A STUDY AND EVALUATION
OF
CALIFORNIA RURAL LEGAL ASSISTANCE, INC.
BY
CALIFORNIA OFFICE OF ECONOMIC OPPORTUNITY
1971

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(A Condensation)

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A 283-page evaluation report of California Rural Legal Assistance, Inc., based on almost 9,000 pages of reference material and documentation, was made public during the first week of January, 1971, after its delivery to OEO officials in Washington, D.C.

The final report constitutes the work product of the Office of Economic Opportunity, State of California - its Director and its staff.

California Rural Legal Assistance, Inc., is one of the largest publicly financed legal service programs in the United States. It is structured as a California non-profit corporation, funded by an OEO grant and created to render civil legal services to the rural poor from nine operational offices, a central administrative office in San Francisco and an office involved in legislative advocacy in Sacramento. During 1970, National OEO, under

leadership of Donald Rumsfeld, was considering the idea of regionalizing legal service programs. This move was interpreted by the poverty-law establishment as an attempt by OEO to weaken the legal services program by diffusing and localizing its control. In late November, this poverty-law establishment mobilized national protest to decry the long-coming dismissal of National Legal Service Director Terry Lenzner and his assistant. Subsequently, Donald Rumsfeld was regaled by angry denunciations from this establishment's representatives from every legal service program in the United States. Pressure built up to the point where, in order to counter the impression that the Nixon Administration was opposed to legal services, the Director of OEO made a highly unusual public announcement that he had approved CRLA's refunding proposal for 1971 - an approval that accelerated the program's refunding cycle.

In some ways the most difficult aspect of the evaluation concerns the people in the communities served by CRLA. Given the ability of the poverty-law establishment to harass those who disagree with it in the press and in court, some people in the communities have felt a great reluctance to speak their dissatisfaction with CRLA publicly. In fact, since the release of the report in the first week in January, acts of harassment have been reported against those who contributed by affidavit or statement to the investigative staff of California State OEO.

CRLA has always exhibited a public eagerness to be evaluated by anyone who cared to do so, but in early December, 1970, when the Stanislaus County Grand Jury launched an investigation in response to the "growing public concern that CRLA, Inc., is not carrying out its stated corporate purpose of providing adequate legal assistance for the poor," CRLA secured from the Federal District Court an injunction against any investigation of their program. The incident is lamentable, for this was the first time that a program of this nature was to be evaluated by people in the area being served by that program.

By its grant conditions, CRLA is prohibited from involving itself in the following activities:

(1) representation in criminal cases;

(2) accepting cases that are fee-generating in nature;

(3) accepting clients who do not conform with poverty income guidelines;

(4) accepting labor unions as clients.

In addition to the specific grant conditions outlined above, there exists a body of rules of professional conduct and canons of legal ethics designed to create an atmosphere, framework and relationship with those to be served and with the community at large, which maintains the dignity of the legal profession and gives the program its

highest potential for success. Following are some of these considerations:

(a) a prohibition against soliciting clients and stirring up litigation;

(b) a prohibition against conduct unbecoming an attorney;

(c) a prohibition against the filing of harassing or frivolous actions;

(d) a special prohibition attending taxpayer-supported legal services, to wit, that the attorneys shall not waste precious resources and shall be guided by a concern for economy in all respects;

(e) a prohibition against newspaper publicity by an attorney as to pending or anticipated litigation.

The 1971 grant evaluation which led to Governor Reagan's veto of CRLA constitutes an alarming profile of flagrant violation of the terms of CRLA's grant contract, articles of CRLA's incorporation and the spirit of the purpose of CRLA.

CRLA's Activities Behind Prison Walls

CRLA has accelerated its activities in California prisons since the celebrated "Soledad Soul Brothers" murder case and a second case referred to in the press as the "Soledad Seven" case. Both of these cases are murder cases

in which Black inmates are accused of killing Caucasian guards.

One of the defendants in the "Soledad Soul Brothers" case, George Jackson, is the brother of the Jackson killed at the San Rafael Courthouse break attempt in August, 1970. Three other persons, including the Presiding Judge of the Court, were killed during this break attempt. Jackson was in possession of weapons registered to Angela Davis, the Black militant who has been accused of conspiracy in the murders. CRLA attorneys tried to intercede on behalf of Angela Davis or her attorneys to gain permission for her to visit George Jackson at the Soledad Penitentiary prior to the break attempt at the San Rafael courthouse.

The following incident at Soledad Penitentiary shows the gravity of CRLA's involvement within the California State Prison System. On October 30, 1970, David Kirkpatrick, CRLA attorney for the Salinas office, telephoned to Monterey County Assistant District Attorney Edward Barnes. Kirkpatrick stated that he wanted to see a prisoner at the Correctional Training Facility at Soledad. The inmate in question was a potential witness in the "Soledad Soul Brothers" murder case. Kirkpatrick told Barnes that one Peter Haberfeld (a CRLA attorney with the Marysville office, who left the employ of CRLA in September) represented the prisoner on a writ of habeas corpus, and Haberfeld wanted him (Kirkpatrick) to take a message to the prisoner.

Assistant District Attorney Barnes contacted the prisoner in question and was told that he (the prisoner) did not know any Peter Haberfeld. Nevertheless, Kirkpatrick did talk to the prisoner and asked him if he was going to be a witness in the case and testify for the prosecution. The conversation is recorded in an affidavit:

> "I, _____, am an inmate at Soledad Correctional Training Facility, Soledad, California. The first contact I had with representatives of the California Rural Legal Assistance was in November, 1970, when Faye Stender and Richard Silver came to see me at Folsom Prison. I was told by them that they wanted to talk to me about the killing that I had witnessed at Soledad while I was there. They showed me a letter that had been written to CRLA by another inmate named _____, who was, I believe, may have been involved in the crime. This letter stated that some of the correctional officers may be trying to set me up to be killed and that maybe CRLA could help me. Both of the attorneys talked with (me) for a while then asked me if I wanted them to represent me. I advised them that I did not and that if I needed a lawyer I could get one of my own. They then stated that they would recommend a lawyer to me from the Marysville, California, area. Shortly after that I was transferred back to the Soledad facility. In late November, 1970, I received an unrequested visit from a Mr. Kir(k)patrick, who told me he was a lawyer. He stated the reason that he was there was because a lawyer in Marysville had asked him to stop by and see me. He advised me that he wanted to know my position regarding the killing. I told him that I had already told Captain _____, of the Soledad Facility, what I had seen. The lawyer then asked me if I wanted him to tell the Black inmates that I was okay?

I answered no. He then asked if that meant that I was going to testify for the State. I answered yes, that I was. He then asked if I thought the State could protect me better than 'we' can. I answered yes, I thought they could. He then said 'That's it?' I answered yes. He then advised me that I had better write my lawyer in Marysville and tell him to forget about helping me get out. Since I didn't know his name and address I asked him to tell him. At this time I had less than _____ to do on my sentence, and I would be released, so I don't know why anyone said they would try and get me out. This was the only contact I had with CRLA, and I don't know any more about the organization."

(Emphasis added.)

It appears that Kirkpatrick subtly threatened the inmate and suggested that the inmate, at best, suppress evidence and, at worst, commit perjury at the murder trial.

The report also documents CRLA attempts to impose themselves upon the California Correctional System to erode penal discipline and revise administrative correctional policies by filing civil actions based on questionable and, in some cases, preposterous claims.

CRLA's posture in its prison thrust, especially at Soledad and San Quentin, has been to attempt to make inroads into and establish a rapport with incarcerated ethnic minorities, with the intention of creating disharmony and exploiting extant racial and ethnic tensions between inmates, as well as between inmates and the established prison order.

CRLA and Youth

The report reveals very disturbing evidence that CRLA and individual CRLA attorneys and staff members have acted and are acting as catalytic agents in school agitation incidents. Their actions have been direct and vigorous in helping to foment serious student harassment of school authorities, assaults on school discipline and the orderly conduct of local schools in California.

The report includes nine in-depth case studies of open CRLA involvement in fomenting and carrying through school confrontations and incidents.

One case documents how CRLA staff members counseled a juvenile girl and enticed her into acts of Chicano agitation with the assistance of two school teachers and two CRLA staff members in San Benito County. Another case shows how CRLA attorneys and staff members were responsible for transporting 94 school pupils of high school and junior high level (many of them juveniles) to a "Free Cesar Chavez" rally and demonstration without the consent of their parents or the school. In this case, one CRLA staff member's car was used to transport students to the rally. In another case, a CRLA attorney appeared at a junior high school to participate in a seminar and in the process of his participation used obscenities before the class and wrote obscene four-letter words on the blackboard, much to the chagrin of the faculty members

involved in the seminar. Another case shows how a CRLA attorney published an underground newspaper with the return address of the Marysville CRLA office. The underground newspaper in question, "The People's Paper for Community Agitation," extolled the virtues of racial violence and conformed editorially with the myrmidons of the revolutionary Left.

The report states, "What is even more distressing is that CRLA attorneys and staff members in their quest to foment school disorders have exploited racism among Negro and Mexican-American students.

"The image of law displayed by too many CRLA attorneys is a vision of dissent - on the streets if it is expedient - not a basic concern for justice," the report states. "It is our firm opinion that a great many CRLA attorneys are 'true believers', hitch-hiking a ride at the expense of the rural poor to achieve a dislocation of our social, political and economic order."

CRLA and the Farm

CRLA operates in rural and, therefore, largely farming areas. The relationship of CRLA to farmers, farm workers and the farm industry is intimate. The State of California is equally deeply enmeshed in agriculture, being the Nation's number one agricultural state, functioning in

areas of farm worker housing, health and safety standards enforcement, farm labor services and so on. The Farm Labor Service division of the Dept. of Human Resources Development, has 42 offices throughout the State, which act, among other things, as a rallying point or marketplace for farm workers so that they may be readily linked up with available farm work.

It might be expected that CRLA would work closely with the State in agricultural matters. This is not the case, however. CRLA makes it clear from its actions and even its words that it is seeking to put California's Farm Labor Services out of business.

On March 5, 1970, CRLA filed an action commonly known as the "250 Farm Workers v. Schultz" in the U.S. District Court for the Northern District of California, seeking, among other things, to close down the Farm Labor Service of the State of California. The case was replete with a variety of subterfuge and misrepresentation on the part of CRLA. One man, who was approached to sign a petition while attending a remedial class in English for Spanish-speaking farm workers held at night at a local high school stated that a CRLA staff member admonished the remedial English class to sign petitions against California's Farm Labor Service Agency.

There is a method to CRLA's thrust against the California Farm Labor Service. Without conveniently located centers through which farm laborers could find available work, it would appear that farm workers would be severely harmed and would have to turn to their own devices for work opportunities. It is the vision of CRLA to replace Farm Labor Service offices with UFWOC union halls. In this way, Cesar Chavez' union would not have competition from State hiring halls.

Just as CRLA has attempted and is attempting to put California's Farm Labor Service out of business, it is summarily attempting to harass private farm labor contractors with the hope of eliminating them, too.

CRLA and UFWOC have apparently combined to seek administrative hearings against farm labor contractors for a variety of alleged causes. Many of the farm labor contractors are very poor themselves. The poor or marginal farm labor contractor, when confronted with a lawsuit or administrative hearing, may well find it financially impossible to continue on in this business. Even the larger operators, such as those which provide housing, transportation, etc., find a time-consuming, expensive lawsuit too much to handle.

If farm labor contrctors (they are licensed and are subject to rules of operation and conduct) were severely

constricted by legal harassment, and if the Farm Labor Services bureau of the State of California were terminated, what would be left for the farm worker in the way of assistance in locating employment? Who would he turn to?

The hope of CRLA and UFWOC is obviously the Chavez' farm union. CRLA's relationship with the UFWOC has been subject to controversy since CRLA began in 1966. In September, 1967, Congressman Robert B. Mathias, wrote to the Comptroller General of the United States and requested that the General Accounting Office (GAO) conduct an investigation of CRLA's activities, with particular attention to its relationship with UFWOC. It is to be noted that both the Economic Opportunity Act (Section 603 and attendant regulations) and a special condition of CRLA's 1970 grant prohibits CRLA from representing a labor union.

GAO conducted a two-month investigation at the end of 1967, and published its findings in a report dated May 29, 1968, entitled "Report on Investigation of Certain Activities of the California Rural Legal Assistance, Inc., under Grants by Office of Economic Opportunity."

In his cover letter to Congressman Mathias, acting Comptroller General Frank H. Weitzel concluded: "We found no evidence that the grantee (CRLA) was working directly for the union or that the activities we reviewed violated special grant conditions relating to union activities."

Since the GAO report, no one has had the temerity to reopen the issue.

Our investigation of the relationship between CRLA and UFWOC demands that the case be reopened. Far from disposing of the issue, the GAO report has served as a launching pad for a relationship that has grown steadily since 1968, when the report was released. This growth has taken place despite efforts to strengthen the special conditions to CRLA's grant in each of the funding years 1968, 1969, and 1970. If the GAO had conducted its study under the special conditions applied since 1968, we are confident they would have reached much different conclusions.

The close association of CRLA and UFWOC is suggested by the following example:

--UFWOC's first major target area was the grape strike in Delano. In 1968, CRLA's McFarland office, which services Delano, was among the largest of its regional offices. In 1969 and 1970, the union shifted its attention towards Imperial County and Salinas. During those two years, the CRLA McFarland office shrunk to approximately one-half its former size,as it built up its offices in El Centro and Salinas.

--CRLA's original Board of Trustees included four members who were either directly connected with UFWOC or closely associated with its work. They were: Cesar Chavez,

President of UFWOC; Oscar Gonzales, President of the United Farm Workers of San Jose; Larry Itliong, of the Agricultural Workers Organizing Committee; and Miss Kathryn Peake, Vice Chairman, Emergency Committee to Aid Farmworkers.

--Gerry Cohen, now General Counsel of UFWOC, was formerly employed in CRLA's McFarland office. Charles Farnsworth, one of Cohen's partners and active in UFWOC matters, worked in CRLA's El Centro office. Another partner, David Averbuck, came from CRLA's Marysville office. Gilbert Flores, alias Baby Huey, is both a community worker for CRLA's McFarland office and a personal bodyguard for UFWOC's Cesar Chavez.

In all of the demonstrations and confrontations of UFWOC, there is always a prominence of CRLA staff attorneys or staff members.

The report states, "It now appears clear that CRLA's conduct with respect to Agriculture in California does not consist of simply isolated actions and cases helping individual poor farm workers and their families with their problems. There is, in fact, a grand strategy, which, until one has an opportunity to view the scene from a statewide prospective, is only a concealed agenda."

This grand strategy is to organize and unionize the farm workers in California into a labor monolith--a monopoly

union--under the control and direction of UFWOC. The means of accomplishing this objective are:

(1) Assistance to UFWOC's activists--pickets, demonstrators, organizers--and its rank and file members;

(2) Diminution or destruction of the major obstacles in its path, to wit, the Farm Labor Service of the State of California and the farm labor contractors who operate throughout the State.

A CASE OF NONCOMPLIANCE, CRIMINAL REPRESENTATION

Contrary to the claim of CRLA, as contained in its 1971 refunding proposal--narrative and budget--and which on page 33 is claimed, "CRLA has never been formally accused of violating the conditions of its grant, with regard to handling of criminal cases," the 1971 evaluation study cites 17 specific cases in which CRLA attorneys were attorneys of record in purely criminal actions.

The District Attorney of Sutter County indicates that he has given up objecting to representation of criminals by CRLA attorneys. Several district attorneys have shifted the focus of their concern about CRLA's representing criminal defendants regarding violation of CRLA's grant conditions to the quality of representation that criminal defendants are receiving from CRLA attorneys.

One district attorney said he felt uncomfortable having to assist CRLA attorneys in criminal defense, when

his office was supposed to be on the other side of the case. He said he has continued to do it reluctantly, because of his fear that otherwise the defendants would not receive adequate counsel.

When the fact that CRLA attorneys represented clients in criminal actions has been brought to the attention of CRLA management in San Francisco, the central office inevitably responds by saying that that the erring attorney has provided representation "on his own time, at his own expenses, and without charging a fee." In response to this claim, one Deputy District Attorney declared, "This is ridiculous...to say that an attorney working for a corporate law firm may take on clients which are prohibited to him during a regular working day. To follow this to its logical conclusion, then a District Attorney might well represent a lucrative personal injury case or rich criminal defendant on interim 'days off.'"

It is interesting to note that many of the criminal cases handled by CRLA attorneys are the result of arrests in demonstrations that CRLA helped to foment.

Eligibility Standard for CRLA Attorneys

There is a requirement for CRLA that clients meet a prescribed income eligibility standard, so that those, in fact, able to pay for an attorney will do so and will not

utilize the limited resources of CRLA.

The report states that during the recent evaluation there was never any indication that there was a concern on the part of any CRLA office that the eligibility guidelines be adhered to. The report documents cases in which CRLA attorneys represented individuals and/or organizations that were not even close to the guideline restrictions. One case documented accuses CRLA of filing a suit for a plaintiff who was worth in excess of $100,000. In another case, CRLA represented the Chowchilla Committee for Better Schools and one affiant states that the treasurer of that organization is worth in excess of $250,000, and that the main members of the Committee are financially above the prescribed guidelines for eligibility to receive free legal aid from CRLA. There are eight cases documented in the 1971 evaluation report showing gross neglect in conforming with the OEO grant guidelines for eligibility by CRLA.

Soliciting Clients and Stirring Up Litigation

The report states, "The issue of stirring up litigation is a particularly sensitive one, because of the extent to which litigation of any sort, particularly suits alleging exploitation between one group and another, can cause hostilities and tensions between them. This is especially

dangerous in race relations, where tensions and hostilities may already be aggravated to near violence."

The report documents a case in which a CRLA paid staff attorney let it be known that he was "looking for a woman welfare recipient who had been requested to take a polygraph examination by the Madera County District Attorney's office so that they could take legal action." In another case, it is stated that the CRLA local office at El Centro solicited clients to make complaints against feed lots in the Calexico area ("Imperial Valley News" of February 3, 1967.) The story said, in part, that the CRLA attorney "needs a class suit to work with a group of people to bring an action..." The article goes on to state that complaints may be made to the CRLA office in El Centro. In Modesto, during the school lunch demonstrations during January, 1970, CRLA was responsible for organizing and directing a demonstration which resulted in the arrest and trial of some 42 demonstrators for trespass on the Modesto School District building in April, 1970. An affidavit relative to this matter states:

> "...These two lawyers, (CRLA), were all too active. First, they told the demonstrators that they would represent them legally in court if arrested. Second, they spent the entire day, day after day, at the city school's offices, with the demonstrators, where in fact they should have been at their offices doing their official duties talking to clients..."

In another case, during September, 1970, on a newscast on KSVW, Channel 8, Salinas, the newscaster quoted a CRLA attorney who solicited clients for the CRLA office.

Stirring up litigation often involves conscripting plaintiffs. In the case of Wolfin v. Vinson, CRLA filed suit on behalf of 16 Indians against a local car dealer. When they were later questioned in depositions, 15 of the 16 plaintiffs denied that they had ever been requested to be part of the lawsuit. Duirng the "250 Farm Workers" action against the California Farm Labor Bureau, certain of the 250 plaintiffs thought they were signing a mere petition only to find out later that the petition was, in fact, a lawsuit against the Farm Labor Bureau.

The report states that CRLA attorneys solicitation of clients and stirring up of litigation reveals at best a blatant indifference to the needs of the poor, at worst a disposition to use their clients as ammunition in their efforts to wage idealogical warfare against the "establishment."

A Case of Noncompliance--Conduct Unbecoming an Attorney

This section of the report comments on a myriad of documented instances in which CRLA attorneys have flaunted

American Bar Association Rule 29:

> "He (an attorney) should strive at all times to uphold the honor and maintain the dignity of the profession..."

A case is cited wherein a CRLA attorney sent a telegram to the Deputy Assistant Secretary for Health and Scientific Affairs, Department of HEW in Washington, D.C., requesting that funds for the Migrant Health Clinic in Brawley not be delayed or its opening date postponed. This telegram was sent over the name of the President of the Imperial County Medical Association. The charge for the telegram was made to CRLA. No approval from the President of the Imperial County Medical Association was given to CRLA to use his name on the telegram.

Cases are related wherein CRLA attorneys and staff members have used vile and abusive language (including threats in public meetings), with little or no regard to the status of their profession.

On or about March 27, 1970, Delano Police Officer C. Brown, stopped a vehicle driven by Gerry F. Hernandez, who ran a stop sign. According to his 7/21/70 affidavit, Officer Brown issued a warning but no citation and was about to respond to a pending call when CRLA Attorney John Ortega pulled up offering to give the driver legal assistance. Brown explained that no citation was being issued and asked Mr. Ortega for a business card, whereupon Ortega stated, "I don't

When CRLA files a frivolous or harassing lawsuit, the party sued is forced to pay for the retention of a private attorney for defense. In many cases, especially in unlawful detainer cases, people of meager means are put under the financial hardship of retaining a private attorney while CRLA, with unlimited government resources, can delay and prolong the case and costs while the hapless defendant is put under a more and more severe hardship.

A leitmotif in case after case seems to show an immediacy in finality in the modus operandi of CRLA attorneys that defies reason, negotiation, and calculation. They are prone to sue, seek injunctive action as in the vernacular "do their thing", without due respect to the disciplined manner and thought process that is so vitally important in the practice of law.

They are prone to initiate action without regard to a cost or time factor that would be prohibitive for a private attorney and his client. Case after case this office report shows how CRLA attorneys have carefully refined the immediate lawsuit as a blatant weapon of instant harassment.

Waste, Inefficiency, and Misuse of Resources

Deputy CRLA Director Gary Bellow in an address at the Harvard Sesquicentennial Celebration in 1967, stated:

> "No matter how many hours a day the (legal services offices) remain open, no matter what systems are used to streamline intake and processing, the offices cannot handle the floods of people that come to them for legal help..."

Despite prior statements like the above, the evaluation documents numerous instances in which the CRLA, its staff and attorneys, misuse the resources it so often declares to be inadequate. Often the problem is simple waste: CRLA filed a suit against the Madera Unified School District to prevent the closing of a local school, which would permit teachers and students to participate in an emergency grape harvest. In the course of handling the matter, CRLA demonstrated a total disregard for cost. For example, two attorneys, a law clerk and an investigator were usually all present during the taking of depositions, when all that was necessary was one attorney. Efforts were also made to make photocopies of voluminous school records, whether or not they were relevant to the issues in the case.

In the unlawful detainer action of Watts v. Parker, during a three-day jury trial in Modesto Municipal Court, three CRLA attorneys and a CRLA investigator sat through almost all of the trial. During the same period, the Madera office had a policy of refusing to handle domestic matters.

Case after case handled by CRLA shows a gross misuse of its personnel. Throughout the State, observations by local

attorneys and judges are documented that CRLA attorneys often travel in groups of two's and three's wherever they go during the working day. In view of the severe legitimate need the poor have for legal services, this form of waste and misuse of personnel seems inexcusable.

Publicity

American Bar Association, Rule 20, states in part, "Newspaper publications by a lawyer as to pending or anticipated litigation may interfere with a fair trial in the courts and otherwise prejudice the due administration of justice."

It is a common practice for CRLA attorneys and CRLA offices to send out press releases on a regular basis concerning the cases they are handling in court. CRLA uses the newspapers and publicity to create a public image favorable to themselves and unfavorable to their adversaries. Rural newspaper editors throughout the State report that the local CRLA office is in the habit of dropping off copies of all court filings and releases on their proceedings in acts of pure press agentry.

The Twilight Zone of CRLA

CRLA has an office in Sacramento. One of the Sacramento staff attorneys is registered as a lobbyist for

the State Legislature. It is abundantly clear that this office not only generates new legislation but lobbys extensively on behalf of its own legislative programs and those of others it considers appropriate. During the 1970 Session of the Legislature, James F. Smith, CRLA lobbyist, successfully opposed certain amendments to the State Welfare Laws that would have reduced the cost of welfare to the State. Although lobbying is not specifically proscribed in the CRLA grant or OEO legal guidelines, neither is it explicitly authorized.

It is time that Congress and/or National OEO clarifies this area of activity. The lobbying in question is a very close bedfellow of the "suit against the government" activity. Clearly it is time that policy decisions were made regarding these activities. Obviously such suits increase cost of government, sometimes dramatically when the suits are successfully prosecuted. It is simply a question of whether, on the one hand, tax dollars ought to pay the salaries of attorneys to bring court actions that increase costs of government, and on the other, lobby and intrigue legislators not to rewrite or amend the laws to cut down on these costs.

By virtue of a special condition to its grant, CRLA is prohibited from accepting cases which generate fees, except in very special cases.

Most fee-generating cases fall into the categories of personal injury and workman's compensation. Such cases are easily and, presumably, regularly referred by CRLA to private attorneys practicing in the various communities. Nevertheless, CRLA regularly files civil actions which contain prayers for substantial monetary damages. In most instances, it appears that CRLA has not first referred such cases to other attorneys.

CRLA has filed suits claiming monetary damages in the following kinds of cases, among others: police beatings and false imprisonment--$125,000; unlawful detention and violation of civil rights--$423,000 general and punitive damages; infliction of corporal punishment upon a school child--$39,600 in general and punitive damages; claim of illegal firing for union activity--over $500,000 general and punitive damages; a false arrest and police brutality case, claiming $40,000 damages; a claim of personal injuries in a counter-claim to an unlawful detainer action--$20,000 damages; a personal injury action against the city of Delano--claim of $100,000 in general damages; an action against the City of Delano and its police officers--a claim of $11,000 in exempliary and general damages; a charge of injury sustained due to an unlawful dismissal by the City of Delano--$5,000 damages.

In filing these cases, it appears to us that CRLA finds itself on the horns of a dilemma: Either CRLA has simply side-stepped the fee-generating prohibition and has proceeded earnestly to secure just compensation for its clients; or these cases are not, realistically speaking, capable of producing a dollar result for the plaintiff--no demonstrable damage--in which event these cases must be deemed little more than frivolous or harassing actions.

Conclusion--the Case for an Alternative

The 1971 report states plainly that the problem of CRLA is institutional. Its recurring problems are based on structural defects.

The key, according to the evaluation, is local control and home rule. These are the essence of the New Federalism, to which the Nixon Administration has given open support. The Economic Opportunity Act was enacted in large measure to supplement what increasingly looked like a colonialist system, in which social services for the disadvantaged were controlled and administered far from the areas of impact. OEO emphasized communities, and in so doing, created the first important innovation in social services since the New Deal.

CRLA's dominant institutional and structural failing occurs because it was constituted at odds with OEO's prevailing

premise. CRLA has had the problems it has substantially because its organization ignored the rest of OEO's experience--which has demonstrated the value of community participation and home rule.

The participation of local bar associations seems almost nonexistant. In the fall of 1970, the State Bar sent out a questionnaire to the presidents of all the State's county bar associations, asking about their participation in CRLA's programs. Some local bar members asked at the time if the State Bar was "kidding", given their nonexistant participation in CRLA's affairs. The following response from local state bars indicates the true levels of support. Among those bar associations which did not go on affirmative record condemning CRLA, we were unable to find a single case in which a local bar association had actively assisted or participated in the program.

These efforts to promote local control of CRLA failed because the essential structure of CRLA's program fails to give institutional support to local control.

The problem is not difficult to understand. The people who have become CRLA attorneys are rarely from the communities they serve. They are often from big cities, often from the East Coast, and equally often possess no appreciation of, or sensitivity for, the communities they serve. The problem is cultural. The colonialist comparison is difficult to

resist, for there is a definite cultural dislocation when an urban lawyer is placed in a small community like El Centro or Marysville. Speaking for the CRLA lawyers, one participant in the August 1970 evaluation put it well when he referred to one of CRLA's service areas as a "desolate and lonely spot."

The CRLA problem for the local community is often acute. Young urban lawyers come in and perhaps assuming a hostility against them that does not exist, proceeds to produce a genuine and legitimate hostility for the community. Then, too, CRLA attorneys show a conspicuous disinterest in any form of cooperation or community participation. The contrast between the OEO legal service program in, for example, Visalia, and CRLA in almost everyone of its service areas is incredible. While the Visalia program has the full cooperation and participation of the local bar, CRLA has at best arms' length coolness at worst outright hostility.

It was startling to go out into these communities and watch CRLA try to relate to the communities. In most of its service areas, CRLA is the largest office in town, with probably the only lawfirm's Xerox machine. In virtually every case CRLA moved into town and began making demands on everyone with whom they had any contact: Judges, the local district attorney, welfare agencies, farm labor bureau, etc. Often, they dressed in blue jeans, even in court, and sometimes with-

out shoes. Because they have no practical economic limitations on the way they prosecute any particular lawsuit, they have unlimited opportunities to harass whenever they choose, not only private defendants, but public agencies. They rarely ask--they usually demand. They typically become involved in school activities, in which they encourage high school students to prosecute legal claims based on the constitutional rights of a student to be immuned from reasonable school disciplinary procedures. In their relations with children, often they act as if they are above the law, indifferent to the wishes of the children's parents, where the children may be useful to them in pursuing a "cause" they may think important or in vogue at the time. Usually it relates to their general assault on authority and discipline.

In private litigation, CRLA attorneys do not consider the economic limitations on their opponents. Anyone at any time can be their defendant, and they can (and will) pursue their point without regard to economic realities or the underlying merits of the case except as they see it.

In reality, they are the plaintiff as well as the attorney, they have no economic or other stake and can therefore persist to incredible lengths. Their only stakes are philosophical and psychological--which may press for abandon rather than restraint where the "cause" is right in their way of doing it.

In all quarters people express a real concern for the legal needs of poor people and whether they are being met. But people out in the communities, who have actual contact with poor people, see their individual needs as involving largely such things as domestic relations problems, debt adjustment, and nonlitigation service work, in which a poor person simply needs to have the answer to a question. This notion does not deny the legitimate place of the so-called "landmark" case, when a legitimate opportunity to bring one arises.

It is not enough in response simply to say as CRLA so often does, that creative change is bound to stir some people up. Slogans are appropriate in some situations, but not where tensions and hostilities and even race hatred may result from them. This report is replete with such situations where creative change was available without tensions and hostilities, but where CRLA chose a devisive route.

Those sympathetic with CRLA are often quoted as saying that the people in the communities served should not feel the way they do about things. These people say it is absurd to be concerned that poverty lawyers wear no shoes in court. But such statements miss the point about communities and the reasons for home rule. Whether local communities are right or wrong to feel as they do about the way CRLA lawyers

dress and act in court is irrelevant to the issue of community. The fact is they do feel that way; the result is that such behavior, while perhaps acceptable in abstract terms (or somewhere else), in a rural community setting tends to cause disruptions and tensions that were not there before. The argument that bare-footed or otherwise unkempt appearances in court are necessary in order for poverty lawyers to relate to the poor are disingenuous. The essence of a lawyer's responsibility is to the legal system and to the court, and appearance in court is the symbol of his acceptance of that obligation. How a poverty lawyer behaves might well affect a poor person's level of respect for the legal system.

CRLA's impact on the poor themselves was the subject of the greatest concern throughout the evaluation. For it is always the poor who are often helpless to speak for themselves. As we have seen so often, they are always the ones who end up with nothing when vested interests begin jockeying for position. The dangers of exploitation are particularly acute when a social service is involved (a) because the provider has the power to withhold it where it deems fit, and (b) because the moralizing and pieties that inevitably accompany the service makes its true nature all the more difficult to expose.

The activities of CRLA, not only in the explicit revolutionary associations of some of its lawyers and in the overall ideological thrust of their program, call into serious question the depth of their commitment to our legal system. This happens at a time when some people especially in the media are suggesting that the causes of certain people ought to put them above the law. As the entire evaluation was reviewed, it was discovered that the essence of CRLA's direction is a passion to wage ideological warfare, with the poor as ammunition. The result is to force upon the poor a form of exploitation that is in some ways worse and enervating than any other. CRLA has exploited the poor in two ways: first, giving high visibility to a cause in which exploitation is alleged but not a reality, tends to encourage the poor to feel exploited and impotent; second, in supporting organizations like UFWOC and in their lobbying activities, CRLA arbitrarily chooses one group of poor people over another. Thus, CRLA, which is supposed to deliver service to the poor impartially, has chosen sides--and has made it impossible for one group of poor people to get any service at all.

Recommendation

The report concludes by saying: "The State Office of Economic Opportunity recommends that California Rural

Legal Assistance, Inc., funding for year 1971 be disapproved, pursuant to the Governor's authority under Section 242 of the Economic Opportunity Act of 1964, as amended."

Alternative Plan--Privately Financed Legal Services for the Rural Poor

This Administration's deep concern for meeting the legitimate civil legal needs of indigents has prompted us to devise a privately financed alternative to CRLA which holds enormous promise for truly serving the rural poor. In the process of the in-depth analysis of CRLA, we have gained new insight into the legal needs of the poor, which has provided us with the kind of background necessary to design the best possible legal system for the poor. In the comprehension of CRLA's failure, we stand on the brink of a major breakthrough in privately financed legal services for the poor, which will insure not only local responsiveness, but the mobilization and support of the entire community behind the legitimate legal needs of the poor.

Our program constitutes much more than simply substituting private dollars for federal dollars. We intend to create variations in the structure of each office, through which we can determine the most effective way, as well as the most efficient way, to meet the legitimate legal service needs of the poor. The variations will include, but not necessarily be limited to, the following schema. (It should be noted that in each case, the local bar association will be the grantee of the funds, will control the program, and will participate fully and completely in the design of the

program for its particular area.)

(a) We will utilize the employed attorney and the judicare concepts in different areas. (We recognize that judicare has been rather costly where tried in demonstration programs to date. We hope that the application of certain standards, listed below, will assure that the program is not abused nor excessively costly.)

(b) We intend to insert into the program in the various areas variations such as: (1) fixed level eligibility standards for the poor; (2) sliding scale eligibility standards for the poor (the client pays part of the legal cost based on income level); (3) variations on fee schedules in judicare; (4) a requirement that attorneys interested in taking advantage of judicare and participating in the program must first contribute a set number of hours free of charge to poor clients to qualify for participation.

With respect to judicare, our hope is to utilize existing bar resources more effectively, to ration scarce legal resources by adding some cost to their utilization so that at all times there is some barrier to abuse or misuse of such resources. In suggesting a requirement that attorneys contribute some time before qualifying to participate in judicare, we seek to identify those attorneys who are wholeheartedly, rather than just marginally, interested in assisting the poor with their legal needs.

We are excited by the opportunity to develop, study and evaluate legal services programs containing these variations.

Once the design is established for the program in the various counties to be served, we will provide you with more details on design features county-by-county.