

talking about?".

You know, the only one that could be satisfied about this whole thing is the delegation from the City of New York, who would have a Region of its own, and would be able to operate within their own function.

MR. CRAMTON: They will not be happy either, because they always want a larger office and more states and more power. They will all be unhappy.

MR. COOK: They will know when they get out there and argue it will be just their own and they can treat it in the framework of their own organization and no further. I just have a notion that somehow or other, although the wisdom in setting these things up, should be commended, I am thinking of the flack that you will catch as soon as this goes out.

MR. CRAMTON: Mr. Smith?

MR. SMITH: It is pretty easy to see that the level of services is certainly not the same in any one area to another. If you base this alignment on numbers of lawyers, you will put together areas that have the most lawyers in a city with less lawyers than a rural area. You put them all in one Region. You put states that have a very few lawyers in with states that have a lot. That is a poor basis.

MR. STOPHEL: I feel that we are a little premature until we get our appropriation that comes in the Fiscal

Year and know where we will put the dollars.

We do not want to have a great realignment later. I think a better alignment is probably needed, but I think that we are a little premature in this.

MR. SMITH: Another aspect of what you are saying is what Marlow said. We should wait for the appropriation before you shake them all up.

MR. COOK: I think it would be interesting to take your appropriate appropriation figure and appropriate it according to your regions as it is now and then appropriate it to your regions based on your realignment and then let us see how dollar bills reflect with numbers of lawyers and see if we can get a feel that we may be thinking in terms of one criterion and we may find ourselves a little out of line as far as the other criterion are concerned. It would be interesting to see that done.

MR. ERLICH: There is no question that people should be served and this should be the key point. The reality is that we have a program there to serve them and there is nothing much that the Regional Office can do. We have to build in flexibility, so that the South and the Southeast and the Southwest get the kind of support that they need to get.

We want to be sure that the Regional Offices can provide flexibility. If we say there ought to be a Regional arrangement designed around that time, we will unfortunately

not serve the people who are now there adequately. That is why I keep emphasizing flexibility.

Charles did look at numbers of clients served and who ought to be served as one of the major factors in coming up with this.

Also, he thought of the political implications that Marlow suggests. I would say that if we do have a chance to take a step toward a new effort, it is that. If we now say yes, we will hold on and take over the old OEO arrangements, it will be much harder to shift later on.

There will be some political flack. As my chief political advisor, I weigh carefully what you say.

MR. COOK: I am not your chief political advisor. Obviously there is a time that you feel you want to move.

MR. ERLICH: It will be more difficult later on.

MR. THURMAN: I am sure Charles appreciates the consensus that we have arrived at.

MR. CRAMTON: I think this is an opportunity to do some realignment and see that we get some Regional Offices that will be as near as we can get to an optimum size.

There is also the principal and that is change ought to be minimized. I looked on the existing Regions and I do not have any problem with any of them until I get to Region 6.

The first five regions seem to me fairly large enough and established and cover in general a good staff.

MR. MONTJANO: Do you mean the existing ones or proposed ones?

MR. CRAMTON: The existing ones. But when you get down to 6, 7, 8, 9, and 10, you find that 9 is not a problem except that it is a little too large, but you have two or three regions that are really too small.

For the foreseeable future, they will be too small. I wonder whether we could not condense some of those regions into a smaller number. For example, put 5 into 3 and then you would have conveniently located regional offices. Then if they have to be divided up again, then we would go back to the Federal Regions, because so many new programs come in. We could do that and go back to the Federal Regions that presently exist for economy sake.

MR. BROUGHTON: I move that we take a recess.

MR. CRAMTON: I think we are through on this. I think we have had a useful exchange of ideas and no action is contemplated. I want Charles to take this under advisement and report back at some later time.

MR. ERLICH: Charles will have to go ahead and choose Regional Directors. He cannot choose them unless he can tell them what their region is. Although there have been many conflicting remarks, he will try to take all of these into account as best he can and work with them. He will have to emphasize flexibility and tell the Regional Directors there is

nothing locked in about this particular region and he will have to move forward on this.

MR. COOK: Charlie, under the circumstances, I think if you left in part of Region 8, you would phase out Dallas and if you left in Chicago and Region 5, you would phase out Kansas City.

MR. ORTIQUE: What you are saying in essence is that we will, as a Board, not have the opportunity to say whether this plan will go into effect.

MR. COOK: Wait. I did not take that from what Tom said. Tom said he has to move forward in establishing the Regional Directors and that he has got to inform those Regional Directors there is nothing frozen in about these regions.

MR. CRAMTON: He will have to envision it as a redesign of the regions.

MR. ERLICH: No, that is not exactly it.

MR. CRAMTON: I guess we had better take our break.

(Short recess taken.)

MR. CRAMTON: The meeting will come to order. I would like to state what I think the current consensus is on Mr. Jones' report. The present understanding is that the office will go ahead and make whatever changes they feel are appropriate in the regional alignment, and will move very quickly to hire the necessary staff to man those regions,

unless the Board directs them to do otherwise.

There is no motion to direct otherwise, and therefore, you may go ahead.

MR. ERLICH: Charles was involved in a three or four step process. The first one was a very tentative version and this was submitted to all the Regional Directors. We got a good many comments and revisions in light of that and submitted them to other interested organizations. We made changes in light of those comments and now it is out again and some have asked for some more time to make further comments.

This would mean there would be continued fine tuning in light of these comments. I do emphasize again my very own firm conviction that we are not involved in a one-way ratchet here. I think whatever else we do, this will be very important to say that these are not frozen and that there are some areas of the country that are grossly underserved.

As more programs are added and more changes taking place, we ought to take those very much in account.

MR. KUTAK: Mr. Chairman?

MR. CRAMTON: Go ahead.

MR. KUTAK: Mr. Chairman, I find it very hard to sign off on something that is not quite finished. If you say it is still in the process of re-evaluation and still in the process of fine tuning, then it is not tuned. For us to say --

MR. COOK: What you are saying is that it is not only tuned, but there is no sound.

MR. KUTAK: I wonder about the wisdom about asking us to go on the line, approving in advance something that I would assume would work, but we do not know.

MR. CRAMTON: I gather the posture is that the President would be responsible for organizing the staff, including the question of their regional location, until and unless he is instructed otherwise by the Board and has given us a preliminary report on some temporary thinking and plans that are concerned with regional locations.

There may be further refinements that would reflect the discussion here and might reflect other comments that are received, but the matter is being brought to us for information.

I am saying we are going to move on to another subject unless some member of the Board thinks they are unhappy with this disposition of it and moves some alternative disposition.

MR. COOK: I have a problem with that, Mr. Chairman.

MR. CRAMTON: What is it?

MR. COOK: I would move that these regions be accepted if someone would second it and then we would put it on the table and finish discussing it.

The thing that bothers me about the way you have

framed it, is this. As Charlie moves forward with this understanding as he discusses the future with Regional Directors, you use the phrase "He would say that was subject to a Board disposition.".

MR. CRAMTON: No.

MR. SMITH: Later refinement.

MR. COOK: I took that to me what he was really trying to set up could be totally turned around. This means if you decided you would have something headquartered someplace and you had somebody to run it under those circumstances, and then it was negated and his action was negated, then he is looking for a new Regional Director, because the one he thought he was going to have, he no longer has.

MR. CRAMTON: I am sorry if you mis-understood that. I must have mis-spoke myself. Unless the Board directs the President not to proceed in terms of setting up what the President thinks is a sensible regional alignment, then he is going to go ahead and set up a regional alignment in the very near future and hire the people to fill the Regional Offices.

MR. ORTIQUE: As set forth in the proposal?

MR. CRAMTON: Possibly that, but in connection with the re-thinking and comments they have gotten.

MR. ORTIQUE: That is the point that Senator Cook is making.

MR. COOK: That is the problem. Everytime you make a new realignment, you raise an issue with somebody on the Board that has not had an opportunity to look at.

MR. ORTIQUE: I could just make a better decision about this than something that they might do and work on and have for us the next time we meet.

MR. COOK: What you expected to do is develop this plan, do you not, Charlie?

MR. JONES: We will certainly make an effort to incorporate those suggestions that are clearly communicated by the Board.

For example, it will be made clear that we intend that one of the very important functions is the whole question of development as Mr. Ortique talked about.

MR. BROUGHTON: I would like to make a comment. As I understand it, based on this study that has been made, you feel very strongly that a realignment is needed. The second point as I understood it, is that until that is settled, it is difficult, if not impossible, for you to fill five critically needed positions.

MR. ERLICH: Right.

MR. CRAMTON: Or some smaller number if there were a smaller number of regions.

MR. BROUGHTON: Right.

MR. ORTIQUE: I see you got your point in.

MR. CRAMTON: Yes. Well, I was trying to state where I thought we were in an effort to expedite this.

MR. BROUGHTON: Yes.

MR. CRAMTON: The Board has three possible courses of action: We can essentially leave this in the hands of the President and let him go ahead and do whatever he thinks is appropriate; we have had some tentative views of what the outcome might look like. Second, if you want to march right in and approve a version which they say is not final, you can do that. Third, you can say that you will be darned if you will leave it to the President and he is going to have to report back, which means he cannot proceed until the next meeting. He must come in with a plan at that time that must be approved by the Board.

It seems to me those are the options. We have a lot of other items and we could get on with this Agenda.

MR. COOK: We are subjecting you to be lobbied by members of the Board and you will be lobbied by enough people as it is. I think we ought to eliminate that. I will move, Mr. Chairman, that the alignment as presented to us, starting on page 10 and running through page 12, be approved.

MR. BROUGHTON: I second that.

MR. SMITH: What about fine tuning?

MR. CRAMTON: I am not even sure that the President wants that.

MR. ERLICH: I --

MR. COOK: Do you want that Charlie?

MR. CRAMTON: They want the opportunity to reconsider it if they want to.

MR. JONES: If that is the Board's wisdom, obviously I want it.

MR. STOPHEL: That was a diplomatic comment.

MR. KUTAK: He is going to go far.

MR. COOK: Charlie, you are a better politician than I am.

MR. JONES: What I would really like is an opportunity to consider the comments that are still coming in.

MR. CRAMTON: And have the delegation of authority to act on your own without coming back to the Board?

MR. COOK: I think you are asking for trouble.

MR. CRAMTON: That is what they want and that is what they are asking for and that is the first alternative.

Is there a motion?

MR. COOK: I made the motion.

MR. THURMAN: I seconded it.

MR. CRAMTON: There is a motion to accept the proposed regions. Is there any discussion on that motion?

MR. ORTIQUE: I am against that motion, because that does not give the staff what they want and certainly does not give the members of the Board what they want and

I do not see why we should vote for a motion that does that.

MR. COOK: Then we are not really prepared to handle this question at all.

MR. STOPHEL: Let us ask a question. How much time do you feel is going to be necessary to digest everything that you have, plus what you are expecting in the way of additional information? I know you are still getting comments from a number of regions.

MR. JONES: I do not know. It is very difficult for me to estimate. I would be surprised if I did not get quite a few more. There are going to be some more comments. It seems to me we have to distinguish between alignment of states and various other things that are contained in the report.

Your motion goes to the question of whether these states should be left as they are. I guess I will continue to get comments about that forever, because short of coming down with regional structures that require 50 regional offices, one in each state, there will always be people who want to comment about it.

MR STOPHEL: What if you went in two directions? You will not be able to hire married men with children who will be able to take their children out of school before June. So, one alternative we have is to say to you, "Refine the thing and come back and let us have a shot at it.".

Another alternative, it seems to me, is this. If we want to identify locations for regional centers and locate those and agree to the location of those so that we could hire people to go into those offices and then we could have a realignment on June 3rd.

MR. ERLICH: No one will come to us unless they have a sense of what the region will look like.

MR. COOK: Then you really want this plan.

MR. ERLICH: Function is really the most important thing.

MR. CRAMTON: We are discussing the merits of the particular motion.

MR. SMITH: It seems to me that there is an analogy of a sort here that is something that I have been through several times directly and I guess others have been indirectly, and that is legislative reapportionment.

It has been a painful subject. You can make the analogy that many legislatures being in the position as this Board is, in having to make a decision about how you align areas and counties, you find that many legislators have gone to the extreme. Many of them have done it with a great matter of thought. Thinking it would never reach the legislature, they delegated to a Commission on Reapportionment and let them have the authority. Many states do that. I think many states that are represented here have already done

that.

In a sense, that would be analagous to having this Board let the President follow his normal course in the same that the Commission on Legislative Districts would do and let him make the alignments. I think it is not only consistent, but I think it is consistent with what the Board should do with the President anyway.

I think this is a matter of personnel management and overall management of the total program.

MR. CRAMTON: Are you urging a no vote?

MR. SMITH: That is correct.

MR. CRAMTON: Is there further discussion on this?

MR. KUTAK: Yes. I understand that the alignment, as proposed on pages 10 through 12, as the report indicates, is based or determined on the basis of a number of attorneys. Presumably that means extant attorneys. I think that is a falacious alignment upon which to be made.

I heard a far more logical one and that is on the basis of what are the constitutent needs? I do not see that there is any correlation between the number of existing attorneys and the number of potential attorneys or, in other words, the program development itself.

On the basis of the fact that I understand these proposed new regions were based on the fact that there is a number of presently enrolled attorneys, I cannot find any

merit in it.

MR. ORTIQUE: I would like to make a substitute motion. I would like to move that this matter be deferred until the next meeting. In the meantime, we can receive the options and those options will include a statement with reference to the number of poor people or constituents, as Bob refers to me, with a summation of the comments that have been received from the field.

Then a final recommentation of alignment will be made so that we do not have these misgivings. Then we can vote and have the matter placed on the agenda for a vote so that what we are doing is delaying the matter for a little better than one month.

MR. CRAMTON: In some ways, it might be simplier to allow a vote on the motion that was pending and then you could make your motion.

If the former is defeated, then you are merely suggesting an alternative way to deal with it. We could consider it then in seriatum.

MR. BROUGHTON: I second Mr. Ortique's motion.

MR. CRAMTON: You continue to do that?

MR. BROUGHTON: Yes.

MR. CRAMTON: Now the substitute is brought up for discussion.

MR. THURMAN: Let me ask Charles and also Tom a

question. Is this something you really feel unhappy about? My preference here would be to give them the discretion on this.

MR. CRAMTON: They have made it pretty clear they are unhappy about these various choices other than having their own discretion.

MR. ERLICH: What I would be delighted with would be a motion which would say, "Here it is.". Charles has soundly stated that the functions of the proposed regions and the criteria to be taken into account are primary.

Before this, we discussed taking into account potential clients. We found that the best way to do that is to assure some flexibility as opposed to saying, "We will have a great big region, which in five years from now we will break it up.".

A motion that focused on those things would be fine.

If you delay it for a month, obviously that is your judgement. It will delay implementation of carrying out our mandate. There we are.

MR. CRAMTON: Unless the discussion is limited to the substitute that has now been proposed, we are just going around in circles.

MR. THURMAN: Are we on the substitute now?

MR. CRAMTON: Yes.

MR. THURMAN: That has not been seconded.

MR. CRAMTON: Yes, it has; Mr. Broughton did.

MR. BROUGHTON: Yes.

MR. CRAMTON: I tried to get the second withdrawn so we could go around this in a different way, but I was unsuccessful.

MR. SMITH: If it were deferred until June and alternatives were then brought back, we would still then have to select and freeze into a vote a specific plan. If so, I am against the substitute. If the substitute says they will bring back some alternatives and we would have some discretion to leave it to their discretion and their flexibility, then fine. I do not want to freeze anything.

MR. ORTIQUE: They would submit to us a specific plan and we would approve it. The matter would be on the agenda for a vote. Ultimately this Board is going to have to bite the bullet.

MR. COOK: There is no way to avoid it.

MR. ORTIQUE: There is no way to avoid it.

MR. CRAMTON: We can realign the regional offices.

MR. ORTIQUE: We could do it today.

MR. CRAMTON: Is there further discussion on the substitute?

(No response.)

MR. CRAMTON: Are you prepared for the question on

the substitute?

(General assent.)

MR. CRAMTON: All those in favor say aye.

(Ayes.)

MR. CRAMTON: Those opposed?

(No response.)

MR. CRAMTON: I see.

MR. ERLICH: Let me state what I think --

MR. COOK: Wait a minute. We are in the process of a vote.

MR. CRAMTON: Did you vote?

MR. SMITH: I did not get an answer to my question.

MR. CRAMTON: Do you want a particular plan which the Board would vote up or down at the next meeting?

MR. SMITH: Then I will vote no.

MR. CRAMTON: I also vote no.

MR. THURMAN: I also vote no.

MR. CRAMTON: Let us have a show of hands. All those in favor of the substitute, please raise your hand.

(Show of hands.)

MR. CRAMTON: There are six. Now opposed?

(Show of hands.)

MR. CRAMTON: There are three. Therefore, the substitute is passed. That disposes of this particular item.

MR. ERLICH: May I state what we are supposed to do

lest I misunderstand it and come back and have additional problems?

We are to come back --

MR. CRAMTON: With a regional office plan.

MR. ERLICH: In definitive form. It is to articulate more fully than we have before the client population and the impact potential of growth. That is what we should do.

MR. KUTAK: And other criteria as well.

MR.SMITH: What about alternatives?

MR. ORTIQUE: That is the principal alternative that people have indicated is their greatest concern. I am talking about this as opposed to the number of lawyers that are in a region.

MR. SMTIH: But they could have done this under the old way.

MR. ERLICH: I say we did take that into consideration.

MR. COOK: That will be in the minutes.

MR. CRAMTON: Are you clear on that?

MR. COOK: It will be in the minutes.

MR. ERLICH: We can present this at the next meeting.

MR. SMITH: I want to clarify something. Perhaps you could come back next time with not just one plan, but two or three.

MR. ORTIQUE: No, they will come back with one plan.

MR. ERLICH: No, we will have one plan. If you have further thoughts, by all means raise them because we want to know what they are.

Next time, if we do not move, we will be in serious trouble.

MR. CRAMTON: The next item on the agenda is for (b) Support Centers. This is purusant to the understand that accompanied the passage or adoption of the resolution in dealing with this issue.

That is the President would report on the implementation of the resolution. I call on the President.

MR. ERLICH: Following the Board's approval on March 5 of my recommendations on the support centers, I retained, on behalf of the Corporation, Tony Mondello, the former General Counsel of the Civil Service Commission who is with us here today and to assist us in the implementation of the support centers.

Many of you know that Tony worked very closely with Alex on the study, and he has great understanding of the centers and has been and will continue to be an invaluable aid in the coming weeks as contract negotiations progress.

Without giving details of specific negotiatons, let me give you the progress report that you sought.

I also previously advised the Board that Dick Carter, who is here with us today, has joined the staff of the Office of Program Support, and is responsible for transferring the Para Legal Centers to the Corporation.

He has a great understanding and insight into those arrangments and I think will insure a very orderly and efficient transfer of those important functions.

He came on duty on the 7th of April and has already begun work devising a structure for the staff and organization activities. He has also conducted a good many interviews with members of the staff and he has almost completed his training.

He has made arrangements that will shortly take him to Chicago that will assist the staff in the facilities of a clearing house in Chicago. He will be facilitating that.

He has not yet had interviews with the national staff of the Para Legal Institute which has requested a hearing on the preliminary determination to terminate the funding for the Institute.

Tony and Dick have also entered into contract talks with the Commerce Clearing House and worked out a contract for the Poverty Law Reporter for a six-month period of time.

In order to give us an opportunity to study the needs in relation to the overall activities of the new Office of Program Support, and specifically we face the question of determining the value of the Poverty Law Reporter in the Legal

Services Office and the practicality of picking up in the Clearing House whatever features of the Poverty Law Reporter that would be of immense value and combine the two into a single publication, as opposed to keeping the two separate.

MR. THURMAN: Do we currently fund the Poverty Law Reporter?

MR. ERLICH: Yes, we do. We are underwriting the purchase of some 2,000 copies of it which provides key support.

MR. KUTAK: I see.

MR. ERLICH: Some of its functions are in some ways duplicative of the Clearing House and in some ways not. Obviously we can do it by single publication that will be much more effective and I would like to do that.

MR. COOK: What is their total publication? If we buy 2,000, what is the rest of it?

MR. ERLICH: I understand it is about 3,000.

MR. SMITH: If we did not buy 2,000, they would not publish it at all.

MR. COOK: That is what I would like to know. Obviously they are going to try to say no, but if we are going to underwrite it, I think we should have opportunity to look at their financial figures to the extent that we find out how much a front end load we are picking up.

MR. ERLICH: And combined.

MR. COOK: I thought you were looking at them as an

alternative -- one or the other.

MR. STOPHEL: I think you are doing the kinds of things that we had our whole debate over. You are talking about contracting out the publication of that.

MR. COOK: You may well be correct.

MR. ERLICH: I think that point is that there is an essential choice.

On the 13 substantive centers, we sent out a letter on the 12th of March, advising them of the Board's resolution on the 5th of March concerning the funding of the centers beyond March 31.

The letter suggested that a refunding application be submitted by the first of April and include a proposed budget and a description of proposed activities and a description of activities that were prescribed by the Section as determined by the Board at the last meeting, which activities the Corporation should assume, if they were to continue at all with Corporation funding.

Finally, there would be a description of activities that should not be continued by either the Center or the Corporation.

MR. COOK: May I interrupt?

MR. ERLICH: Go ahead.

MR. COOK: I raised the question before, but I have another question. Is there any discussion going on now with

any support centers as to combining facilities?

I went through that when we had our last discussion.

MR. CRAMTON: Perhaps the President is going to get to that.

MR. COOK: Oh, is he going to get to that?

MR. CRAMTON: He is in the midst of making his report.

MR. ERLICH: The answer is yes.

MR. COOK: All right.

MR. ERLICH: The short answer is yes, it is.

Each of the 13 Support Centers received a copy of the contract which you saw and were advised that they would receive interim funding and furthermore, on the 15th of March we sent a letter to each of the four centers. That served as a preliminary determination that we would provide them with funding and they were advised of their hearing rights and only the Para Legal Center has requested a hearing. We have tried to resolve its problem by informal discussion, but it has asked for a formal hearing.

As of the 21st of April, we had refunding applications from 11 of the 13 centers and the other two, I gather, are going to commence shortly.

We have reviewed, Tony and the staff have reviewed each of those. They have summarized them and compared them as to the factual analysis and the Polikoff Study. It is his judgement that on the whole the refunding applications were

very thorough and thoughtful and candid and they attempted to assess their activities in terms of 106(a)(3) and to set out the activites which were prescribed in the gray areas and offer suggestions for the transfer of those activities to the Corporation that could be transferred.

Tony is still working on those matters and that will continue for some time.

I do think it is fair to say that thus far the refunding applications indicate a willingness on the part of the Centers to be flexible and to be open to alternatives. I do hope that a cooperative tenor can be maintained throughout the discussions without getting into the details of them.

I do think that so far they will. Some of the provisions in the form contract depend so heavily on particular circumstances that they must be looked at project by project. On the whole, he is trying to stay within the general tenor of that contract, although a number of the Project Directors have advanced specific questions.

We are specifically examining the prospects for merger on other juvenile law centers. On the 26th of March Tony met with the head of the National Juvenile Law Center and the head of the Western States Project and discussed a possible merger of those two. There might be others that in the course of the discussions that he might find ways to bring together to serve what is the Board's mandate, quite

apart from the statute, which is efficient and effective operation.

Tony, would you like to comment any more?

MR. MONDELLO: No, there is no sense in talking about the merits of the contract discussions. I do not really know how far I could get with some of the consolidations that are proposed. Where they are cost saving, we will urge them.

MR. ERLICH: Dick Carter, would you like to comment on the operations of your own office?

MR. CARTER: No, I do not think there is anything unless anyone has any questions.

MR. ERLICH: Does anyone have any questions of Dick Carter short of the details?

MR. STOPHEL: Is there any consideration of the need for substantive areas being served? Are we saying they are in place and we ought to refund them or are we saying I have a hang-up on education? I think we ought to get out of the education area. That is one of our legal pollution areas.

MR. THURMAN: To coin a phrase.

MR. STOPHEL: I told you I would give it back to him one day.

I feel as a matter of philosophy that is an area that is perhaps being overdone and we ought not to put any funds in that area. I just hope that our administration will consider these areas they they are true needs, really and when

Dick Carter and his group are supporting groups, that there is really a need for the support that we are giving to these centers.

MR. ERLICH: Yes, yes is the answer. In general terms, the answer is yes. However, it will, of course, take time until we can look into what particular programs around the country make use of particular centers. We certainly do intend to do that.

MR. STOPHEL: I see.

MR. CRAMTON: Is there further discussion on the support center item?

(No response.)

MR. CRAMTON: If not, I think we are ready for a resolution that the President has.

MR. ERLICH: It is the same resolution that you adopted at the last meeting with the exception of the words, "proposed to".

MR. CRAMTON: This is in Tab 5 of your materials. Out of caution, we printed this in the Federal Register and put it out for comment. I would now propose final adoption.

MR. SMITH: Have you received comments?

MR.CRAMTON: Yes, and those comments have been considered.

MR. KUTAK: I so move.

MR. SMITH: I second it.

MR. CRAMTON: What changes have there been, Mr. President?

MR. ERLICH: The only change would be that "Resolved, the Board of Directors adopt the standard.".

MR. CRAMTON: That would be today, rather than March 5?

MR. ERLICH: Right.

MR. CRAMTON: With those changes incorporated, the resolution is before you. Was there a motion and a second?

MR. KUTAK: Yes.

MR. SMITH: Yes.

MR. CRAMTON: Mr. Kutak moved and Mr. Smith seconded. Is there any discussion?

(No response.)

MR. CRAMTON: All those in favor, please say aye.

(Ayes.)

MR. CRAMTON: All those opposed, no.

(No response.)

MR. CRAMTON: The matter is unanimously carried.

We now have reached the time at which we thought we would adjourn today. Is this a convenient time, Mr. President, to adjourn, or would you like to go on?

MR. ERLICH: Since the head of our Equal Opportunity Office has been waiting patiently today and since Glenn Stophel particularly wanted to hear that discussion, we could

go on.

MR. STOPHEL: I will not be able to be here tomorrow.

MR. CRAMTON: I think we should defer to Mr. Stophel for another five or ten minutes anyway. Could we begin and if it takes too long, we could have it go over until tomorrow morning.

Is Mr. White here?

MR. ERLICH: Have all of you met Charles White, the Director of Equal Opportunity for the Corporation?

(General assent.)

MR. CRAMTON: We are delighted to have you with us. Come join us.

(Whereupon, Mr. White came up to the Board table.)

MR. ERLICH: I know he is ready to answer all of your questions about the resolution and the plan behind it. I should have made clear in my own memo something that was not clear and that was that the District of Columbia does include these requirements concerning not only race and sex and region, but also marital status and physical handicaps and the like.

As a Corporation in the District of Columbia, we are obliged to follow that.

MR. CRAMTON: We can go along with that as a resolut-

ion.

MR. STOPHEL: I reviewed this last night. I appreciate the hard work it takes to develop an Affirmative Action Plan. In the statement of policy, I think we should stop after the word "political affiliation".

MR. THURMAN: What page are you on?

MR. STOPHEL: In the draft resolution.

MR. ERLICH: After the word "political affiliation"?

MR. STOPHEL: Yes. After the word "political affiliation" we should omit the words "sexual orientation or family responsibility, personal appearance, and matriculation.".

That language is repeated in the statement of policy which becomes part of the Affirmative Action Plan. In toto, that paragraph ought to be amended.

I think the D.C. Code perhaps includes these things, but I feel strongly about what the Code in D.C. says and what we adopt as policy.

The fact that we obey the law does not mean that we recognize sexual orientation as not being one of those areas that we are going to have an Affirmative Action toward.

That is what this plan is. It is an Affirmative Action Plan and says that we will take action to make sure that these things are not done. I think that the resolution is not before us, but I would urge that we stop at the word "political affiliation" in that section and eliminate "personal

appearance, sexual orientation, family responsibilities, and matriculation.".

Further, in the section on administration on page 4, I was interested in something. In the last sentence of Section A, I would suggest that the Director of Equal Opportunity, is a direct representative of the President. I am interested in what the connotation of that is.

MR. WHITE: This is a sentence that was developed in the first draft. It was developed in February, I believe.

We incorporated it into this particular draft. Fred Abrams developed that draft.

MR. ERLICH: The notion is that it is clearly understood by all with whom we are working that when Charles speaks concerning matters of Affirmative Action, he is speaking as a representative of the President and not when he is dealing at some level that he can be disregarded.

This is an important area of concern and that is the only and sole motive.

MR. CRAMTON: Should we consider these matters one at a time? You have made one motion, I gather.

MR. STOPHEL: The resolution is not before us.

MR. CRAMTON: But you are offering an amendment.

MR. STOPHEL: If it becomes a motion, I would move that we amend the policy statement as I described. I think we should stop the first sentence after the word "political

affiliation" and put a period there and leave out the rest of that.

MR. CRAMTON: Can I take it that with the unanimous consent this resolution is before us as the main item of business and now Mr. Stophel has moved that amendment to it?

(No response.)

MR. CRAMTON: Is there a second to his motion?

MR. SMITH: I do not think we can do justice to the whole thing with this time pressure. Why don't you let him make his points and then we could take it up tomorrow?

MR. STOPHEL: I apologize for not being able to be here tomorrow.

MR. CRAMTON: If you were here, you would be able to make these.

MR. COOK: In all fairness, he will not be able to vote.

MR. ORTIQUE: What is so important about the next 15 or 20 minutes or half hour?

MR. SMITH: We need to do justice on this.

MR. BROUGHTON: Why don't we let Mr. Stophel go through and say what he has to say and then we could take up the points as long as time permits.

MR. ORTIQUE: There is no time pressure.

MR.CRAMTON: Is there a second on the motion to amend the resolution?

MR. BROUGHTON: Yes, I second it.

MR CRAMTON: It is now before you for discussion.

MR. WHITE: Mr. Chairman?

MR. CRAMTON: Go ahead.

MR. WHITE: I do not understand the issues on the policy statement. Section 1006 of the Act pertaining to the Corporation does confer upon the Corporation the rights of a D.C. corporation.

We can assume by that that we are bound to follow the D.C. Acts and one of those is Title 34, which has 13 areas of discrimination. By policy the Corporation is bound to follow the Acts.

Needless to say from an enforcement standpoint, we would have to recognize the 13 items included in Title 34.

MR. KUTAK: Mr. White, could you not say, "shall not make a distinction in the treatment hiring and advancement of people due to anything"?

MR. ERLICH: I would hate to include the word "court ability" in that.

(Laughter.)

MR. KUTAK: That is discrimination.

MR. STOPHEL: Why not say we will determine it on the basis of ability and then eliminate that list?

MR. KUTAK: We say that we recognize minorities including Blacks, Hispanic Americans, Orientals and American

Indians, but we leave a lot out. In that case, if, since we are leaving some out, why don't we amend the rest? If there are 13, I know we can come up with 26.

MR. ERLICH: Charles, and General Counsel, what legal problems will this cause if we do not in some way replicate the D.C. Code? Will that be a problem?

MS. DANIEL: I think we can distinguish between the plan that is adopted by the Corporation as an instruction booklet, if you will, as to how to comply with the law and a policy that is adopted by the Board.

That is, we have to come up with a plan that advises Corporation employees of what their obligations are under Title VII and under the D.C. law. You can go beyond that and say that the Corporation or the Board affirms, affirmatively, and adopts a policy that embraces the D.C. statute, regardless of whether the Board chooses to take that step or not.

We would still have the obligation of doing that.

MR. ERLICH: Would it be acceptable to have a reference to the D.C. Code?

MR. COOK: I was just going to say "shall not make a distinction in the hiring and advancement of people pursuant to the requirements of the D.C. statute or the D.C. code,", whichever you want.

You may use the number if you want.

MR. STOPHEL: What about for applicable Federal and

State law?

MR. COOK: We are a District of Columbia Corporation.

MR. STOPHEL: We are also subject to Federal laws.

MR. CRAMTON: But the fact of whether we are subject to all requirements in the D.C. Code is not entirely clear. We discussed that question at great length in connection with our incorporation. There was a difference of opinion among lawyers and we eventually took the position that Congress, by the passage of the Act, had essentially incorporated us and created us as a D.C. non-profit corporation and that no action of D.C. officials was necessary.

They essentially accepted that view and we filed some papers to that effect.

I think it is not entirely clear that the D.C. Code requirements may be applicable to us, but they may be.

MR. ORTIQUE: I do not understand why we find these points offensive when, as a matter of fact, we know that we cannot avoid the proscriptions of the D.C. Code.

MR. CRAMTON: The reason I find them offensive is that they deprecate the great principals which are in the document.

I think that when you start talking about discrimination by matriculation or sexual orientation in the same category as racial discrimination, you just depreciate the force of the affirmative action program and you make it look kind

of foolish. I am going to comply with the D.C. Code.

MR. ORTIQUE: Why not say we will comply with all the applicable Federal and State statutes?

MR. STOPHEL: Federal, State, or local.

MR. COOK: Statutes.

MR. KUTAK: What about left-handed people?

MR. ORTIQUE: We are only required to obey the Federal, State, and local statutes.

MR. SMITH: What difference is it whether you refer to the statute in reference or duplicate the language?

MR. COOK: Because I feel quite strongly that the language is not duplicated here.

MR. ORTIQUE: I have no problem with adopting the more general language.

MR. SMITH: It does not bother me either, but I think the language is duplicated.

MR.CRAMTON: Is this a proposed substitute?

MR. COOK: The proposed substitute would be, "and advancement of people subject to Federal, State and local statutes that are applicable," or should I say "applicable Federal, State, and local statutes."?

MR. CRAMTON: You do not want any reference to race and so on? It will be totally unintelligble to the people who receive it.

One of the virtues of having this is to hand some-

thing to a potential employee to state what the policies of the Corporation are. Once you do it that way, it is unintelligible unless you give him the D.C. Code to go along with it, and you have to give him a sheaf of Federal Statutes along with it.

MR. STOPHEL: If you list part of the things and omit the others, then you may be creating a problem for yourself. When you refer to the statutes, you avoid that.

MR. BROUGHTON: As I understood it, one of the first things mentioned like race and creed and so forth, is broad as such.

MR. COOK: Inserted after the word "political affiliation" you would rather have that, rather than where I have it?

MR. CRAMTON: That is right and such other bases of discrimination as may be prohibited by applicable Federal and State laws.

MR. COOK: State and local.

MR. CRAMTON: Federal, State, and local.

Do you accept that as the amendment?

MR. STOPHEL: Yes.

MR. COOK: That is good.

MR. ORTIQUE: That is good.

MR. CRAMTON: So we will go down to "political affiliation" and add the clause "and such other bases or grounds of discrimination that may be prohibited by applicate law.".

That is a short way.

MR. STOPHEL: The reason for leaving out the next two sentences -- The third one indicates that we have been discriminating against women and in the past we have not. We have only been in existance for nine months and we have only had a staff for six months and I do not think we have discriminated. I am not willing to admit that we have had past discrimination.

MR. CRAMTON: Except we have heard a great many statements about the small number of women attorneys in the Legal Services programs. This is a procession that is a very serious problem.

I am not sure that this says we have been guilty of discrimination. It just says that society has.

MR. ERLICH: It says, by virtue of past discrimination and is not anything that we can admit to.

MR. BROUGHTON: That is not a matter that this Board has been charged with. It is an existant thing.

MR. SMITH: I do not see any importance in that.

MR. THURMAN: I do not see any importance in that sentence. It is a narrative kind of thing.

MR. STOPHEL: Let us get on with this.

MR. CRAMTON: We have agreed by unanimous consent by the amendment of the first sentence. The next motion is to remove the next two sentences.

MR. ORTIQUE: No, the motion is to omit the last sentence applying to females.

MR. STOPHEL: I would like to include in that both sentences. I hesitate to use a laundry list.

MR. COOK: In the first place what we are doing is to leave an awful lot of minority groups out, quite frankly.

MR. STOPHEL: Yes, we do not have Jews listed here.

MR. THURMAN: Does that include Chicanos and Spanish Americans?

MR. STOPHEL: Yes.

MR. THURMAN: That is not generally understood.

MR. STOPHEL: I am not concerned about that sentence. Why not back our motion up and say we are adding this thing after "political affiliation"?

MR. CRAMTON: That has been added in by unanimous consent.

MR. STOPHEL: Then I delete the part that says, "this policy applies to females and other groups, who by virtue of past discrimination, continue to suffer present effects of that discrimination.".

MR. CRAMTON: Is there a second?

(No response.)

MR. CRAMTON: Do I hear a second?

MR. THURMAN: What is the motion?

MR. CRAMTON: The motion is to remove the final

sentence of the resolved paragraph regarding women.

MR. ERLICH: Would Charles like to speak to that?

MR. WHITE: Yes, I would.

MR. THURMAN: Are we back on that?

MR. BROUGHTON: The motion does not include that sentence above.

MR. WHITE: If you leave that sentence out, then you would not say that women are included. Women are not stated as minorities in government terms, but they are a protective class of citizens.

MR. COOK: We say here in the advancement of people due to race, religition, color, sex, age, and marital status and so forth.

MR. WHITE: I withdraw the statement.

MR.CRAMTON: Are we prepared to vote on this amendment?

(General assent.)

MR. CRAMTON: All those in favor please say aye.

(Ayes.)

MR. CRAMTON: Those opposed, no.

I will say no.

Let us have a show of hands to reflects the division.

MR. ORTIQUE: I will join you.

MR. CRAMTON: All those in favor say aye.

(Ayes.)

MR. THURMAN: Is this both sentences or just the last sentence?

MR. CRAMTON: This is just the last sentence on females.

All those in favor, please say aye and please raise your hand.

(Ayes and show of hands.)

MR. CRAMTON: Cook, Stophel, Smith, Kutak, Thurman, and Broughton.

And those opposed are Montjano, Ortique and Cramton.

Is there a next motion?

MR. STOPHEL: I move that on page 16 and also in the purpose and statement of policy in the Affirmative Action Plan, that we remove everything that comes after "political affiliation.".

MR. ERLICH: I hope by removing -- by the last vote we will not discriminate against women.

MR. COOK: I think the language in there is very bad. When it says females and other groups -- just what other groups are females supposed to be aligned with in these other groups? As the father of four daughters, I do not want to align those daughters of mine with other groups. They are what they are. The language is just not very clear in this.

MR. CRAMTON: I have a question on paragraph 3 on

page 3. This as to do with advertisements in minority news media.

I raise it only because it is my perception that in reaching professional populations and populations that the Corporation would be interested in hiring, is not often effectively done by advertising in some of the specialized media.

There has been an awful lot of organized pressure on this. We want to limit our advertising to obtaining the best possible people.

MR. WHITE: All it states here in this particular section is that we will pay particular attention to advertising in minority news media as well as all news media.

MR. CRAMTON: What about a general statement about advertising in such media, including minority news media as are calculated to reach the populations that are suitable for hiring in the Corporation?

MR. WHITE: There is another thing in the document that we did not say. The document has gone through a long development process. The Board was concerned with how large the other draft was. We needed to narrow it down. We wanted the language to be more succinct and more simple. This is the reason we can up with this document which is not lengthy and is to the point.

It was felt that the interpretation was clear in the

document. Needless to say we could make those changes.

However, number 3 simply states that advertisments will be placed in minority news media as well as other news media.

Affirmative action is concerned primarily with that sort of thing.

MR. SMITH: Mr. Chairman?

MR. CRAMTON: Go ahead.

MR. SMITH: I want to renew my earlier statement. We stayed an extra ten minutes so Mr. Stophel could make his points and we stayed that time, but I think the extreme importance of this is such that we will be limited in our discussions if we just stay a few more minutes.

Can we not take all this up in the morning?

MR. CRAMTON: Has Mr. Stophel completed his point?

MR. STOPHEL: I have one more word to say, but I am not going to say it.

MR. COOK: I want to serve notice that I want a good discussion tomorrow on goals and timetables at the bottom of page 10 and on page 11 at the top. We are going to vote a quota if you approve that and you are going to vote percentages and quotas and very frankly after listening to our General Counsel today, explaining the regulations in this Corporation, I would be all in favor if this Corporation were all females, if they were of the caliber of our General

Counsel.

I had a real hang-up about this, and I think we ought to take a real good look at it. I think we ought to realize what we are doing and ought to evaluate it in relation to other governmental agencies and what precedent we may be establishing.

MR. CRAMTON: Mr. Stophel, are you prepared to have us renew this tomorrow morning?

MR. STOPHEL: Yes, certainly.

MR. BROUGHTON: Do you have any other comments?

MR. STOPHEL: No, I am finished.

MR. CRAMTON: We stand adjourned until 9:00 o'clock tomorrow morning.

(Whereupon,

at 5:00 p.m., the meeting in the above-entitled matter was adjourned, to reconvene at 9:00 a.m. the following day.)

C E R T I F I C A T E

This is to certify that the attached proceedings of the Legal Services Corporation (Meeting of the Board of Directors) on Friday, April 23, 1976 were had as herein appears, and that this is the original transcript thereof.

COURT REPORTERS AND TRANSCRIBERS

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