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OFFICE OF THE GOVERNOR  
Sacramento, California  
Contact: Paul Beck  
445-4571 5-13-71

MEMO TO THE PRESS

The attached is for your information.

Certain names contained in the CRLA memoranda have been blocked out to prevent the possibility of harm to innocent persons.

# # # # #

EJG

# State of California

LEWIS K. UHLER  
DIRECTOR



RONALD REAGAN  
GOVERNOR

## Office of Economic Opportunity

DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT  
800 CAPITOL MALL, SACRAMENTO 95814  
916 445-9670 OR 445-7011

Memorandum to: Governor Reagan  
From: Lewis K. Uhler *LKU*  
Subject: Commission Hearings on CRLA  
Date: May 13, 1971

For your information, the attached memoranda have been submitted to the Office of Economic Opportunity Commission on California Rural Legal Assistance, Inc. (CRLA), by Attorney F. Douglas McDaniell of El Centro, who has requested to testify before the Commission.

The two inter-office memos are from Robert B. Johnstone, a CRLA attorney in the El Centro office, to Marty Glick, director of litigation for CRLA.

The memos support our contention that CRLA has been directly involved in union (United Farm Workers' Organizing Committee - UFWOC) activities--a deliberate violation of CRLA's grant conditions.

Among other things, the documents display a cynical disregard for the integrity of CRLA's proposed witnesses on the part of CRLA attorneys.

OFFICE OF ECONOMIC OPPORTUNITY  
COMMISSION ON  
CALIFORNIA RURAL LEGAL ASSISTANCE, INC.  
Box 36102  
450 Golden Gate Avenue  
San Francisco, Calif. 94102

FORM OF REQUEST TO TESTIFY\*  
(Must be filed in Commission office by  
Noon Wednesday, May 12, 1971)

Name of Proposed Witness: F. DOUGLAS McDANIEL

Address of Witness: 444 So. Eighth Street, El Centro, CA 92243

Name of Counsel: WILLIAM KNECHT

Address of Counsel: 2855 Telegraph Avenue, Berkeley, CA 94705

Concise statement of the alleged facts to be proved by such witness in terms sufficiently specific to give State OEO and CRLA fair and reasonable notice of such facts and the Commission a fair opportunity to determine the appropriateness of granting such request:

Witness observed CRLA attorneys from the El Centro office in company with U.F.W.O.C. massed pickets at an Abatti field on June 6, 1970. Witness then and there talked to John Denvir, a CRLA attorney, who stated that he was advising the U.F.W.O.C. pickets to violate the restraining order then in force and that they were trying to provoke a contempt citation.

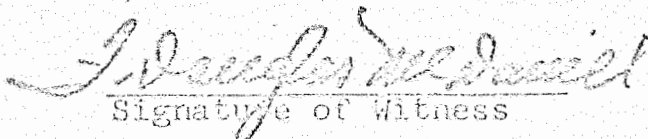
Witness will also testify concerning his observations as a member of the board of trustees of CRLA from August of 1967 to January of 1969, as contemplated by Rule 4(a).

A description of any documents to be introduced into evidence, including the name of addressee and addressor and the date of the document. (Copies must be attached):

CRLA inter-office memorandum dated April 2, 1971, with covering letter of Robert Johnstone dated April 6, 1971.

Counsel will be provided to represent those witnesses which are selected to appear but do not have counsel of their own.

\*See copies of Rules attached -- note especially Rule 2(b)(1),(2) and (3).

  
Signature of Witness

MARTY GLICK

April 6, 1971

ROBERT B. JOHNSTONE - EL CENTRO

EL CENTRO REFUNDING COMMISSION INFORMATION

Here is most of the El Centro Refunding Commission information. The only thing missing is the various information regarding our local Advisory Committee, its meetings and a witness who could testify as to its priorities. This information is in the process of being "assembled."

ROBERT JOHNSTONE

RBJ:db

UNITED STATES GOVERNMENT

# Memorandum

TO : MARTY GLICK - Central CRLA

DATE: 4-2-71

FROM : ROBERT B. JOHNSTONE - El Centro CRLA

SUBJECT: EL CENTRO OFFICE OFFICE REFUNDING COMMISSION INFORMATION

I. NAMES AND ADDRESSES OF WITNESSES WHO CAN TESTIFY  
AS TO CRLA:

(A.) El Centro Witnesses Listed In Bill McCabe  
Memo Of March 16, 1971.

- (1) Ventura Huerta, Project Director  
Clinica De Salubridad De Campesinos  
1166 "K" Street  
Brawley, California 92227

Mr. Huerta has a Master's degree in Public Health from the University of California and is the Director of a migrant clinic for migrant farmworkers in Brawley, California set up with HEW money. This clinic was set up largely through the efforts of the El Centro CRLA office which documented its need in the face of strong opposition from the Imperial County Board of Supervisors and the Imperial County Medical Society. CRLA also represented the clinic and the Casa De Amistad, the local funding grantee for the clinic, in a lawsuit instituted by Brawley doctors to stop the funding of the clinic.

Our feeling is that some staff member of the clinic should be a witness but that it probably should not be Mr. Huerta as Mr. Huerta lacks the stage presence in articulation to be a convincing witness. (See resumes below regarding Doctors Flannagan and Thompson of the clinic staff.)



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan



CALIFORNIA RURAL LEGAL ASSISTANCE

Page 2.

Memo To: Marty Glick  
From: Robert B. Johnstone  
Date: April 2, 1971

- (2) Dr. David Flannagan  
665 Maryland Avenue  
Brawley, California 92227

Dr. Flannagan is one of the three staff doctors at the Brawley migrant clinic mentioned above. From the point of view of articulation and middle class "apple pie" appearance, Dr. Flannagan would be the ideal witness to testify to CRLA's involvement with the clinic and related matters. He is quite soft-spoken and articulate and can testify to the fact that the clinic would probably not exist without CRLA, that the clinic is very necessary and can do so in a very convincing, soft-spoken, middle class way.

The basic question probably comes down to a choice between him and Dr. Thompson mentioned in the following paragraph. Dr. Thompson is probably not as poised or as "apple pie" looking as Dr. Flannagan nor, perhaps, as softly articulate. However, he was present in Imperial County during the period of time from August 1 until Oct. 1, 1970, which were the critical months in the funding of the clinic and can testify in more detail to our actual involvement during those months than Dr. Flannagan can.

- (3) Dr. Thompson, Robert  
Clinica De Salubridad De Campesinos  
1166 "K" Street  
Brawley, California 92227

See resumes of Ventura Huerta and Dr. David Flannagan above. Basically there is nothing more to add here. Dr. Thompson is an Internist who prior to joining the migrant clinic in Brawley was with The Good Ship Hope in Columbia. He is able to testify to more of the early facts about CRLA's involvement with the clinic. However, he is also more excitable and does not present as much of a middle class image as Dr. David Flannagan does.

CALIFORNIA RURAL LEGAL ASSISTANCE

Page 3.

Memo To: Marty Glick  
From: Robert B. Johnstone  
Date: April 2, 1971

- (4) Michael English  
Imperial County Welfare Department  
1046 Commercial Street  
El Centro, California 92243

Our feeling is that basically here we basically have a choice between Michael English and his wife, Donna English, both of whom are Social Workers for the Imperial County Welfare Department. Both of them know the CRLA "law and order" song and dance by heart and in addition can testify to the innumerable service which we handle and also to the cooperative arrangement we have with the Imperial County Welfare Department in regard to divorces and adoptions. (We do default divorces for people on welfare if an initial questionnaire is filled out by the Social Worker at the Imperial County Welfare Department, this amounts to approximately 50 to 100 per year.) I think, Donna English would be the superior witness in this regard as Michael's beard and hair are probably contrary to the image we are trying to project. Donna exudes loving, middle class concern for the welfare of poor people and as mentioned above knows by heart the song and dance. In addition, Donna is a member of the El Centro CRLA Advisory Committee. However, I don't think, she is the witness we would prefer to have in that regard.

- (5) Mr. [REDACTED]  
[REDACTED]  
[REDACTED]  
Brawley, California [REDACTED]

[REDACTED] Mr. [REDACTED] is a very convincing, soft-spoken witness on the stand (having observed him once in the Brawley doctor's lawsuit) and in addition



CALIFORNIA RURAL LEGAL ASSISTANCE

Page 4.

Memo To: Marty Glick

From: Robert B. Johnstone

Date: April 2, 1971

will basically say anything we tell him to. He is able to testify from first-hand knowledge and very convincingly that the presence of CRLA attorneys in regard to the controversial Brawley Button suit saved that campus from violence since the Mexican-American students have come to trust the CRLA lawyers, etc., etc. and are learning to use the American system of justice, etc., etc. because of CRLA lawyers. Again, I stress, [REDACTED] will say anything we want him to.

(6)

[REDACTED]  
City Councilman  
[REDACTED]

Mr. [REDACTED] is probably one of our most potentially impressive witnesses. He is very soft-spoken, very articulate and in addition to being able to testify to innumerable individual service cases he has referred to our office, he can give a very heart-warming pitch on his attempts in [REDACTED] as a City Councilman to convince young people to use the system and its laws to create change rather than resorting to violence and to the fact that because of CRLA he has been having increasing success in so doing. Again, I think, he would be a must as a witness and by and large will testify to anything we want him to.

(7)

Mr. [REDACTED]

[REDACTED] City Councilman also

[REDACTED] Commission  
of Imperial County

Much of what I have already said in regard to [REDACTED] is also true of [REDACTED]. He will testify to anything we wish him to along the "law and order" lines. Also and, perhaps, very important is that he will testify to the fact that while the Uhler reports purported to give the impression that the Imperial County Economic Opportunity Commission opposed CRLA neither he nor the Director of the EOC were ever contacted by any member of the Uhler Commission. One draw-back on [REDACTED] is that his son, [REDACTED] is a CRLA attorney in the Santa Rosa office, which gives some basis for impeachment of his testimony.

CALIFORNIA RURAL LEGAL ASSISTANCE

Page 5.

Memo To: Marty Glick

From: Robert B. Johnstone

Date: April 2, 1971

(8) [REDACTED]  
Imperial County Poverty Program

I would say that as a representative of the poor Mexican-American, [REDACTED] is probably the most convincing witness we have. He testified on the stand in San Diego in our Brawley Doctor's suit and was absolutely sensational as Marty Glick will, I am sure, agree. Faced with some fairly difficult cross-examination questions, he was totally unflustered, humble and very, very effective. He can testify as to individual service cases he has sent to us and as to the necessity of our involvement in the clinic issue and to our very, very close ties with the Economic Opportunity Office in terms of helping them out with service cases.

(9) [REDACTED]  
[REDACTED]  
[REDACTED]  
El Centro, California 92243

Mr. [REDACTED] is in a very delicate political position as he is directly under the Board of Supervisors of Imperial County. He would make a convincing witness; however, I would prefer not to put him on the spot since we can probably obtain the same basic testimony through Willie Moreno, the Chairman of the Board of Directors and through Ernie Caro, one of their Program Directors. However, to the extent it is important I am sure we could probably get Mr. [REDACTED] to testify in regard to the fact that he was not contacted at all during the whole Uhler investigation despite the fact that one of his letters was used to give the impression that the El Centro CRLA was opposed by EOC.

CALIFORNIA RURAL LEGAL ASSISTANCE

Page 6.

Memo To: Marty Glick  
From: Robert B. Johnstone  
Date: April 2, 1971

- (10) Colin O'Brian, Judge Justice Court  
Post Office Box 7  
Westmorland, California

Mr. O'Brian is very enthusiastically pro CRLA despite the fact that his appointment as Justice Court Judge was through a County Supervisor who is anti-CRLA. I have not approached him about the possibility of testifying. He might; however, it would put him very much on the spot politically. If it is necessary and if there is a lack of judges to testify, I will be happy to contact him.

(B.) ADDITIONAL WITNESSES NOT MENTIONED IN THE LETTER OF WILLIAM McCABE:

- (1) Bonnie Best King  
279 "J" Street  
Brawley, California 92227

I would suggest that Mrs. King is a "must" as a witness. She was an EMR teacher at Brawley Union High School until June of 1970 and was an EMR teacher at the very time of the CRLA statewide EMR class-action. She is a lifelong Republican and very, very articulate (her only problem is that she sometimes talks too much). She is able to testify very convincingly to the validity of the EMR suit and more important to the fact that on one occasion that she remembers very explicitly, the intervention of CRLA attorneys at Brawley Union High School was the single cause of some students who thought they had a gripe but were basically just wising off, returning to school solely on the basis of the fact that they trusted the judgment of CRLA that they were wrong. This involved students of Mrs. King who were basically trying to concoct a racial issue where one did not exist. CRLA attorney, Robert Johnstone, spoke with Mrs. King and after speaking to the students they all returned to school and dropped the issue and she will very convincingly testify to this. Also, she has expressed a willingness to testify to a somewhat broader issue that maybe important but maybe beyond the scope of what we are trying to do. I think, however, it could be done and done

CALIFORNIA RURAL LEGAL ASSISTANCE

Page 7.

Memo To: Marty Glick

From: Robert B. Johnstone

Date: April 2, 1971

convincingly. This is the issue of CRLA "stirring up racial turmoil where none existed before". I am sure she would be willing to testify that racial discrimination has existed in the past, that it exists today and even where it does not exist its fisticial effects in education and job opportunity exists, and that the effect of CRLA, if any, in this area has been to calm the flames of an imminent explosion and to help to show potentially dissident individuals that the American system of democracy is worth preserving, etc., etc.

- (2) The Rev. Oscar Newby  
Neighborhood House  
506 East Fourth Street  
Calexico, California 92231

The Rev. Newby is a very sincere, 50-year-old Minister who runs the Neighborhood House in Calexico, which is basically a community center for various poor-person, oriented activities. He would particularly be able to testify to the help he has gotten from us in setting up a drug-treatment hotline in the county. We have incorporated this group for him and since drug abuse prevention is always a winner, I think, he would be important to put on the stand. He could also testify to individual cases which have been referred to us, etc.

- (3) [REDACTED] or [REDACTED]

These are two very articulate student leaders in Imperial Valley. They would say anything we would want them to and have basically already learned the CRLA song and dance by heart.

Mr. [REDACTED] is a Vietnam veteran also and can probably give some good heart-throb stuff about trying to keep kids within the system.



CALIFORNIA RURAL LEGAL ASSISTANCE

Page 8.

Memo To: Marty Glick

From: Robert B. Johnstone

Date: April 2, 1971

II. MEMORANDUM ON THE UHLER CHARGES RELATING TO THE LOCAL OFFICE:

The only things which should be included in addition to the rebuttal already submitted by CRLA are as follows:

(A) INVOLVEMENT OF EL CENTRO COMMUNITY WORKER, HECTOR REYES, WITH THE UNITED FARMWORKERS ORGANIZING COMMITTEE:

(This should self-destruct within 30 seconds after being read.) For the past four years Mr. Reyes has basically worked fulltime out of the United Farmworkers office in Calexico. Our official position on this, of course, is not that his time has been that extensive in that office but that as a good community worker he uses that office as an outreach on the basis that hundreds of poor farmworkers pass through it every day and he is able to communicate with them in regard to their legal problems he then refers to CRLA. Since the refunding crisis, Mr. Reyes has not been spending time in that office. However, one potentially embarrassing feature of his time there is a large number of telephone calls from that office to the Delano UFWOC office which are billed to our telephone. Our position on this is that we never authorized it and ~~that since we discovered this we issued immediate instructions to the Telephone Company (I believe last December) that we would accept no more billings to this number on third party calls and that only credit calls would be accepted.~~ From December to February, 1971, a number of credit calls from the Calexico Office to Delano on Hector's credit card # were recorded. Hector has reported his credit card as stolen and a new card has been issued and basically our official position on this is that someone must have gotten a hold of his card. This has not come out yet and hopefully it will not. There is no way that we can deny Hector's presence at the farmworkers' office and, I think, our best approach to this is to readily admit that he did spend time there in an effort to keep in contact with the farm working poor and refer their individual legal problems to us. In addition, as the report reflects, he was very actively involved in the canteloupe picketing activity in June of 1970 and has on occasion been a speaker at a Cesar Chavez rally.

✓ In addition a memo was given to Hector regarding use of his credit card. (copy attached)

CALIFORNIA RURAL LEGAL ASSISTANCE

Page 9.

Memo To: Marty Glick.  
From: Robert B. Johnstone  
Date: April 2, 1971

The rallies have always been on Sunday to my knowledge and as to the canteloupe picketing, you have our response in the rebuttal. He, like Mr. Johnstone of this office and Mr. Banaga, took vacation time during that whole period.

(B) MECHA AT IMPERIAL VALLEY COLLEGE

The only other potentially dangerous, new charges that could be made in regard to this office would involve an incident which was developed at Imperial Valley College over the past six weeks. MECHA, the student group of the college has been picketing the student cafeteria in an effort to get them to use only UFWOC lettuce. On March 25th, MECHA was suspended from the campus and this has received alot of publicity in the local papers and there is apossibility that there maybe some student activities out there which could argueably be called demonstrations. We are attorneys for poor individual members of MECHA in this matter. However, we have witnesses to the effect that the basic effort has been to convince the students to remain peaceful, "law and order", etc.

I am informed that at the time of their last picketing a week ago a State Investigator from Governor Reagon's Office investigating CRLA was at the campus; perhaps, in the hopes that there would be some violence he could get pictures of. However, it was all totally peaceful and within the first amendment so he was probably disappointed and he was probably also disappointed because no CRLA person was present.

Our position on this, of course, is that we are representing individual poor students on a First Amendment issue uhlrelated to Chavez or the lettuce boycott. Our further position is that this is pending litigation and, therefore, we are not free to talk about it. But, we do infact, represent individual members of MECHA in this dispute with the Imperial Valley College.



CALIFORNIA RURAL LEGAL ASSISTANCE

Page 10.

Memo To: Marty Glick

From: Robert B. Johnstone

Date: April 2, 1971

III. CRLA INVOLVEMENT WITH THE LOCAL BAR ASSOCIATION:

As already documented in the support letters, the President and Vice-President of the Imperial County Bar Association have written letters of support of CRLA. The President is Mr. John Duddy and the Vice-President is Mr. John Pattie.

In addition, and which does not appear in our rebuttal but which is relevant to the implication in the Uhler report that the Bar Association opposes us, local CRLA attorneys are very active with the Bar Association in the following respects:

- (A.) CRLA attorney, Robert B. Johnstone, was on Friday, April 2, 1971, unanimously elected by the Imperial County Bar Association to be an alternate delegate to the up-coming State Bar Convention in September.
- (B.) CRLA attorney, Fred H. Altshuler, is the Program Chairman of the Imperial County Bar Association.
- (C.) CRLA attorney, John Denvir, is a member of the Legal Services Committee of the Imperial County Bar Association.
- (D.) CRLA attorney, Robert B. Johnstone, is a member of the Scholarship Committee of the Imperial County Bar Association and, in fact, this committee was formed by the Imperial County Bar Association at the request of Mr. Johnstone pursuant to a State Bar resolution endorsing the concept of local Bar scholarships for minority students.

To give you a complete picture, including negative aspects, the Bar Association at its February meeting did adopt by a vote of something like 15-4 or 18-4 the Uhler Judicare resolution. This was the standard form that came out of Uhler's office so I don't think it will be necessary to enclose a copy at this time. Please let me know if you want one.

\*\*\* As Doug McDaniel of Imperial County was one of the attorneys who attempted to commandeer the first commission hearings and as he and his partner, Chuck Pinney, have been the stalwart over any CRLA forces in the Imperial County Bar Association time immemorial. It should be brought to your attention that we have a very interesting document with Mr. McDaniel's signature on it. This is a Lawyer's Reference Service referral slip dating from the time when we administered that program in which

a domestic matter was referred to Mr. McDaniel's office. It was returned under Mr. McDaniel's signature with a statement that domestic matters were not his line of business and he has basically a corporate practice and please do not refer anymore to him, which is very interesting in view of the fact that the ~~Shubert~~ of the Bar Association down here is that we don't handle the real legal problems of the poor such as divorces. A copy of this referral slip is attached. Also attached is an article from the local newspaper on the day following the first commission hearing when McDaniel attempted to show that he was forcibly ejected and not allowed to testify at the commission hearings. This should make for some interesting cross-examination.

ROBERT J. JOHNSTONE

RBJ:mn;db

Hector Reyes

Jan. 6, 1972

P. Altshuler

Telephone Charges

In reviewing the credit card telephone calls charged to our telephone number, I have just noticed that you have been billing large numbers of telephone calls placed from Calverton to Delano to us.

The CRLA credit card which you have been given is solely for use in conjunction with CRLA business.

I would like from you an explanation of what appeared to be a large number of calls unrelated to CRLA business which you have been charging to your CRLA telephone credit card.

PHAT:2



Carol Bryant - Central

Feb. 8, 1972

Torri Lopez - El Centro

Telephone Credit Card

Hector Reyes informs me he lost his telephone  
credit card no. 170-3505-164-2.

I have carefully reviewed the report submitted to me on June 25 by the Commission on California Rural Legal Assistance, Inc. and wish to convey my appreciation as Director of OEO to the members and staff of the Commission for the public service they have rendered. The information developed in their review and the findings they have offered, have been useful, not only in formulating a decision about the delivery of legal services to the rural poor in California, but also in offering guidance on the future direction and administration of legal services programs nationally.

The creation of this Commission was an unusual step. In establishing it, I recognized that limitations on time and resources made unwise the thought of making the procedure a precedent for other legal services grant reviews. Nonetheless, in view of the widespread attention focused on legal services in California, and because of the widely relevant philosophical and policy issues which were specifically related to concerns expressed about CRLA, there seems to be considerable merit in using the California situation as a laboratory test for dealing with broad legal services issues which go beyond the simple question of whether a particular program receiving Federal funds has technically functioned within the laws and regulations governing its operation.

Rather than viewing this controversy merely as a problem to be resolved, I have come to regard it as an

opportunity to deal effectively with larger questions. This is particularly true because legislation now being considered in the Congress would, if approved, define the Federal role in legal services for many years to come. I refer, of course, to the proposals for an independent legal services corporation which are pending before Congress. The members of Congress who deliberate on these bills and, those citizens who participate in the leadership of any newly created corporation, stand to benefit greatly by the resolution of issues arising out of the California case.

The Commission on CRLA has found, that, despite various instances in which particular attorneys have exercised poor judgment, or engaged in improper conduct, on the whole California Rural Legal Assistance has provided a useful service to the rural poor in making available legal assistance to those in need and is operating within existing statutory and administrative regulations.

In reading the full Commission report, however, I am forced to the conclusion that many significant questions of policy have been raised by Governor Reagan which, heretofore, have been insufficiently met by this agency in a manner necessary to further our goal of equal access to law by low-income citizens.

A simple refunding of CRLA which ignores these proper concerns would constitute a disservice to the poor and to



the public generally. By the same token, by dealing with these concerns constructively, we can fulfill our hope of making this case an opportunity for expanding the impact of our Legal Services Program. The Legal Services Program nationally has been good--but it can be better. The program has been successful because it attracts dedicated, committed attorneys willing to surrender the benefits of private practice because of their belief in the rights of the poor. This complete commitment without a clear definition of roles has on occasion led to needless conflict within the community. Such instances of questionable judgment and lack of restraint cause two evils:

---First, it wastes the energy and dissipates the resources of a program designed to help the poor; and

---Second, it invites attack on the entire program because of the indiscretions of a handful,

Central to the policy issues which have been raised is the question of the restrictions, ethical considerations and standards of accountability that should be observed by Federally-funded legal services attorneys. Many have argued that, operating as they do with tax dollars, attorneys who serve on the staffs of legal services grantees owe an extra duty of care to the public in the performance of their legal assignments and in their off duty conduct.

These questions relate to all legal services programs funded by OEO, and are not unique to CRLA.

It is clear from studying the facts found in the Commission Report that some CRLA attorneys engaged in many activities on their "own" time which would have been obviously irregular and improper if subsidized at taxpayer expense.

The Commission recognizes that while the poor should be guaranteed their rights in court, "there is a danger that frivolous complaints may be urged by poor clients that would not be urged by a man of means who would himself have to bear the legal expenses involved." The Justices, therefore, state that "the legal services attorney thus has a special duty to be sure that when he sues the government, the matter is not trivial and the legal theory has merit." The legal services attorney also has a responsibility to so conduct himself as to preserve the distinction in the public eye which makes him an advocate for his client, rather than a simple participant in or instigator of his client's cause. It is one thing for a lawyer to pursue a particular course in furtherance of the rights of an individual client, and quite another for him to seek out clients who serve merely as instruments to advance the attorney's own philosophies or political objectives.

It is imperative that in our efforts to construct and perfect a program to vindicate the rights of the poor we maintain a perspective on the overall goals of society and attempt to build into the program measures to achieve judgment which will insure attainment of those goals. It little services the interests of the poor to establish an elaborate program that cannot last because of its conflict with such goals.

Since the passage of the Economic Opportunity Act in 1964 the problems of poverty have become more obvious and we are now more aware that the health and stability of society as a whole depends greatly upon how well this nation responds to needs of the poor.

The OEO Legal Services program has played a major role in assuring that equal access to the law becomes a reality for poor people. President Nixon in his message to Congress (May 5, 1971) concerning the establishing of an independent Legal Services Corporation stated that legal services for the poor must become "a permanent part of our system of justice." He praised OEO's Legal Services programs and the organized bar for their efforts in assisting the poor. He made clear, however, that we have only traveled part of the way in seeing that all the legal needs of poor people are being met. The President asked Congress to approve new legislation which

would institutionalize the programs developed in the last six years and continue the search for new possibilities for even greater legal assistance to the poor.

Our goal is clear. Yet, which means are most appropriate and effective in achieving it is not yet fully established. The staff attorney concept embodied OEO sponsored Legal Service program has been one highly effective means. The private bar and individual attorneys throughout the country have made their contributions through means and techniques they deem appropriate. These efforts have ranged from individual pro bono efforts, to the restructuring of corporate law firms' priorities, to voluntary contributions by lawyers assisting Legal Services programs and finally the establishment of a dozen or so experimental Judicare efforts by the organized bar. One point is clear -- no one approach has all the virtues and all can be improved.

On legal services, as with so many other social issues, California, our nation's most populous state, is the place where the questions at issue are most clearly recognized. Much of the current controversy over CRLA can be seen as reflecting a broad concern over the question of which means or which way Legal Services to the poor can be delivered most effectively. It relates also to fundamental issues which have heretofore been insufficiently addressed by OEO and by the Congress.

It is not surprising that the state of California should be leading the way in attempting to find innovative ways of developing legal institutions and programs which will serve the needs of the poor. The Governor is determined that his administration shall play a major role in finding new ways to improve the legal services program and expand its impact.

Present discussions about the delivery of legal services in California provide an excellent opportunity to push forward and to accept the President's challenge to make equal justice for the poor "a permanent part of our system" of government.

Governor Reagan's support of the President's Legal Services Corporation concept, the desire of the State OEO to experiment with alternative models and means for providing legal aid, as well as the State Bar's growing interest in experimentation and study have all been made much more visible and real as a result of the CRLA controversy. Controversy need not always be destructive and we are convinced that in California controversy over the best means for delivering legal services can have a constructive conclusion.

In spite of California's outstanding record, large sections of the state are still without organized means to assist the poor in the many legal problems which deeply affect their lives.



I wish to propose in cooperation with the Governor, the State Bar, OEO's Legal Services programs and private attorneys, a collective effort in planning for a broad and comprehensive experimental program designed to test a variety of models for the delivery of legal services to the poor in California.

In committing the resources of OEO to a partnership with California and its citizens in developing a model effort in legal services, I believe other states will ultimately turn to the California experiment for insight in meeting the legal needs of their own low-income citizens.

We are seeking to develop in California a universal legal services program designed eventually to serve the needs of all the poor. Our efforts obviously cannot be expected to succeed overnight. Nor can they initially be expected to affect all the poor throughout the State. I shall propose we begin where the need is the greatest. CRLA has provided many services to the rural poor but large portions of California are uncovered by any organized effort designed to meet the legal needs of the poor.

For these reasons and others previously noted, I propose making a grant of \$2.5 million for planning a comprehensive experimental program for the delivery of legal services to low-income citizens in California. The President in his message to Congress in establishing an independent Legal Services Corporation noted that we should not be satisfied with our previous efforts and progress in the Legal Services



field during the last six years. We must continue to push forward. I believe it is not unrealistic to plan for universal legal services for poor people. I, therefore, am pleased that the Governor as the Chief Executive of the State has encouraged this approach and is eager to participate fully in this planning effort. I wish to encourage the participation of the organized Bar, as well as CRLA and other OEO Legal Services programs in this effort. The participation of private attorneys, law firms and the poor will also be crucial to this vital attempt to plan for the future.

Pursuant to these general conclusions we will develop a comprehensive plan for delivering legal services to the poor in California.

Under this plan a new corporation established under the auspices of the State OEO interested attorneys and local bar associations and known as the California Legal Services Foundation, will in cooperation with the State Bar begin to design and implement a program to test various alternatives and supplementary methods of delivering legal services. Assuming the success of this experiment, a new combined program to provide comprehensive legal services within California would be instituted.

CRLA has applied for a grant for 17 months. This application is approved subject to 22 special conditions

and subject to the following funding arrangements:

The initial release of funds will be  
through the end of 1971 at which time there  
will be an evaluation by a joint OEO-State-  
State Bar Association-ABA-NLADA-team to measure adherence  
to grant conditions. If grant conditions are  
adhered to, funds for 1972 will be released,  
the decision to authorize such release residing  
in the Director of OEO.

EXPERIMENT TO TEST ALTERNATIVE METHODS  
OF DELIVERING LEGAL SERVICES

Designing and implementing an experiment to test alternative methods of delivering legal services in order to develop the optimum means of establishing a comprehensive system of legal services involves extremely complex problems. There have been several tests of alternative methods of delivering legal services (especially Judicare) but all of them have been unsatisfactory. They have not been properly designed to test their own efficiency and effectiveness in delivering legal services nor their ability in comparison with present legal services programs. If this California experiment is to achieve meaningful results, hypotheses to be tested must be agreed upon, variables must be isolated and tested,

and adequate systems for data collection, comparison and evaluation must be devised and implemented. Every group that has experimented with or studied Judicare and other non-staff attorney projects serving the poor must be consulted in order to devise the experiment. In short, careful and comprehensive planning is essential prior to the implementation of the experiment. And once implemented, the experiment must run for a sufficient length of time to demonstrate meaningful results. More specific details of such a project and its proposed timing are as follows:

FIVE MONTH PLANNING PHASE

1. The California Legal Services Foundation in conjunction with the SEOO, the American Bar Association, the American Bar Foundation, the California State Bar Association, legal services programs, including other interested and knowledgeable groups, will design and prepare for the implementation of all phases of the experiment.

2. Among other variations, the experiment should include projects using a variety of intake and referral procedures; it should be established in new areas besides supplementing in areas presently served by CRLA; and it should be designed to test different mixes of the full range of present legal services activities on behalf of clients.

3. Commencement of the operational phase of the experiment will occur following OEO's approval of the prepared plan.

#### TWELVE-MONTH OPERATIONAL PHASE

1. Following approval by OEO, the experimental plan will be put into effect by the Foundation and administered for a full twelve months.

2. During this time, CRLA will continue to provide legal services under the conditions set forth in its grant.

3. A broad-based evaluation system will be established to ensure that existing and experimental programs are properly administered to provide meaningful results. This evaluation system will also ensure that statistical data and narrative reports are compiled and all evidence thoroughly evaluated.

#### POST-EXPERIMENTAL PROGRAM

On the basis of the results of the experiment a determination will be made of the optimum method of providing legal services to the poor in California. Assuming that the experiment proves that a program combining different delivery mechanisms will be the most efficient and effective method of providing legal services to the poor, such a combined program would be instituted in California.

CALIFORNIA RURAL LEGAL ASSISTANCE

Legal services to the rural poor in California must be continued. CRLA will continue to aid in delivering those legal services but in doing so it must continue its operations in a manner that reflects the concerns previously stated.

In order to accomplish this, CRLA must adopt new methods of self-control which will insure that:

- Its separation from partisan and union activities is both apparent and real;
- It does not engage in prohibited criminal representation;
- Its attorneys' use of "free time" is not allowed to interfere with or discredit the activities of the program;
- Increased cooperation with State and local bar associations is promoted.

I have set out below comments regarding specific areas of CRLA's activities which have caused concern and proposed solutions to those problems.

UNION ACTIVITIES

C CRLA's work with the California farmworkers is a very sensitive area. The CRLA Commission indicated that as a matter of policy CRLA, a federally funded agency, should "...not intervene in labor-management disputes." It is imperative that CRLA's role in this delicate area be carefully designed and monitored.



The function of CRLA is to serve the rural poor, not as union organizers, advisors, or negotiators but as a law firm concerned with legal matters. CRLA must not be involved in the formation of any agricultural worker's union or any agricultural collective bargaining association nor may CRLA negotiate or attempt to negotiate any agreement concerning wages, hours, or working conditions.

In addition, CRLA must not provide legal assistance in the following areas:

- Representation of a collective bargaining union in litigation regardless of whether the union is a plaintiff or defendant in a court session;
- Representation of a labor union in negotiations with employers or with other labor unions;
- Providing legal assistance to a labor union in the incorporation or organizations affiliated with a union which are devoted exclusively to serving union members;
- Representation of union officials in matters relating to union business;
- Representation of a union member if the union itself is in fact and in law the real party in interest and the union member himself only a nominal plaintiff without a legal interest in the outcome of the controversy.



Also, CRLA must not display union posters or signs in any of its offices or use its client interviewing process to recruit union members.

#### CRIMINAL REPRESENTATION

As the Commission report noted, Section 222(a)(3) of the Economic Opportunity Act of 1964, as amended, prohibits legal services attorneys from representing a criminal defendant proceeded against by indictment or information except where the Director (of OEO) determines, after consultation with the court having jurisdiction, that adequate legal assistance will not otherwise be available.

Although interim guidelines interpreting this provision were promulgated in Community Action Memo No. 79, in January, 1968 they do not resolve all the questions in this area. The Commission, on page 55, suggested that CRLA "adopt more definitive guidelines to avoid future confusion within CRLA, as well as in the minds of the public generally." As the Commission recognized, the problem is not only one of determining the precise nature of the statutory prohibition but also one of focusing the program's limited resources. Without restrictions, the "demand for criminal representation would quickly deplete the agency's limited budget."

By statute and court decision, California has provided extensively for the criminal defense of persons in financial need. Therefore, the use of limited OEO resources for criminal defense is unnecessary and undesirable.

In order to properly carry out the above-mentioned restriction in the Economic Opportunity Act and to avoid dissipating the program's resources, it is proposed that the following guidelines be adhered to in the area of criminal representation:

(1) The statutory prohibition must be strictly adhered to in the case of persons proceeded against by indictment or information. Waivers under the exception shall be given by the Director of OEO or his designated representative only in extraordinary circumstances and only when it has been determined, after such individual has consulted with the court having jurisdiction, that adequate legal assistance will not <sup>otherwise</sup> be available.

(2) Legal assistance shall not be given in any other type of criminal proceeding (including misdemeanors, violations of municipal ordinances and post-conviction remedies where the underlying confinement was the result of a case in which representation would have been prohibited under these guidelines) unless legal representation is necessary to protect the client's rights and adequate legal assistance will not otherwise be available.

(3) Representation provided to an indigent through any organized system such as the public defender system or court-appointed attorneys will be deemed to be adequate representation.

### SPARE TIME ACTIVITIES

In its recommendations, the Commission stated that foremost of those problems which have contributed to the misunderstanding and controversy surrounding the program "is that caused by activities of CRLA attorneys on their spare or 'own time'." The Commission went on to say (p. 85):

"As was testified by numerous witnesses, CRLA attorneys are permitted to engage in activities on their own time which either by virtue of statutory prohibition or special restrictions in the CRLA grant are not a permissible use of CRLA resources."

The Commission concluded that CRLA's existing policies and procedures to handle this problem may be inadequate.

This is a problem which the Administration specifically <sup>in</sup> focused on/its bill to create an independent Legal Services Corporation. In the bill the Corporation is required to insure that legal services attorneys "represents only eligible clients and refrain from any outside practice of law."

In order to take care of this most important problem now,  
a limitation on outside professional activities must be  
instituted immediately. Certain other specific "spare time" activities such as participation in demonstrations are dealt with elsewhere herein. However, as a general rule of conduct we propose that all Legal Services attorneys in their spare

time activities be guided by the following paraphrase of a statement in the Commission's report:

Each Legal Services attorney has a professional responsibility to its project and to clients to act so as to preclude not only the actuality but also the appearance of impropriety in this area. The improper conduct of one attorney, acting as a private citizen, can give the appearance of improper conduct by the program. Such misguided conduct no matter how well intentioned can only damage the program's public image and thus handicap its legitimate efforts in behalf of its clients.

#### PARTICIPATION IN DEMONSTRATIONS

Problems have developed pertaining to the manner in which attorneys and community workers relate to organizations which they represent. A distinction must be made between participating in an organization as a member of the organization and undertaking to represent that organization as an attorney. The problem is compounded by active participation in demonstrations and picketing. The CRLA Commission recommended strict limitations on such activities.



It should be understood that representation of organizations is authorized only when such groups are composed primarily of individuals eligible to receive legal assistance.

A simple guideline for CRLA personnel to follow in dealing with organizations is that they should not act as both client and attorney. If such personnel engage actively in the affairs of an organization, they should not undertake to represent it or to give it legal advice to any extent. Conversely, if an attorney undertakes to represent an organization in any capacity, whether through a lawsuit, negotiations, preparation of legal documents or simple counseling, an attorney should avoid active participation in the organization and its political decisions.

The attorney's function under these circumstances should be to represent the organization as a lawyer and to provide legal counsel. Public statements pertaining to the activities of the organization should be made by the leadership of the organization. Statements made by its counsel should be limited to appropriate statements pertaining to legal problems, such as law suits. An attorney's function with regard to picketing, sit-ins, or other forms of demonstration, should be strictly limited to carrying out legal duties in accordance with the highest standards of professional conduct and responsibility.



To the extent possible, appearances before public bodies should be undertaken by organizational members and their elected leaders. Such appearances should not be structured so that an attorney has a dominant role.

With reference to situations which might develop into mass arrests or wholesale patterns of government recrimination, attorneys should counsel the organization that CRLA can provide no assurance that it will afford representation with reference to criminal charges which might be brought.

In counseling organizations, it is not the attorney's responsibility or prerogative to make political decisions for an organization, but rather to advise them as to the legal consequences of various alternatives.

Therefore, the following are guidelines for all CRLA attorneys and community workers:

- Actively represent and counsel groups, but, do not picket or demonstrate on behalf of the group.
- Regarding activities of the group, except as to legal matters, leadership should come from group members and officers, not CRLA attorneys. Therefore, non-legal public statements, press conferences, etc. should be issued by group members.

---It must be made unmistakably clear to groups advised by CRLA that CRLA attorneys are prohibited from representing them in criminal matters. Although there may be rare instances in which both CRLA and OEO will concur that criminal representation is appropriate, they will be rare. It is, therefore, inaccurate and unfair to allow a group any prior expectations.

#### UTILIZATION OF PROGRAM FACILITIES

##### PROBLEM

In several instances the Commission found that CRLA facilities were being utilized by non-CRLA personnel for non-CRLA activities. As the Commission stated on page 6 of Appendix F to its report, "it would be advisable for CRLA to use care in allowing others the use of its facilities, so that possibilities for misunderstanding will be minimized."

##### SOLUTION

In order to deal with this problem, the following guidelines on the use of CRLA facilities are proposed:

(1) Unique assets of a CRLA office such as its library or xerox machine may be made available to other attorneys as a professional courtesy provided that it does not cost the project any money.

(2) Other ordinary facilities such as typewriters, telephones and stationery shall not routinely be made available to or utilized by non-CRLA personnel.

(3) No legal or secretarial assistance shall be provided to non-CRLA personnel utilizing CRLA activities for non-CRLA purposes.

(4) CRLA facilities shall not be made available to any individual or group working on a non-CRLA activity where to do so would identify CRLA with such activity.

#### MEMBERSHIP IN THE COMMUNITY

Aggressive attempts to vindicate the right of the poor invite controversy and often threaten to divide the community. Challenges to the establishment brought by attorneys perceived to be "outsiders" exacerbate the division. It should be clear that such ad hominem disputes necessarily detract from the Legal Services attorney's ability to give help to the poor.

There are two ways that attempts can be made to bridge the decision between members of the community and CRLA attorneys.

---First, by observing the solutions advanced elsewhere in this paper unwarranted controversy with respect to criminal representation, union activities, demonstrations, impact litigation, and free time activities will necessarily be reduced.

---Second, CRLA attorneys should be encouraged to participate in the activities of the state and local bar associations. This participation which should lead to increased cooperation and understanding by CRLA and other attorneys alike could be promoted by CRLA's paying membership fees in the appropriate organizations.

This decision to provide expanded legal services programs for California and the imposition of stringent control on the future operations of CRLA has been discussed with Governor Reagan, who has advised me of his concurrence.

Governor Reagan issued the following statement in response to Mr. Carlucci's statement (previous).

"I am delighted that Mr. Carlucci has chosen California to develop a model legal services program for the poor that may set a nationwide pattern.

"I also am hopeful his imposition of stricter controls on the future operation of CRLA will improve its service.

"All of us who are committed to the concept of providing adequate legal services to those who cannot afford them consider this a major step forward."