Political Interference with Publicly Funded Lawyers: The CRLA Controversy and The Future of Legal Services

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and

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In the waning days of 1970, the governor of California announced that he had vetoed the 1971 federal funding for California's celebrated but decidedly controversial statewide rural legal services program, California Rural Legal Assistance (CRLA). He had the power to affect CRLA's funding—a $1.8 million grant from the United State Office of Economic Opportunity (OEO)—because of a provision of the Economic Opportunity Act of 1964 conferring upon the governor of any state in which OEO proposes to grant poverty program funds a veto power over those expenditures; the gubernatorial veto is subject only to the authority of the director of OEO to override the governor's action.1

The governor's decision triggered an extraordinary battle to overturn the veto. Frank Carlucci, the director of OEO, appointed a three-member commission to advise him concerning the charges of wrongdoing by CRLA upon which the governor purportedly had acted, but

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† The Hastings Law Journal has invited Lewis K. Uhler, former director of the California Office of Equal Opportunity, to submit a rebuttal for publication in volume 25.

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The authors, together with William F. McCabe, Esq., of San Francisco, California, were counsel to California Rural Legal Assistance, Inc. in the proceedings which are the subject of this article.


the state refused to present its case to the commission. Thus, the controversy was pursued not only in unique hearings before the commission, but quietly in the upper echelons of Washington, raucously in the press, and ultimately in the courts. The battle came to an end when the commission absolved CRLA of misconduct and reaffirmed the quality of its program, and OEO granted extended refunding to CRLA.

The controversy over CRLA carried an important message. The vulnerability of publicly funded legal services programs to political interference—increasing in proportion to the effectiveness of the lawyers' work—had been demonstrated before. CRLA itself had withstood prior attacks, though other less prominent legal services programs had been unable to do so. Yet never before had there been such a vivid illustration of the extent to which exemplary legal performance, in the highest tradition of the profession, can be distorted by a responsible agency of government. Because the charges against CRLA were scrutinized in detail, and the true facts, basic misconceptions and underlying motivations concerning those charges fully exposed, the entire episode furnishes an unusual demonstration of the imperative need to insulate legal services programs from ill-motivated political attack.

Despite the apparent need for the removal of legal services programs from the political arena, the enactment of needed reforms has been slow in coming. The Economic Opportunity Amendments of 1971, which would have transferred the administration of legal services programs from the politically sensitive OEO to an independent public corporation, were vetoed by the president, and revised bills have so far failed to clear the Congress. Recently, the vice president has voiced criticism of the national legal services program reminiscent of Governor Reagan's charges against CRLA. As this article goes to press, the future of all legal services has been placed in still graver doubt by the presidential determination to disband the Office of Economic Opportunity and by unexplained interruptions of funding from Washington for many programs throughout the country. It is worth reviewing the history of the CRLA funding controversy, not to reopen old wounds, but to illustrate the still unsatisfied need to ensure the inde-

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3. Agnew, What's Wrong with the Legal Services Program, 58 A.B.A.J. 930 (1972). The article was responded to by the Chairman of the A.B.A. Standing Committee on Legal Aid and Indigent Defendants in Klaus, Legal Services Program: Reply to Vice President Agnew, id. at 1178, and by the authors of this article in Falk & Pollak, What's Wrong with Attacks on the Legal Services Program, id. at 1287.
pendence and vitality of legal services programs. It will be most un-
fortunate if the lessons of the CRLA controversy are lost before an
effective independent agency is established to ensure, expand and
protect the availability of meaningful legal services for the poor.

The Legal Services Program

Friends of legal services do not entirely agree upon the extent to
which OEO's legal services program represented an outgrowth of, rather
than a departure from, the legal aid societies found in most urban
areas of the United States in the first half of the twentieth century.
There is a sufficient debt owed to the legal aid movement to make
clear that the OEO-funded programs were hardly breaking with es-
tablished professional norms, as many of their detractors have claimed.
Nonetheless there can also be no doubt that the legal services program
which emerged as one of the Johnson Administration's more successful
programs in its war on poverty was intended to improve upon numerous
deficiencies in the legal aid that was then available throughout the
United States.4 Foremost among those deficiencies were the follow-

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4. The literature on the subject of the OEO legal services program is extensive.
Among the more significant articles are Cahn & Cahn, The War on Poverty: A
Civilian Perspective, 73 YALE L.J. 1317 (1964); Cappelletti & Gordley, Legal Aid:
Modern Themes and Variations, 24 STAN. L. REV. 347 (1972); Carlin & Howard,
Legal Representation and Class Justice, 12 U.C.L.A.L. REV. 381 (1965); Cheatham,
Availability of Legal Services: The Responsibility of the Individual Lawyer and of the
Organized Bar, 12 U.C.L.A.L. REV. 438 (1965); Green & Green, The Legal Profes-
sion and the Process of Social Change: Legal Services in England and the United
States, 21 HASTINGS L.J. 563, 593 (1969) (containing extensive discussion of CRLA);
Greenwalt, OEO Legal Services for the Poor: An Anniversary Appraisal, 12 N.Y.L.
Forum 62 (1966); Hannon, Legal Services and the Local Bars: How Strong Is the
Bond?, 6 CAL. W. REV. 46 (1969) (refers specifically to CRLA); Karabian,
Legal Services for the Poor: Some Political Observations, 6 U.S.F. REV. 253 (1972);
McCalpin, The Bar Faces Forward, 51 A.B.A.J. 548 (1965); Pious, Congress, the Or-
ganized Bar, and the Legal Services Program, 1972 WIS. L. REV. 418 (1972); Robb,
Poverty Lawyers' Independence—Battle Cry for Justice, 1 NEW MEX. L. REV. 215
(1971); Rothwell, Some Thoughts on the Extension of More Effective Legal Services
to a Greater Number of the Poor, 17 HASTINGS L.J. 685 (1966); Shriver, The OEO
and Legal Services, 51 A.B.A.J. 1064 (1965); Sparer, The Role of the Welfare Client's
Lawyer, 12 U.C.L.A.L. REV. 361 (1965); Sullivan, Law Reform and the Legal Serv-
ices Crisis, 59 CALIF. L. REV. 1 (1971); Voorhees, The OEO Legal Services Program:
Should the Bar Support It?, 53 A.B.A.J. 23 (1967); Voorhees, Legal Aid: Past, Present
and Future, 56 A.B.A.J. 765 (1970); Westwood, Legal Aid's Economic Opportu-
nity, 52 A.B.A.J. 127 (1966); Note, Beyond the Neighborhood Law Office—OEO's
Special Grants in Legal Services, 56 GEO. L.J. 742 (1968); Note, Neighborhood Law
Offices: The New Wave in Legal Services for the Poor, 80 HARV. L. REV. 805 (1967);
Note, The Extension of Legal Services Under the Economic Opportunity Act, 28
Funding. Virtually all existing full-time and volunteer legal aid societies were notoriously understaffed and overworked. In rural areas they were virtually nonexistent. Everywhere, the inadequacy of financial resources imposed severe limitations on what those programs could possibly hope to accomplish.

Caseload. In general, the harried legal aid attorneys attempted to service the needs of as many individuals as they could possibly handle. Domestic relations, landlord-tenant, and collection cases formed the bulk of their caseload, almost to the exclusion of all else. Seldom did these attorneys undertake novel and time-consuming challenges to established procedures and precedents which affected large numbers of the poor.

Attorney Selection and Training. While legal aid societies were staffed with many fine and dedicated attorneys, they were plainly not faring well in the competition for the leading members of graduating classes. The societies were neither places through which top graduates passed for two to three year stints on their way to a permanent practice nor a place to which many with experience gravitated. The societies also did not offer much in the way of training and guidance to their attorneys. Most learned through experience, which came quickly because of the repetitiveness of the practice.

Professional Independence. In rural and sometimes in urban communities, volunteer programs utilizing the donated service of private attorneys were the only source of legal aid for the poor. One of the intrinsic shortcomings of these volunteer legal aid programs was that they were staffed by attorneys principally engaged in representing clients whose interests often were adverse to those to whom they volunteered their services.** Predictably, there was often considerable reluc-

5. “A lawyer should exercise independent professional judgment on behalf of a client.” ABA, CODE OF PROFESSIONAL RESPONSIBILITY, CANON 5 (1971). “A lawyer shall not continue multiple employment if the exercise of his independent professional judgment in behalf of a client will be or is likely to be adversely affected by his representation of another client . . . .” Id. DR 5-105 (B).


tance, sometimes acknowledged and sometimes not, on the part of these attorneys to challenge established practices which their paying clients engaged in or supported.

These were not, of course, all of the shortcomings with which those responsible for the new legal services programs were concerned. Insufficiently flexible eligibility requirements were a problem. More fundamentally, there was a growing appreciation of the extent to which the poor and uneducated were unaware of their legal rights and of the potential assistance that an attorney could furnish them. The poor, it was finally realized, seldom had contact with lawyers except when the legal system was being used against them—to repossess, to evict, or to enforce compliance with some legal obligation imposed upon them. The legal services program originated with the Office of Economic Opportunity as part of the war on poverty and was designed, fundamentally, to alter that situation.

Testifying at the CRLA hearings, R. Sargent Shriver, the original Director of the Office of Economic Opportunity, told how he had envisioned the lawyer’s role in the war against poverty. He had hoped that by proving to poor people that justice was possible within the system, they would gain confidence in asserting their rights. He also had hoped that by working closely with the poor, lawyers would recognize the presence of injustices which previously had been unknown to the courts, legislatures and administrators.

Seeking to accomplish those broad purposes, OEO issued in 1966 flexible Guidelines for Legal Services Programs, soliciting funding applications from organizations to operate within the new program. The guidelines, in discussing the overall objectives and general requirements for the programs which OEO would sponsor, made clear the scope of the legal services it would expect to be furnished:

All areas of the civil law should be included and a full spectrum of legal work should be provided: advice, representation, litigation, and appeal.

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6. Hearings of OEO Comm’n on California Rural Legal Assistance, Inc., Reporter’s Transcript at 1290-91 (1971). Hereinafter, the record of the hearings will be cited as R.T. followed by the appropriate page reference.

7. Id.

8. The guidelines were issued after the formation of a National Advisory Committee to the Legal Services Program, consisting of representatives of the American Bar Association, the National Legal Aid and Defender Association, other bar associations and legal aid societies, the federal government, and private practitioners. A preliminary set of guidelines had been issued prior to the appointment of a Director of Legal Services and to the appointment of the National Advisory Committee.
Advocacy of appropriate reforms in statutes, regulations, and administrative practices is a part of the traditional role of the lawyer and should be among the services afforded by the program. This may include judicial challenge to particular practices and regulations, research into conflicting or discriminating applications of laws or administrative rules, and proposals for administrative and legislative changes.  

Nevertheless, with regard to the structure of a legal services office, the guidelines emphasized that "innovation is encouraged and is limited only by the ingenuity of the developers of a proposal."  

California Rural Legal Assistance

California Rural Legal Assistance was among the early applicants for funding under the new program. Its original application was submitted in 1966. According to the then director of legal services, "I even recall receiving the application and reading it and thinking then that it was... an application which came closest of any I had seen to what I thought we were trying to do." Within the first years of its...
operations, CRLA had come to grips with many of the problems that had stymied earlier legal aid societies and had made perceptible inroads in dealing with the problems of its rural clientele. CRLA established local offices in nine rural California communities, in most of which legal aid for farm workers and others unable to afford legal services had previously consisted of little more than the time of one volunteer attorney one-half day a week.\textsuperscript{12} Each CRLA office typically consists of one directing attorney, three or four additional staff attorneys, clerical workers equaling the number of lawyers, and one to three "community workers" who act as investigators and lay assistants to the attorneys and provide valuable liaison between the members of the community and the law office. CRLA also maintains an office in Sacramento, from which it monitors legislative and administrative activity affecting the rights of the clients. From its central office in San Francisco, the program oversees the operations of all of the local offices, conducts regular training sessions and periodic evaluations for its professional and nonprofessional staff, coordinates efforts and information among offices whose clients have encountered similar problems, and assists field attorneys in handling cases of unusual import.

covered by unemployment insurance, by a minimum wage, or by maximum hours provision. . . .

\"[Their problems are experienced as well by other poor persons living in rural areas who are not farm workers . . . .\"

\"Given this lack of legal representation, it is not surprising that the laws which are intended to protect the rural poor frequently go unenforced. . . .\"

\"The state of California has extensive housing codes governing the operation and upkeep of labor camp housing, but the President's Committee on Migratory Labor has estimated that only a quarter to a third of the labor camps comply with these regulations.\"

\"Working conditions in the field are also regulated: employers are required to provide their workers with drinking water, toilets and hand washing facilities and periodic rest periods. Yet it has been observed that less than 20% of the employers in the state comply with these requirements.\"

\"The state Labor and Education Codes contain extensive regulations governing the employment, working conditions, and hours of minors, but inspectors from the department of labor find children working illegally on 60% of the farms they inspect.\"

\"Employers are required to furnish their workers an itemized written statement showing income earned and deductions made; but the nebulous and changing working relationship between farm workers and employers and the common practice of paying workers on a piece-rate basis means that accurate records are rarely kept or made available to employees. As a result the benefits of the Social Security Act and the Old Age Survivors and Disability Insurance Program are frequently not received by workers, even though they are legally entitled to such benefits.\"

12. R.T. at 97-101, 355-58; Exhibit C-1 at 5-10.
Not without difficulty, CRLA developed a flexible priority system which incorporates general policies established by its board of directors, by its nine local advisory committees, and by the clients that cross the threshold of the local offices daily. Though differing from office to office, the typical policy places the highest preference on cases involving employment rights and then upon cases involving education, housing, civil rights, and welfare and consumer problems. Bankruptcy and domestic relations are invariably considered of lesser importance, and various procedures have been adopted to ensure that these cases do not become a disproportionate part of an attorney's caseload.  

Thus, one of the principal characteristics of CRLA's activities has been the balance of its program. According to the report that was later to be issued by the commission on CRLA, the bulk of CRLA's work has been the handling of routine problems of the poor. Nevertheless CRLA has not contented itself with attending to the day to day problems of those unable to retain private counsel. Its clients include various organizations of predominantly low income persons, through which CRLA attorneys have carried on informal educational programs and effectively counseled on housing, educational and other community undertakings. The Sacramento office represents the interests of CRLA's clients with respect to legislative matters. Furthermore, most significantly, CRLA lawyers developed an imaginative and effective program of litigation, designed to focus their skills and resources upon problems affecting large numbers of their client community. Exemplifying what has variously been called "law reform," "test
cases," and "impact litigation," CRLA attorneys prevailed in litigation
to compel implementation of a minimum wage for agricultural work-
ers,16 to eliminate California prejudgment attachment procedures19
and to strike down California's requirement that residents must be literate
in English as a condition of voting as applied to more than 80,000
Spanish speaking Californians.17 CRLA instituted litigation to halt
the importation of "braceros" (Mexican laborers)18 and in another ac-
tion sought to reform the procedures of the California Farm Labor
Service, which allegedly failed to serve the interests of farm laborers
in various respects required by law.19 CRLA brought a successful
challenge to the reduction in "Medi-Cal" benefits20 and challenged un-
duly restrictive welfare regulations affecting thousands of indigent Cal-
ifornians.21 For thousands of Spanish speaking Mexican-American
children who had been assigned to classes for the mentally retarded
because of tests administered in English, it obtained retesting and re-
assignment to classes reflecting their true intelligence and abilities.22
Through other litigation CRLA obtained an expansion of the federal
food and free or reduced price lunch programs throughout the state.23

Reflecting these accomplishments, CRLA was designated in 1968
as the "outstanding legal services program of the year" by the Office
of Economic Opportunity. Its reputation as an outstanding legal ser-
vices program remained undiminished in succeeding years. CRLA
was "evaluated" by a team engaged by OEO in the summer of 1970 in
connection with the anticipated grant application for the calendar year
beginning January 1, 1971.24 The evaluators concluded:

   739 (1968).
16. Cline v. Credit Bureau, 1 Cal. 3d 908, 465 P.2d 125, 83 Cal. Rptr. 669
18. Ortiz v. Wirtz, No. 47803 (N.D. Cal., dismissed without prejudice, Sept.
   21, 1967); Alaniz v. Wirtz, No. 47806 (N.D. Cal., Dec. 11, 1967).
19. 250 Farm Workers v. Shultz, No. C-70-481-AIZ (N.D. Cal., motion to dis-
   miss denied, Aug. 25, 1971). This case is still pending, but certain reforms have
   already been instituted by the state as a result of the litigation.
22. Diana v. State Bd. of Educ., No. C-70 RFP (N.D. Cal., preliminary confer-
   ence, Mar. 6, 1973).
23. E.g., Marquez v. Hardin, No. 51446 (N.D. Cal., dismissed without preju-
   dice, Nov. 19, 1971); Hernandez v. Hardin, No. 5033 (N.D. Cal., dismissed without
   1960).
24. Among the members of the evaluation team were former Associate Justice
   Tom Clark, Allan Ashman, representing the National Legal Aid and Defenders As-
While not perfect, CRLA is an exemplary legal services program, providing a balanced approach between orthodox legal services and highly successful litigation . . . . Because of CRLA's proven capacity to plan, initiate and constructively advance client interests, [we] recommend the project be refunded. 25

OEO Director Donald Rumsfeld, in announcing the 1971 grant, characterized CRLA as "one of the best Legal Services programs in the nation." 26

The Veto

Despite the generally acknowledged excellence of its program, the veto of CRLA's funding was not entirely unexpected. CRLA had been the target of controversy even before OEO first funded it in 1966. The Board of Governors of the California State Bar Association sent a telegram to OEO Director Shriver opposing CRLA's initial grant application on the ground that the federal funds would be used "to take sides in an economic struggle still pending." 27 An effort was made to enjoin CRLA from opening an office in Modesto by the local bar association, which assertedly feared inevitable unethical practices from a legal services organization. 28 Although CRLA had made some progress in assuaging the fears of the organized bar, and in fact had won the support of the State Bar of California, 29 the success of its "impact litigation" had not been overlooked by interests adversely affected. As former OEO Director R. Sargent Shriver was to observe, "if the poor begin to win a little bit, somebody begins to lose a little bit." 30

25. Letter from U.S. Office of Economic Opportunity to Daniel Luevano, Chairman, Board of Trustees of CRLA, October 12, 1970 (Exhibit D-1(7)).


27. R.T. at 132. The then Director of OEO Legal Services, Clinton Bamberger, was said to have replied to this sentiment to the effect that "that was about the best one-line definition of the war on poverty he had heard." Id. To the argument that CRLA lawyers might be useful to the poor in suits against growers, OEO Director R. Sargent Shriver told the President of the State Bar of California: "Look, I'll make an agreement with you. If you will agree that no lawyers in California will represent the growers, I will agree that no legal service[s] people will represent the pickers." Id. at 1306.

28. Id. at 320-22.

29. See Letter to Commission on California Rural Legal Assistance, Inc. from John S. Malone, Secretary, State Bar of California, April 28, 1971, and exhibits thereto. The state bar had specifically approved the 1971 grant to CRLA which Governor Reagan vetoed.

Governor Reagan of California was not long in developing a hostility to CRLA and to the notion of publicly funded lawyers instituting litigation for the purpose of halting or correcting governmental programs. A veto of CRLA's funding for 1968 was threatened, but never carried out. As the price of withholding his veto, Governor Reagan attempted to force several restrictions into the grant which would have severely impaired the ability of CRLA's attorneys to exercise their professional judgment in advancing the interests of their clients, but in this too he was unsuccessful. The year before, California's Senator Murphy had proposed legislation which would have expressly forbidden legal service programs from suing the government; he pointed to CRLA's activities as illustrative of what he was attempting to curb. The year after the threatened veto, Senator Murphy introduced legislation which would have made the governor's veto final and not subject to being overturned by the director of OEO. Both Murphy amendments were rejected by Congress when the legal profession reacted strongly to the implications of such restraints upon the professional independence of legal services attorneys. In a letter to the New York Times in 1968, when Governor Reagan was threatening to veto CRLA funding, several law school deans, joined by the Director of the N.A.A.C.P. Legal Defense Fund said: "If CRLA is destroyed, the message will be clear to programs that might contemplate challenging, innovative litigation: Do not invite displeasure of public officials."

In October, 1970, Governor Reagan appointed a new Director of the California Office of Economic Opportunity (State OEO), Lewis K. Uhler. The first indication that the refunding process for the following year would be other than routine came a short time after the appointment was announced. In early November, a form letter over Mr. Uhler's

31. Id. at 1014.
32. Id. at 1009-19; CRLA Exhibits C-33 to C-37.
33. Senator Murphy's proposed amendment to the Economic Opportunity Act provided that no federally funded program "may grant assistance to bring any action against any public agency of the United States, any State or any political subdivision thereof." 113 Cong. Rec. 27871 (1967).
35. The first Murphy Amendment was defeated by a voice vote in the Senate. 113 Cong. Rec. 27873 (1967). The second Murphy amendment passed the Senate but never cleared the House of Representatives. See Robb, Controversial Cases and the Legal Services Program, 56 A.B.A.J. 329 (1970). On the question of professional independence, see note 9 supra.
signature was directed to lawyers and judges throughout the state, en-
closing a questionnaire purportedly designed to solicit the opinions of
persons in communities served by CRLA. With the explanation that
anonymous replies would be accepted, the questionnaire invited answers
to such questions as the following:

3. Have you an opinion of the standard of legal ethics ad-
hered to by CRLA attorneys? If so, on what facts is your opinion
based? Legal ethics: (a) high; (b) acceptable; (c) poor; (d) un-
acceptable. Comments:

4. Do you feel that the main thrust of CRLA’s efforts has
been toward “causes” or class actions, or toward litigating or other-
wise solving specific, individual problems? Emphasis on: (a) in-
dividuals; (b) causes. Comments:

5. Are CRLA members in your community involved, on be-
half of CRLA, in community activities of an activist or political na-
ture? (a) yes; (b) no. If yes, please explain or give details:37

On December 1, 1970, the director of OEO announced that
CRLA would receive a $1.8 million “expanded” grant for the year
commencing January 1, 1971.38 By this time, however, CRLA was
well aware of the Uhler questionnaire. It was also aware that in-
vestigators for the State Department of Human Resources Develop-
ment, whose investigative techniques had been enjoined by a federal
court in a CRLA suit challenging the practices of the California Farm
Labor Service, was seeking statements critical of CRLA.39 Fearing
the possibility of a veto by Governor Reagan, CRLA’s officers sought
and received from state OEO the assurance that they would be given
an opportunity to review and comment upon any adverse findings or
recommendations before they were released to the public or acted
upon by the governor.40

On December 26, 1970, with no advance notice to CRLA,41 Gov-
ernor Reagan’s veto of 1971 funding was announced. While reports
of various charges against CRLA purportedly supporting that action
appeared in the press shortly thereafter, it was not until nearly two
weeks later, on January 8, 1971, that the document in which those
charges were catalogued was delivered to OEO. CRLA did not receive
a copy directly from OEO or state OEO until some time later and was
forced to borrow a copy from a journalist to find out what the exact

37. “CRLA Questionnaire” attached as Exhibit A to CRLA’s Memorandum on
Procedures filed with OEO Comm’n on CRLA, Inc.
39. R.T. at 880-82.
40. Id. at 871; CRLA’s Memorandum on Procedures filed with OEO Comm’n
on CRLA, Inc., at 4.
41. R.T. at 386-87, 494-96, 870-71.
The 283 page volume—formally entitled *A Study and Evaluation of California Rural Legal Assistance, Inc. by California Office of Economic Opportunity*—quickly became known as the *Uhler Report*.

It is difficult to write about the *Uhler Report* in the style to which readers of law reviews have become accustomed. The objectivity which its title implied was a promise never kept; the *Uhler Report* was a brief for the prosecution without even superficial pretense of balanced presentation. Although ostensibly written for the purpose of advising the governor “so that a rational decision” could be made with respect to whether the grant to CRLA should be vetoed, the *Uhler Report* evidently was not completed at the time the veto decision was announced, thus accounting for its late delivery to OEO. One searches each of its 283 pages quite literally in vain for a word of praise or a favorable comment concerning CRLA’s state-wide legal services program. It’s tone, its casual use of investigative materials, its overall lack of balance all combined to diminish materially the document’s facial credibility. The specific charges of misconduct by CRLA and its staff fell in numerous areas, which can only be summarized here in an effort to suggest the flavor of the Report.

**Disruption of the Prison System**

The *Uhler Report* attempted to link CRLA to the increase in violence and racial tension which has troubled California’s prison system in recent years. The report attempted to link CRLA attorneys with what it characterized as the “Racial Prison Movement”:

*One attorney who constantly crops up in the penitentiary*

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42. *Id.* at 871-72. The circumstances of the delivery of the *Uhler Report* to CRLA were an early sign of what was to follow. Despite vigorous attempts to obtain a copy on January 7, 1971—the day of its delivery to OEO and of its release to the press—officials of state OEO and representatives of the governor’s office each refused to provide a copy to CRLA. Thereafter a copy was sent to CRLA by mail, but the exhibits which assertedly documented the *Uhler Report* charges ‘were withheld. In the meantime, these charges were given wide publicity as a result of a twelve page press release prepared by state OEO summarizing the accusations.

43. CAL. OFFICE OF OEO, *A STUDY AND EVALUATION OF CRLA, INC.* 1 [hereinafter cited as UHLER REPORT.].

44. The *Uhler Report* began by disclaiming reliance on what it described as “irrelevant considerations.” *Id.* at 20. State OEO did not, the report contended, take into account CRLA’s willingness to institute litigation against the State of California. *Id.* at 21. Likewise, the *Uhler Report* asserted that it did not focus criticism on “the use of class actions per se,” reserving the right to attack “specific class actions that either have no necessary relationship to the poor or that contravene some other standard or condition . . . .” *Id.*
thrust of CRLA is a non-CRLA attorney, Faye Stender. Though she is not a paid attorney for CRLA, her professional association with CRLA is a matter of record.

Comment: Faye Stender is credited with writing the brief that secured Huey Newton's release. In the “Berkeley Barb”—June 19, 1970—in an interview with her, she takes credit for being a “movement attorney”—associated with movement legal matters for more than 10 years. Her most recent work with the “Soledad Brothers” and Huey Newton has made news.

The “San Francisco Chronicle, November 20, 1970, in a personal interview with Faye Stender, further expounds on her sentiments as a radical or movement lawyer.” She is characterized as a revolutionary, a quiet-spoken, conventionally-dressed revolutionary, not given to rhetorical excesses.

We can only speculate now as to Faye Stender’s plans to effect changes in the California penal system and the method she intends to employ and to what extent CRLA will be a part of her plans. Our evidence shows that the association of Faye Stender with CRLA is close.

Our investigation has brought to the surface a dangerous thrust on the part of CRLA and its attendant, cooperative “movement lawyers” into the affairs of our penal system.

We feel that the significance of our findings has at least offered a glimpse of the illusive but ever-so-present movement of CRLA behind prison walls.

Disruption of the Public Schools

Mr. Uhler and his investigators purported to have found “disturbing evidence” that CRLA and its attorneys were “acting as catalytic agents in school agitation incidents.” These included, the report stated, “helping to foment serious student harassment of school authorities, assaults on school discipline and [on] the orderly conduct of local schools.” Among the specific charges was the claim that a “harassing action” was brought by CRLA against officials of Gavilan College in Gilroy for the purpose of “prevent[ing] authorities from interfering with [a student’s] distribution of revolutionary and pornographic litera-

45. Documentation for this statement is a letter which made a passing reference to a CRLA attorney and which evidently had been written to an inmate by a legal assistant of Mrs. Stender. Id. at 88.
46. Id. at 88-90. The quotation of this portion of the Uhler Report is in no way to suggest that there is any justification for the implication that Mrs. Stender is engaged in dishonorable conduct. To the contrary, the authors are acquainted with Mrs. Stender and her work and have no reason to believe that the Uhler Report’s innuendos of impropriety as to her have the slightest basis in fact.
47. Id. at 91.
48. Id.
ture" on the campus. In yet another incident, the report alleged that CRLA "fomented a demonstration" on behalf of Cesar Chavez which involved the participation of high school and junior high school students during school hours without parental permission. This section of the Uhler Report concluded:

How can any right-thinking person allow public subsidy of a program that seeks to cause racial confrontations and fan the flames of racial discontent?
Is this to be done in the name of legal assistance? We think not. 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.

It is our firm opinion that a great many CRLA attorneys are "true believers", hitchhiking a ride at the expense of the rural poor to achieve a dislocation of our social, political and economic order.

Alliance with Cesar Chavez and the United Farm Workers Organizing Committee

The Uhler Report charged that CRLA pursues a "grand strategy . . . to organize and unionize the farm workers in California into a labor monolith—a monopoly union—under the control and direction of UFWOC [United Farm Workers Organizing Committee]." Its objective, the report concluded, is furthered by rendering "assistance to UFWOC’s activists—pickets, demonstrators, organizers—and its rank and file members (and, therefore, necessarily, to the union itself) . . ." Various incidents are cited in purported demonstration of the proposition that CRLA provides "legal services at taxpayers expense to favor a labor organization." These allegations, in effect, charged a violation of special conditions in the OEO grant to CRLA which, in general, bar the representation of a labor union.

49. Id. at 102.
50. Id. at 125-28.
51. Id. at 129.
52. Id. at 156.
53. Id.
54. Id. at 131-55.
55. Id. at 156.
56. In their most recent form, these grant conditions—which incidentally, are not imposed upon any other legal services program—prohibit CRLA from providing legal assistance with respect to "representation of a collective bargaining union in litigation," "representation of a labor union in negotiations with employers or with other labor unions," and the representation of labor officials where the real party in interest is a labor union. Statement of CAP Grant, Special Condition G, Exhibit C-12 (Dec. 20, 1967); at the same time the grant contains the following express authorization: "Criteria for eligibility . . . shall not include the factor of whether the in-
In 1968, at the request of a California congressman, the Government Accounting Office (GAO) had conducted an exhaustive field investigation of charges that CRLA had violated the prohibition contained in its grant against labor union representation; no violations were found. The Uhler Report first quoted from the GAO's conclusions exonerating CRLA of grant violations, but asserted that "the GAO Report has served as a launching pad for a relationship that has grown steadily since 1968." The Uhler Report contended that had the GAO investigators "known what we know now about the relationship [between CRLA and Chavez' UFWOC], they would have regarded the evidence in an entirely different light."

**Violation of Other Grant Conditions**

A major theme of the Uhler Report was that CRLA persistently violated the restrictions in its grant from OEO. One of these restrictions concerns criminal cases; the report claimed that it was "obvious that CRLA attorneys have ignored the proscription as to representation of those accused of crimes." Some seventeen separate instances were cited as violations of that limitation.

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58. "We found no evidence that the grantee was working directly for the union or that the activities we reviewed violated special grant conditions relating to union activities." GAO Report at 1, quoted in Uhler Report at 137.

59. **Uhler Report** at 137.

60. *Id.* at 137-38.

61. *Id.* at 165 [emphasis omitted].

62. *Id.* at 158-64. The Uhler Report incorrectly implied that CRLA and other legal services programs were invariably precluded from representing indigent persons in criminal matters except in "special and restricted instances" where a special waiver has been obtained from the director of OEO. *Id.* at 158-64. In fact, there was no prohibition against handling criminal cases, where the defendant was otherwise eligible for assistance, until adoption of the so-called "Green Amendment" to the Economic Opportunity Act, which did not become effective until January, 1968. 42 U.S.C. § 2809(a)(3) (1970). That amendment forbids representation of defendants in criminal cases only where prosecution is instituted by information or indictment and, therefore, does not apply to minor offenses instituted by complaint or citation. OEO guidelines, moreover, make clear that the "Green Amendment" does
The Uhler Report also charged that CRLA was habitually heedless of eligibility standards which limit the availability of its services to persons whose financial resources exceed prescribed limits:

Busy as so many CRLA offices are with their class action law suits, representation of school demonstrators harassing local and governmental agencies, and generally doing their “legal thing,” they neglect monumentally their obligation to conform with [sic] the guidelines for poverty qualifications [sic] for free legal services.63

Unethical Conduct: Solicitation of Clients and Stirring Up of Litigation

Purportedly invoking the Canons of Ethics of the American Bar Association and the California State Bar Rules of Professional Conduct, the Uhler Report accused CRLA of soliciting clients and “stirring up” litigation.84 This theme, which Governor Reagan would later sound in a press conference by labelling CRLA attorneys as “ideological ambulance chasers,”65 the report attempted to develop in broad philosophical terms:

The importance of keeping controversies at the lowest level is vital with respect to the poor. The greater the publicity suggesting exploitation, the more the individual poor person is apt to feel he has no real control over his own life and his own chances for personal fulfillment. Consequently, there are here opportunities for a very special kind of exploitation of the poor—one which promotes psychological dependency by the poor person on the individual raising the complaint.

Settling a problem at the lowest level of controversy does not compromise the material solution. But the quieter the solution, the less apt it is to encourage and aggravate the psychological dependency that may make it virtually impossible for “poor people to help themselves.” It is for this reason that the following section [of the Uhler Report dealing with solicitation and stirring up of litigation] is so important: because it illustrates the depths of the exploit-

not apply to representation of arrested persons before indictment or information (for example, in bail matters), parole revocation, juvenile court matters, civil contempt, or to cases involving alleged mistreatment of prisoners after sentence and incarceration. OEO, Community Action Memo No. 79 (Jan. 15, 1968); CRLA Exhibit B-8.

Virtually all of the specific instances cited in the Uhler Report fell within one or more of these exclusions. Incredibly, five of the cases cited occurred prior to the adoption of the “Green Amendment.” Thirteen of the cases involved misdemeanors or traffic matters not instituted by information or indictment. In others, waivers had been obtained from OEO permitting CRLA to handle the case because of the particular circumstances involved.

64. Id. at 175-91.
65. San Francisco Chronicle, April 28, 1971, at 1, col. 4.
tation that is taking place in CRLA’s relations with its clients and constituents.

... explains the critical importance of the Bar Association’s rules against solicitation and stirring up of litigation when they are applied to the poor. If a poverty lawyer spends all of his time telling an agricultural worker that he is being exploited by the grower, the lawyer is almost certainly exploiting the worker psychologically. For the result of this relationship will be to encourage the worker to resent the grower and depend on the lawyer, who has become at once his “champion” and exploiter.66

This portion of the Uhler Report, like others, was based upon an incorrect premise.67 It erroneously assumed that the ethical restraints which govern the conduct of attorneys in private practice are equally applicable to legal services attorneys. It thus assumed that professional ethics restrain legal service attorneys from educating the poor concerning their legal rights and making known their availability to handle legal claims on their behalf.68 These subtleties the Uhler Report ig-

67. The factual charges in support of the proposition were equally inaccurate. That subject, as with the other factual aspects of the Uhler Report, are discussed later in this article. The present discussion simply describes the Uhler Report charges and, where appropriate, comments on certain deficiencies which appear from the face of the report.
68. First, the Uhler Report cited the wrong text for the principle asserted. The Canons of Ethics of the American Bar Association, cited in the report, have been superseded by a more comprehensive document adopted on August 12, 1969: the Code of Professional Responsibility. The code, to which the Uhler Report makes no reference, affirmatively recognizes that the legal profession has a duty to inform and educate the public in legal matters; ABA, Code of Professional Responsibility EC 2-1, 2-2 (1971); and to “assist in improving the legal system.” Id., Canon 8. The code expressly states: “The fair administration of justice requires the availability of competent lawyers. Members of the public should be educated to recognize the existence of legal problems and the resultant need for legal services, and should be provided methods for intelligent selection of counsel. Those persons unable to pay for legal services should be provided needed services.” Id., EC 8-3. Throughout the code, a distinction is drawn between private attorneys and legal aid and legal services attorneys serving indigent persons without fee. Thus, the prohibition against advertisements explicitly excepts legal aid offices sponsored by community organizations or governmental agencies. Id., DR 2-101(B) (exempting activities permitted by DR 2-103). Similarly, the prohibition against giving unsolicited advice to a layman to the effect that he should retain counsel or take legal action exempts “activities . . . to utilize available legal services” of legal aid offices. Id. 2-104.

These principles were strikingly applied by the Bar Association of the District of Columbia, in approving an aggressive advertisement program on radio and in full-page magazine advertisements, stating that a foundation-supported community law firm would provide free legal assistance in placing a child in an adoptive or foster home, and suggesting that certain reasons frequently given for the denial of adoption
nored, preferring a flight of rhetorical fancy indicting CRLA and its attorneys for unethical conduct:

We think the incidents cited . . . concerning CRLA attorneys soliciting cases and stirring up litigation reveal 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 ideological warfare.69

Harassing and Frivolous Legal Actions

The Uhler Report cited a number of instances which it regarded as proof that CRLA attorneys “are prone to sue, seek injunctive action, [and] in the vernacular ‘do their thing’, without due respect to the disciplined manner of thought process that is so vitally important to the practice of law.”70 Translated into English, it appears that the report charged CRLA with harassing techniques and the filing of unnecessary and meritless legal actions.71 One of the instances of harassment cited by the Uhler Report was a class action filed by CRLA against the Madera County Welfare Department. The suit challenged certain practices of the department with respect to the denial of benefits to children under the age of twelve who did not work in the local grape harvest. This case, the report charged, was “clearly one of harassment” which “could easily have been settled . . . through an administrative process.”72 Shortly after the Uhler Report was published, the California Supreme Court unanimously ruled that the complaint stated a cause of action and that resort to administrative remedies was not required because none was available.73

The Genesis of the Hearings

CRLA was quick to reply to the Uhler Report charges. Within a matter of days after examining a copy of the report borrowed from a newsman, it delivered to OEO in Washington a massive document replying to each of the accusations of the report. In addition, OEO dispatched a team of investigators to California to investigate aspects of

were unsound. See REPORT OF THE COMMITTEE OF LEGAL ETHICS AND GRIEVANCE OF THE BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA IN THE MATTER OF ADVERTISING CONDUCTED BY MONROE H. FREEDMAN AND THE STERN COMMUNITY LAW FIRM; CRLA Exhibit A-55.

70. Id. at 217.
71. Id. at 203-17.
72. Id. at 215-16.
73. Ramos v. County of Madera, 4 Cal. 3d 685, 484 P.2d 93, 94 Cal. Rptr. 421 (1971).
the Uhler Report charges. Meanwhile, support for the program began to develop; newspaper speculation predicted that Governor Reagan's veto would be overridden. The National Advisory Committee to the OEO Legal Services Program unanimously passed a resolution urging that the veto be overridden. Acting Director Carlucci, who presumably had received the reports of his OEO investigators, acknowledged the weakness of the Uhler Report at that meeting and confessed to the committee that "he would hate to have to base the veto on that report."

Despite these seemingly favorable developments, Mr. Carlucci announced on January 30, 1971, that the governor's veto would not be overridden "at this time." Instead CRLA would be given six months interim funding, during which period a "high level" commission would be appointed by the director of OEO for the purpose of determining the facts concerning the Uhler Report charges. CRLA promptly retained counsel and turned to the business of defending itself and its staff in the hearings which were to come. In the weeks that followed, OEO officials gave assurances that the proceedings would be of an adversary nature and that the procedures to be followed would be determined by the commission itself. In addition to promises made directly to CRLA and its counsel, these assurances were also given by Mr. Carlucci to the Senate Subcommittee on Employment, Manpower and Poverty of the Committee on Labor and Public Welfare, thus be-lying Governor Reagan's later accusation that the commission did not adhere to the basic conception of its function. It was not until

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74. E.g. San Francisco Chronicle, Jan. 28, 1971, at 6, col. 6-8.
75. R.T. at 271-72.
76. Mr. Carlucci had been named director of OEO to fill the vacancy left by former director Rumsfeld, who had been appointed to another government post. Carlucci's appointment was, at this very moment, subject to Senate confirmation.
77. Testimony of Earl Johnson, Jr., R.T. at 274.
79. In its report, the commission quoted at length from the testimony of OEO Director Carlucci before the Senate committee considering confirmation of his appointment: "I anticipate that there will be a full opportunity for evidence to be presented in a public forum in the State of California. . . . Yes, sir, representatives of CRLA and the State will be invited to attend to discuss preliminary matters. Soon after this initial meeting, I would expect a first meeting would take place in California. This would have a pre-hearing conference aimed at identifying the issues, discovery of documents, preparation of proof and other matters . . . [M]ost of the burden of preparation will fall on the parties . . . ." COMM'N REPORT at 6-7, quoting from Hearings Before the Subcomm. on Employment, Manpower and Poverty of the Senate Comm. on Labor and Public Welfare, 92d Cong., 1st Sess. (1971).
March 23, 1971, that CRLA and state OEO were informed that a panel had been selected. Its members were distinguished state court jurists: retired Chief Justice Robert Williamson of Maine (the chairman), Justice Robert B. Lee of Colorado, and Justice Thomas Tongue of Oregon.

The first meeting between the commission and counsel, held in closed session in San Francisco on March 31, 1971, was an extraordinary affair. Mr. Uhler began by stating that he did not consider the proceedings to constitute an “adversary situation”; that state OEO did not intend to retain counsel; and that “we don’t consider ourselves to be a party to this.” Chairman Williamson replied:

Our task is to find the facts and report the fact to him [Carlucci] for his judgment. That’s all we’re here to do. That’s it.

We picture it at this: that we are not an investigative body. We have no investigatory staff. We expect to have the evidence brought to us, pro and con. The analogy of the court comes to mind, of course, and we’re the same, Mr. Uhler.

Mr. Uhler’s conception was entirely different. The commission, he suggested, should demand of federal OEO “the funds necessary to hire competent, independent, private investigators” and conduct an investigation in the field. Testimony should be taken in “executive session” rather than a public session. State OEO was not, he said, “in a position to, either staffwise or otherwise, to [sic] parade witnesses before you.” State OEO would, however, be “as helpful as we can.”

The chairman indicated his hope that prior to the commencement of the hearings, counsel for state OEO and CRLA would attempt to determine which of the Uhler Report charges were seriously in issue and which would be eliminated. The commissioners indicated their assumption—and hope—that the state OEO would bring forward the witnesses supporting the charges against CRLA and examine them, and

81. In a sense, this was the second meeting. On March 24, 1971, a telegram was sent to CRLA’s counsel and the state OEO inviting representatives of the protagonists to a conference with the commission in Washington, D.C. three days hence. The meeting was abortive, for no representative of state OEO attended—or, indeed, had the courtesy to advise they they would not be present. The commission circumspectly declined to meet with CRLA’s counsel under the circumstances, and promptly rescheduled the meeting.

82. R.T. at 13 (preliminary hearing of March 31, 1971).

83. Id. at 22.

84. Id. at 27.

85. Id. at 29.

86. Id. at 28.

87. Id. at 26.

88. Id. at 35-36, 50-51.
further, stand ready to cross-examine the witnesses presented by CRLA. Mr. Uhler at first refused but later suggested that certain private attorneys might be willing to assist the commission by examining witnesses. The commission and Governor Reagan's representative were, as Commissioner Tongue tersely expressed it, at an "impasse." Mr. Uhler adhered to this position at the second meeting with the commission, held on April 12, 1971:

The ideologue, the militant, the true believer cannot wait to thrust himself into the center of the limelight in a carnival atmosphere. The average American, on the other hand, shrinks from the eye of the political hurricane.

Just consider a hearing room, packed as it will be with militant supporters of CRLA. What poor person, what Mexican-American will feel free to tell you what is really on his mind in a climate of such legalistic surrealism? This will be the arena of Salvador Dali, not Clarence Darrow.

The only reason for public hearing is to prevent a Star Chamber. You gentlemen would not produce that. CRLA's motive is for publicity, pure and simple, in a packed hearing room. If you want to be a vehicle for a trial by newspaper, you will get your wish.

As for state OEO's role in the proceedings, Mr. Uhler confirmed Commissioner Lee's summary of his position:

[I]t is my impression that he is not going to participate, that his office is not going to participate. They are going to remain on the outside. But they will offer some sort of assistance, the exact dimensions of which we don't know at this time. He will encourage witnesses to appear before the Commission, but he will not provide any counsel who will examine witnesses or make statements or present positions of the State.

Consider, for a moment, the incredible posture of the proceedings at this juncture. Here was the state of California—or more specifically its governor and the director of state OEO—urging federal OEO to cease its funding of perhaps the most highly regarded legal services program in the country, on the ground that CRLA and its staff had engaged in numerous acts of misconduct set forth in the Uhler Report. Faced with those charges, many of which were extremely serious, the director of the United States Office of Economic Opportunity had determined that they warranted a thorough airing. To that end, he had appointed a panel which indeed was a "high level" commission, whose
purpose was to determine the truth or falsity of the charges against CRLA. To ensure that the search for truth would not be hampered by financial considerations, OEO had assured state OEO and CRLA that the expense of preparing for and conducting the hearings would be borne by federal OEO.\footnote{94} Despite all of this, state OEO and Mr. Uhler flatly refused to bear the responsibility of supporting their charges against CRLA with evidence before the commission.

The Reagan-Uhler policy of “cooperation” without direct participation placed the commission in an exceedingly difficult position. At first, the commissioners considered the possibility that their staff might present the testimony of witnesses to the commission,\footnote{95} to which CRLA’s counsel strongly objected.\footnote{96} The rules of procedure ultimately adopted by the commission reflected what was perhaps the best possible resolution of an impossible situation.\footnote{97} They provided that all evidence would be submitted at public hearings at which the press, excluding radio, television or cameras, would be admitted.\footnote{98} Witnesses would be required to testify under oath or by affirmation, subject to cross-examination by counsel for CRLA, the commission and, if it should subsequently participate in the proceedings, state OEO.\footnote{99}

\footnote{94. See, e.g., id. at 130-31.}
\footnote{95. The commission had a chief counsel; in addition, each of the three commissioners was assisted by a full-time attorney.}
\footnote{96. \textit{id.} at 37, 43. CRLA’s counsel objected on the ground that much of the proposed testimony of unrepresented, anti-CRLA witnesses would be irresponsible, immaterial, or otherwise objectionable; in such circumstances, counsel urged, a responsible attorney would refuse to present it. In that situation, the commission’s staff would have to choose between presenting such testimony or deciding that it should not be presented; either course would inevitably expose the commission and its staff to criticism. \textit{id.} at 42-49. CRLA’s counsel insisted that, absent exceptional circumstances, each witness wishing to give evidence against CRLA should be required to appear with counsel. \textit{id.} at 49-51.}
\footnote{97. The commission later explained its decision to proceed with the hearings notwithstanding Mr. Uhler’s refusal to participate: “The Commission, viewing the Uhler Report and the CRLA response thereto as in the nature of a complaint and answer, concluded that the testimony and evidence must go forward in spite of State OEO’s refusal to participate and present evidence in support of its charges against CRLA. It was the Commission’s view that the State OEO’s refusal to participate should not bar the people of the State of California who had complaints against CRLA from bringing forth relevant facts before the Commission. In addition, it was considered wholly inappropriate and inconsistent with the charge to the Commission by Director Carlucci to treat the State OEO’s failure to participate and substantiate its damaging allegations as a ‘default’ which might, in a court of law, justify a dismissal of the charges.” COMM’N REPORT at 17-18.}
\footnote{98. RULES OF PROCEDURE FOR CONDUCT OF PUBLIC HEARINGS, R. 1(a) [hereinafter cited as RULES OF PROCEDURE].}
\footnote{99. \textit{id.} R. 1(c), 6(a).}
Nevertheless, in light of state OEO's adamant refusal to participate in the hearings, the commission was compelled to seek alternative means of developing a full record on which it could confidently base its findings. Its solution—which would ultimately become the source of extraordinary conflict and tension in the conduct of the hearings—was to permit representatives of the California State Bar and others having a legitimate interest in the hearings to file a written request to appear and offer relevant evidence. By proceeding in this fashion, the commission was taking maximum advantage of Mr. Uhler's vague assurances of cooperation in locating for the commission and "encouraging" interested citizens to come forward and give evidence.

Mr. Uhler informed the commission that his office would furnish a "statement in writing as to the general dimension" of the information possessed by each potential anti-CRLA witness. He also suggested that various private attorneys might be willing to appear for the purpose of examining these "Rule 2(b) witnesses," as they came to be called. The rules provided that such witnesses were to be examined by their own counsel and would thereafter be subject to cross-examination by CRLA and by the commission. In "exceptional circumstances" when "a proposed witness has no counsel and . . . none can be provided for him," a witness would be examined by the staff of the commission.

These problems of procedure occasioned by the nonparticipation of the state of California posed continuing problems for the commission. The commission had requested of Mr. Uhler that state OEO furnish to it, not later than April 20, 1971, a listing of "those portions

100. "Representatives of the California State Bar and other organizations and persons with a legitimate interest in such hearings may also request in writing an opportunity to appear and offer evidence relevant to the matters to be considered at such hearings . . . not less than five days in advance of any such hearing. Such written request shall include:
(1) names and addresses of any proposed witnesses and the name and address of counsel representing such witnesses, if any.
(2) with respect to each witness a 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 such request.
(3) copies of any documents intended to be introduced into evidence." Id. R.2(b).
102. Id. at 58-61.
103. RULES OF PROCEDURE R.6(b). This rule also provides that state OEO could cross-examine a Rule 2(b) witness. Id. R.6(c).
104. Id. R.6(c).
of the [Uhler] report which he could commend particularly to the attention of the commission, along with a list of new material which he believes important to the investigation.\textsuperscript{105} Mr. Uhler's response was an \textit{ex parte} telegram to the commission in which he refused to designate “any particular portion of the report over another” and indicated, with respect to new charges, that any additional information would be submitted at a later time.\textsuperscript{106}

With even that minimal degree of cooperation from state OEO denied it, the commission announced that it would sift through the Uhler Report and designate those incidents and charges as to which inquiry would be directed. Those persons mentioned in the Uhler Report in connection with incidents designated by the commission would be sent a “request to testify” by the commission.\textsuperscript{107} Shortly after the hearings began, the commission announced that it had designated the charges set forth in the Uhler Report as to which evidence would be specifically invited. The commission stated that it had “eliminated from consideration alleged incidents which appeared to be trivial or to involve only isolated errors of judgment by individuals,”\textsuperscript{108} and incidents as to which there was no factual dispute “but only a difference of interpretation of OEO guidelines or applicable law.”\textsuperscript{109}

The commission explained that it had designated incidents “which allegedly reflect CRLA policies or practices that have provoked charges against CRLA from various sources” and in addition “some apparently more serious individual incidents . . . as to which there appears to be some factual dispute.”\textsuperscript{110} The commission also designated several ma-

\textsuperscript{105} Letter from OEO Comm'n on CRLA to William F. McCabe, April 16, 1971, quoted in R.T. at 187.

\textsuperscript{106} Telegram from Lewis K. Uhler to John Carney, OEO Comm'n on CRLA, April 20, 1971. Most lawyers know that, except in limited circumstances, copies of all communications with a tribunal during consideration of a disputed matter are to be served on counsel for the other parties. The commission had made that obligation explicit. \textsc{Rules of Procedure} R. 8. There is a certain irony in Mr. Uhler's stubborn refusal to comply with the commission's rules—conduct he surely would have found objectionable if engaged in by a CRLA lawyer.

\textsuperscript{107} R.T. at 178-83.

\textsuperscript{108} Id. at 500.

\textsuperscript{109} Id. On this basis the commission excluded several instances cited in the Uhler Report in which CRLA offices had declined to assist an indigent person in obtaining a divorce. Some CRLA offices had limited their caseload in this fashion in an attempt to reflect priorities established by the board of trustees and the local advisory committees. See note 13 and accompanying text \textit{supra}. This, the commission recognized, was a matter of policy for it to determine.

\textsuperscript{110} R.T. at 501. In making these designations, the commission had before it the Uhler Report and the CRLA reply which had been submitted to OEO. See
major issues or themes, and specific incidents with respect to each, as to which further evidence was requested:

1. Has CRLA adopted and applied policies adequate to insure that it does not violate its grant prohibitions against representing labor unions?
2. Has CRLA conducted itself properly with respect to representation of inmates at correctional facilities?
3. Has CRLA violated the prohibition against representing defendants in criminal cases instituted by indictment or information since the statute was amended?
4. Did CRLA fail to meet applicable standards of professional responsibility re:
   (a) Soliciting clients
   (b) Press Releases
5. Has CRLA conducted itself properly with respect to representation of individuals on attorneys' free time?\textsuperscript{111}
5. Has CRLA represented clients whose financial status renders them ineligible for free legal services?\textsuperscript{112}

Through the offices of state OEO, lawyers were secured for each of the various hearings held by the commission throughout the state of California.\textsuperscript{113} Some were local attorneys in private practice; several attorneys who served in this capacity were counsel for the California Farm Bureau Federation. Thus Mr. Uhler managed to ensure a vigorous, adversary presentation of the anti-CRLA position subject to his direction and control\textsuperscript{114} while preserving the option of later attacking

\textsuperscript{111} The existence of a factual dispute would appear from these documents; conversely, in many instances, the controversy would be capable of resolution from these documents without further evidence.

\textsuperscript{112} In some instances, CRLA attorneys, on their vacation or off-duty hours, had engaged in activities such as defending a criminal matter, representing a person not otherwise eligible for CRLA services, or assisting a labor union, which CRLA as an organization could not handle. The propriety of this practice was questioned in the Uhler Report.

\textsuperscript{113} Announcement of Chairman Williamson re Designation of Incidents in California Evaluation As to Which Evidence is Invited, appearing in Comm'n Report, Exhibit B; also reproduced in R.T. at 502-05. In addition to these matters, the commission designated eight "Miscellaneous Incidents" for further hearings.

\textsuperscript{114} The exception was the first week of hearings in San Francisco, devoted to CRLA's "affirmative case," where no Rule 2(b) witnesses testified.

That these private attorneys worked closely with state OEO was obvious from the outset. For example, when state OEO delivered to the commission a list of names and addresses of potential anti-CRLA witnesses requested by the commission, a copy of that list was hand delivered to the offices of CRLA's counsel by William Knecht, counsel for the California Farm Bureau. Mr. Knecht was to play an active role in the hearings, as did other farm bureau counsel. Indeed, at the conclusion of the hearings, the Farm Bureau submitted a 61-page brief in support of the Reagan-Uhler position.
the commission's inquiry as one-sided. As a consequence of Mr. Uhler's position, with less than a week remaining prior to the commencement of the hearings a member of the commission, Justice Tongue of Oregon, resigned. OEO officials in Washington sought to obscure a potentially embarrassing development with an announcement that Justice Tongue was compelled to resign because of a "heavy caseload" on the Oregon Supreme Court.\textsuperscript{115} Justice Tongue thereupon released a copy of his letter of resignation to OEO Director Carlucci which made clear his full reasons:

My acceptance of appointment was also based upon the assumption by your staff that if the Commission decided to proceed with the task by the holding of public hearings, the State of California could be expected to cooperate by accepting its responsibility to call witnesses and present other evidence in support of the many and serious charges made . . . .

It now develops, however, . . . that California State OEO is not willing to accept that responsibility . . . . As a result, the performance by the Commission of its duty . . . in a fair and thorough manner, will be much more difficult and time consuming.

I would most sincerely hope, however, that the State of California will reconsider its position and will then decide to assume these responsibilities. After all, it has already devoted substantial time and effort to the preparation of a 283 page report, setting forth names, dates and places, and supported by some 3000 documents. Thus, in my opinion, if it desires to be of assistance to the Commission in performing the task assigned to it, the State can best do so by calling witnesses and by offering other evidence to prove the charges made in that report.\textsuperscript{116}

The vacancy created by Justice Tongue's resignation was promptly filled by the appointment of George R. Currie, retired Chief Justice of the Wisconsin Supreme Court.

\textbf{The Hearings: First Week}

Despite the insistence of Mr. Uhler that state OEO and the state of California were not "parties" to the proceedings and would not participate in public hearings, there was some doubt whether they would adhere to that position when the hearings commenced. News reports fed those doubts, implying that some change of position was possible. As the first moments of the hearings clearly demonstrated, however, the commission charted a clear course for itself from which it was determined not to stray. Almost at the very outset of the proceedings, Mr.

\textsuperscript{115} San Francisco Chronicle, April 23, 1971, at 4, col. 5-7.

\textsuperscript{116} Letter from Thomas H. Tongue to Frank Carlucci, Director, Office of Economic Opportunity, April 20, 1971.
Uhler rose to his feet and attempted to address the commission. There followed this exchange:

    MR. UHLER: May it please the Commission—
    CHAIRMAN WILLIAMSON: Mr. Uhler? . . . Is your agency appearing here as a participant with these limitations—
    MR. UHLER: We are appearing—
    CHAIRMAN WILLIAMSON: Just let me state this. Will you accept responsibility to examine, to present and examine witnesses and to cross-examine witnesses presented by CRLA, will you accept responsibility to offer and lay the foundation for the admission of exhibits, and will you designate yourself or some other attorney as chief counsel fully authorized to represent your office in procedural and administrative contacts with the Commission and CRLA? We are now in open hearing and we so ask you whether your agency is a participant within the statements which I made, and if you wish to examine these statements before proceeding further, I will hand you a copy.
    MR. UHLER: No—they are well understood—
    CHAIRMAN WILLIAMSON: What is your answer to that, Mr. Uhler?
    MR. UHLER: Mr. Chairman, we have indicated—
    CHAIRMAN WILLIAMSON: Is it yes? Is it yes or no?
    MR. UHLER: No. As we have indicated in the past, we are endeavoring to assist the Commission—
    CHAIRMAN WILLIAMSON: I understand—
    MR. UHLER:—in every possible way, Mr. Chairman.
    CHAIRMAN WILLIAMSON: What is your answer to the question, yes or no?
    MR. UHLER: We cannot perform or participate in the Commission as outlined in those questions, but I request the opportunity to state for the Commission, just briefly, and raise a couple of questions that might be helpful to the Commission, and also to the assistance that we proffer the Commission.
    CHAIRMAN WILLIAMSON: We recognize that you offer certain assistance, but not in connection with the conduct of the public hearings. And so unless your agency is prepared—and you said you are not—to be a participant, we do not wish to hear you in open hearing.\footnote{\textsuperscript{117}}

With that, Mr. Uhler departed, explaining that while his business compelled him to be elsewhere, at least one aide would be present at all times during the proceedings.

The first week of hearings, which were held in San Francisco, gave CRLA the opportunity to present its "affirmative case"—that is, to present evidence as to the nature and purposes of the national legal services program, the history, organization and functioning of CRLA,

\footnote{\textsuperscript{117} R.T. at 36-37.}
and the degree to which it achieved the goals of the legal services program.

The transcript of that first week of hearings is a rich anthology of information concerning both the legal services program and CRLA itself. The commission heard testimony from the first director of OEO, R. Sargent Shriver,118 and from the first two directors of legal services who served with Mr. Shriver, Dean E. Clinton Bamberger, Jr.119 and Professor Earl Johnson, Jr.120 These witnesses stressed that the legal services program was conceived as providing more than attorneys to represent the poor in their day-to-day affairs; rather, legal services attorneys were to attack the major causes and symptoms of poverty. Particularly during the tenure of Earl Johnson as the director of legal services, increasing emphasis was given by OEO to “law reform” activities and of finding means to limit program caseloads and establishing priorities so that the inevitable press of day-to-day business would not impair the larger goals of the program. Members of the CRLA staff testified as to the organization and operation of the program. The commission heard from its founder, James D. Lorenz, Jr.,121 its then current director, Cruz Reynoso,122 its then director of litigation (and current director), Martin Glick,123 and from members of its board of trustees.124

The commission also heard testimony from persons who were in a position to testify as to CRLA’s impact on the low income community which it serves; these witnesses included Mario Obledo, General Counsel of the Mexican-American Legal Defense Fund125 and Barbara Anderson, a client and member of CRLA’s advisory board in Modesto.126 It heard testimony from those who were professionally obligated to evaluate the program, among them John Douglas, President of the National Legal Aid and Defender Association,127 Jerome J. Shestack, immediate past Chairman of the American Bar Association Section on Individual Rights and Responsibilities (who had participated in the

118. Id. at 1275-1319.
119. Id. at 38-88.
120. Id. at 234-280.
121. Id. at 88-229, 280-334.
122. Id. at 336-93, 439-99.
123. Id. at 817-44, 859-96, 914-63.
124. Testimony of Danuel Luevano, Chairman, CRLA Board of Trustees, R.T. at 394-417; testimony of Oliver Green, Member, CRLA Board of Trustees, serving as representative of State Bar of California, R.T. at 634-652.
125. Id. at 418-27.
126. Id. at 968-76, 1023-49.
127. Id. at 715-55.
1970 OEO evaluation of CRLA,\textsuperscript{128} and John D. Robb, Chairman of the American Bar Association Standing Committee on Legal Aid and Indigent Defendants and, as such, the authorized spokesman for the ABA on legal services matters.\textsuperscript{129} It heard from past and present officials of OEO responsible for supervision of the CRLA program: Laurence Horan, Western Regional Director of OEO (1967-69)\textsuperscript{130} and Thomas J. Mack, Regional Director of Legal Services of OEO.\textsuperscript{131} The commission also heard testimony from lawyers who had opposed CRLA attorneys in a professional capacity in cases which the Uhler Report contended had been handled improperly by CRLA.\textsuperscript{132} Each of these witnesses testified as to the quality of the CRLA program, the skill of its attorneys, and the integrity and high ethical standards adhered to.

The first week of hearings was concluded with the testimony of R. Sargent Shriver, the first director of the United States Office of Economic Opportunity, during whose administration the first grant to CRLA was made. He testified as to the philosophy of the legal services program and the damage which sustaining the gubernatorial veto would work.\textsuperscript{133}

Even as this testimony quietly unfolded, a storm raged outside the hearing room. Mr. Uhler, following his brief colloquy with the commission at the outset of the hearings, promptly marched to the press room of the courthouse. There he alleged that unnamed CRLA attorneys were responsible for recent disturbances in the prison system.\textsuperscript{134} Asserting that “the real story of this controversy has not

\textsuperscript{128} Id. at 561-623.
\textsuperscript{129} Id. at 505-60.
\textsuperscript{130} Id. at 976-1022.
\textsuperscript{131} Id. at 1073-1101.
\textsuperscript{132} The commission heard the testimony of William J. Bradford, a former deputy attorney general of the State of California, R.T. at 1049-72. Mr. Bradford had defended against a CRLA suit which the Uhler Report charged was brought through improper solicitation of plaintiffs. Mr. Bradford testified that all of the information on which that charge was based had been brought to his attention during the course of that litigation and that he, his co-counsel, and the state agency he was representing concluded that there had been no solicitation. R.T. at 1061-63. He testified that the CRLA lawyers he opposed, in what he characterized as “the most bitterly contested litigation I’ve ever been connected with,” were “the best litigation lawyers I’ve ever run up against.” Id. at 1070. He added that they were “perfect gentlemen at all times” and “absolutely” ethical in their conduct. Id. at 1071.
\textsuperscript{133} David R. Urdan, a former United States Attorney, who had represented the government in another case criticized in the Uhler Report, also testified to the integrity and skill of the CRLA attorneys with whom he had dealt. Id. at 793-816.
\textsuperscript{134} San Francisco Chronicle April 26, 1971, at 8, col. 2-4.
been told,” he claimed that his office had been harassed by various federal and state legislators and officials because he had “the temerity and the audacity to take on the darling of the legal services establishment.”\(^\text{135}\)

The following day Governor Reagan himself held a Sacramento press conference, at which he accused the commission of coming “with the idea that they could sit at a bench while everyone else did the work for them.”\(^\text{136}\) He maintained that the commission was created to go into the field and investigate, rather than conduct hearings. He added that CRLA “is like a bunch of ideological ambulance chasers doing their own thing at the expense of the rural poor . . . .”\(^\text{137}\) It was evident that one side of the controversy, having eschewed participation in the orderly fact-finding processes of the commission, had elected to fight its battle in the political arena.

**Balance of the Hearings**

During midweek at the hearings in San Francisco, the commission announced that it would conduct the balance of the hearings in most of the cities in which CRLA had a local office as state OEO had urged. Thus, the second week of hearings took place before the full commission in Salinas, at the nearby prison in Soledad, and in El Centro, located roughly a dozen miles north of the Mexican border in the heart of the Imperial Valley. During the final week, the commission initially split into one-man panels to conduct hearings in Gilroy, Madera, Marysville, Modesto, Santa Maria and Santa Rosa, thereafter to conclude with three days of testimony before the full commission in San Francisco.

At each location, CRLA began with a brief “affirmative presentation,” calling attention to particular accomplishments of the local office and demonstrating the high regard in which the attorneys were held by CRLA’s client community and by responsible civic leaders. The balance of the hearings was devoted to the Uhler Report charges designated by the commission, and to the testimony of witnesses appearing under Rule 2(b). Most of the charges were quickly shown to be utterly misplaced; others took more time to understand and to explain. In the end, virtually all were shown to be without merit. In some cases, the Uhler Report was shown to have quoted passages of letters

\(^{135}\) Sacramento Bee, April 27, 1971.
\(^{136}\) San Francisco Chronicle, April 28, 1971, at 1, col. 4.
\(^{137}\) Id., at 20, col. 6.
and affidavits out of context—deceptively transforming their meaning in a manner well beyond the confines of legitimate advocacy. In many instances, the report failed to disclose facts which, when presented, showed the conduct criticized to have been entirely proper. Disturbingly, the testimony often showed the undisclosed facts to have been known to the representatives of state OEO who prepared the report. In other instances, the report had relied on patently incredible witnesses, without reference to overwhelming contrary evidence or other reasons to disregard their allegations. Most of the Rule 2(b) witnesses, it developed, appeared at the urging of state OEO or the California Farm Bureau. Many of the statements had been signed on their behalf by representatives of state OEO or the California Farm Bureau. Understandably, therefore, many failed to testify as their requests to testify indicated they would do.

The dichotomy between public accusations and evidence presented before the commission, and the difference between state OEO's offer of all possible assistance and what was in fact furnished, are well illustrated by the commission's attempt to investigate charges of wrongdoing by CRLA attorneys in representing inmates of the Correctional Training Facility at Soledad. During the course of the first week's hearings in San Francisco, the accusations contained in the Uhler Report were supplemented by what in many localities were headline charges of CRLA involvement in prison disturbances, even including the wounding and killing of prison guards. Thus, the commission

138. Compare, e.g., Uhler Report at 249 with R.T. at Santa Rosa 218-20 and Exhibit SR-9. Compare Uhler Report at 78-81 with R.T. at Soledad 30-31, 37-40, 63-64 (affidavits from prison inmates which for a long period were withheld from CRLA's counsel on the ground that disclosure might endanger the safety of the inmates); see R.T. at 435, 658-59.


142. E.g., R.T. at Santa Rosa 67-69, 84-87, 89-90; id. at 113-14; id. at 224-25.

143. The charges, which originated in a press conference held by the California
decided it would conduct hearings within the walls of Soledad prison, where the principal incidents had allegedly occurred. The first of many problems arose when a deputy superintendent familiar with CRLA’s work on behalf of inmates, who had originally agreed to testify before the commission, was “advised” by someone within the Department of Corrections that he should not testify, and indicated that he was no longer prepared to do so. The matter was brought to the attention of the commission, and ultimately the deputy superintendent did appear and testify favorably to CRLA.

CRLA’s attorneys then sought to have the commission condition its decision to conduct hearings in Soledad upon the receipt of assurance from the California Department of Corrections that correctional officers requested to testify before the commission would be “directed” to do so; in response to the position of the department, the condition was limited to an assurance that officers would be “encouraged” to testify upon commission request. The department of corrections gave this assurance and also represented to the commission that counsel would have unimpeded access to all potential witnesses within the prison. While this promise was kept, the difference between “encouraging” prison personnel to testify and “directing” them to do so quickly became apparent. Numerous correctional officers, including officials with high level supervisory positions, absolutely refused to speak with counsel for CRLA. Of those who consented to interviews prior to the commission’s appearance at the prison, some voiced a be-

Correctional Officers Association, were repeated in a direct communication to the commission. See letter to John F. Carney, General Counsel, OEO Comm’n on CRLA from Moe Camacho, President, California Correctional Officers Association, April 20, 1971. “If we failed to make our point at the news conference, may we again charge that radical, leftist attorneys, including some employed by CRLA, have contributed to violence in our prison system.”

144. R.T. at 773.
145. R.T. at 850-57. The commission, unfortunately, possessed no subpoena power and thus was dependent upon the cooperation of private citizens, and particularly of the state of California as respects public officials and employees. The prison matter was particularly alarming, for earlier that morning counsel for CRLA had learned that a contemplated witness, a deputy attorney general who had been on the opposing side of several lawsuits brought by CRLA, had been ordered by his superiors not to testify. R.T. at 755-56.
146. R.T. at 1636-49.
147. Id. at 857-58.
148. Id. at 1149, 1157-59.
149. Id. at 1162-67.
150. This is an appropriate point to acknowledge that deputy superintendent Enomoto was extremely helpful and cooperative in arranging for interviews and facilities for CRLA’s counsel.
lief that "lawyers"—including but not limited to CRLA—were responsible for much of the violence within the institution; none offered a shred of evidence to support that suspicion. Others, including those whose "requests to testify" contain highly publicized charges of serious misconduct, candidly acknowledged that they had no basis for accusing CRLA or its attorneys of any wrongdoing.\(^1\) In the end, not one of the correctional officers on whose behalf Rule 2(b) requests had been filed was willing to testify before the commission.\(^2\) Despite the gravity of the charges that had been made with great public fanfare, not a scintilla of evidence was produced to support them.

Two "requests to testify" under Rule 2(b) relating to the CRLA office in El Centro present another illustration of the manner in which the fight against CRLA was waged. A former CRLA community worker at the El Centro office, Mrs. Ollie Rogers, filed a "request to testify" through her counsel. Attached to that document was a lengthy affidavit in which she alleged a variety of significant improprieties. Her attorney also filed a "request to testify", to which he attached a copy of a confidential memorandum written by a CRLA attorney in the El Centro office, Robert Johnstone, to the CRLA central office in San Francisco for transmittal to CRLA's counsel. Mrs. Rogers acknowledged that she had removed the document from the CRLA office and that she subsequently had given it to "an investigator" whose identity she refused to divulge.\(^3\) Because of her refusal to answer this and related questions on cross-examination, despite rulings of the commission overruling objections to those questions,\(^4\) the circumstances by which the document came into the hands of her attorney were never revealed, and the basis upon which her testimony was secured remains a matter of conjecture.

Nonetheless, the disclosure of the Johnstone Memorandum, as it came to be called, proved highly embarrassing for CRLA. Mr. Johnstone had composed his memorandum, intended only for the eyes of counsel, in an exceedingly flippant style. The memorandum discussed all matters which the author felt conceivably could become the subject of inquiry and, in a parody of a popular television series, recited that it "should self-destruct within thirty seconds after being read." The memorandum also suggested potential witnesses, referring to one as know-

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151. Tape recordings of interviews with prison personnel were lodged by CRLA counsel with the commission. See R.T. at 1330.
152. Id. at 1330-32.
153. Id. at El Centro 520-44, 582-93 [hereinafter EC].
154. Id. at EC-532.
ing "the CRLA 'law and order' song and dance by heart" and another as one who would "say anything we want him to." Mrs. Rogers' counsel was content to file the document with the commission and await the forthcoming hearings. Governor Reagan's office, however, promptly released it to the press.

Though containing nothing that CRLA could not and did not satisfactorily explain to the commission when the hearings reconvened, the release of the Johnstone Memorandum caused another splash of sensational adverse publicity throughout the state. The principal consequence of the memorandum, however, was the embarrassment which it initially caused the persons discussed in it. Nonetheless, because it thus became essential to demonstrate the integrity and credibility of these persons, the entire affair may have served to enhance their testimony. For example, one of the individuals mentioned was Luis Legaspi, a councilman and former mayor of Calexico, a town just south of El Centro. Referring to the portion of the Johnstone Memorandum describing himself, Mr. Legaspi testified:

Q. [T]hat statement [in the Johnstone Memorandum] ended with a sentence to the effect that you would testify to anything we wanted you to. What did that statement mean, as you read that?
A. Well, I consider myself very fortunate to be on the honor roll.

I think that Bob meant that I would have the courage to come up here and state my opinion, and nobody could stop me from doing it.

Q. Has Mr. Johnstone or myself or any other attorney or representative of CRLA asked you in any way, at any time, to say anything before this Commission that was not what you believe and what you consider to be a hundred percent true?
A. Well, I don't know about you, but Bob wouldn't dare try anything like that.

One contemplated CRLA witness, also mentioned by Mr. Johnstone in his memorandum, was Mrs. Donna English, an employee of the Imperial County Welfare Department. With the publication of the Johnstone Memorandum, Mrs. English's employer took immediate steps to prevent her from testifying on behalf of CRLA. She was placed under virtual house arrest and ordered not to leave her desk without permission or to speak with anybody by telephone during working hours. Only after Mrs. English obtained private counsel who

155. The Johnstone Memorandum was admitted into evidence as Exhibit EC-77.
156. The commission's findings with respect to the Johnstone Memorandum, exonerating CRLA with respect to that document and the matters contained therein, are described at note 164 infra.
demanded that she be permitted to appear at the hearing and give testimony was she permitted to do so.\footnote{Id. at EC-61-65.}

The hearings resumed on May 18, 1971. Beginning as early as 8:00 a.m. and concluding as late as 9:00 p.m. the commission heard testimony, in each of the six remaining locations, as to each of the charges it had designated and of the Rule 2(b) witnesses; it reviewed literally hundreds of exhibits. The transcript of the entire hearings is roughly five thousand pages in length; the commission heard the testimony of 165 witnesses—several more than once.\footnote{COMM'N REPORT at 55.} When the hearings were done, the commission received briefs from CRLA, one of the witnesses, and the California Farm Bureau. Thus the matter was submitted for the commission's determination.

**The Commission's Report**

The commission set forth its conclusions in a report of more than 400 pages, in which every shred of testimony, every *Uhler Report* charge, and every new accusation of a Rule 2(b) witness was described and evaluated. In each of the areas singled out by the *Uhler Report*, the commission found the charges against CRLA to be unfounded. For example, with respect to the charge that CRLA attorneys had handled criminal cases in violation of the Economic Opportunity Act's prohibition,\footnote{See notes 61-62 and accompanying text supra.} the commission stated:

> [W]e have found no substantial deviation from the proscriptions of the statute and guidelines. Where criminal representation did occur, such was within the permissible bounds of the statute—that is, the cases were, with one exception, not felony cases, instituted by indictment or information; they were, at most, misdemeanors, commenced by complaints or summonses. In most instances, CRLA attorneys had obtained waivers of the guideline prohibitions even . . . where not required to do so by OEO guidelines. No statutory violations were demonstrated. The Uhler Report charges were completely unwarranted.\footnote{COMM'N REPORT at 24 n.2.}

With respect to the claim that CRLA had improperly assisted labor unions—specifically, the United Farm Workers Organizing Committee headed by Cesar Chavez—the commission concluded:

\begin{footnotes}
158. *Id.* at EC-61-65.
159. *COMM'N REPORT* app. B. A total of 75 "requests to testify" were filed with the commission. Of these, seventy-two were granted, and only three rejected as insufficient. *COMM'N REPORT* at 24 n.2.
160. See notes 61-62 and accompanying text *supra*.
161. *COMM'N REPORT* at 55. The commission did suggest that CRLA should take whatever steps it could to avoid misunderstanding on the question of criminal representation. *Id.*
\end{footnotes}
There are situations in which action taken on behalf of individual employees or groups of employees may, depending upon the circumstances, either promote or impede union organization effort.

The Commission has, therefore, determined that in such situations CRLA has operated within the... special grant conditions while vigorously representing its clients...162

The charges relating to the prison were dealt with in extreme direct terms:

The Commission specifically finds that any charges of impropriety with respect to activities within the prisons are completely baseless. After exhaustive hearings, both at Soledad and San Francisco, not a shred of evidence showing actual misconduct of CRLA has been adduced.163

Finally, it said of the Uhler Report:

It should be emphasized that the complaints contained in the Uhler Report and the evidence adduced thereon do not, either taken separately or as a whole, furnish any justification whatsoever for any finding of improper activities by CRLA.

It should be noted that California State OEO and its Director, Mr. Uhler, were repeatedly invited and urged by the Commission to participate in the hearings... The State OEO and its Director repeatedly refused to participate or to present any evidence to support the charges in the Uhler Report.

The Commission expressly finds that in many instances the Uhler Report has taken evidence out of context and misrepresented the facts to support the charges against CRLA. In so doing, the Uhler Report has unfairly and irresponsibly subjected many able, energetic, idealistic and dedicated CRLA attorneys to totally unjustified attacks upon their professional integrity and competence.

From the testimony of the witnesses, the exhibits received in evidence and the Commission’s examination of the documents submitted in support of the charges in the Uhler Report, the Commission finds that these charges were totally irresponsible and without foundation.164

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162. Id. at 65-66. The commission did conclude that there was a danger of public misunderstanding when, as occurred on rare occasions, CRLA employees participated in labor union activities on their off-duty time. Id. at 66.

163. Id. at 82.

164. Id. at 83-84.

With respect to the other matters previously described in the text, the commission’s findings exonerated CRLA in similar fashion. Those findings can only briefly be summarized here:

(1) Schools: The commission noted that CRLA’s advisory boards had “set a high priority on the need to improve their children’s educational opportunities”. Comm’n Report at 41, and, that CRLA had responded to the end that “these children of the poor, the migrant, the Black, the Chicano, the Indian might, through the schoolhouse door, escape poverty and ultimately partake of the American promise of equal and abundant economic opportunity.” Id. at 41-42. It described with approval several such actions. Id. at 42-46. It found baseless various charges that
On the positive side, the commission concluded that "CRLA has been discharging its duty to provide legal assistance to the poor . . . in a highly competent, efficient, and exemplary manner" and thus "recommend[ed] that California Rural Legal Assistance, Inc. be continued and refunded."\(^{165}\)

There was, of course, no assurance that OEO would follow the commission's recommendations. Once the matter was presented to OEO Director Carlucci, would the ultimate decision be based upon the Commission's Report, or would political considerations again dictate the outcome? Since political pressures may be generated in more than one direction, it was hoped that the publication of favorable findings by the commission would create an environment in which no pressures asserted by Governor Reagan would be sufficient to permit disregard of the commission's recommendations. Thus, it was with monumental dismay that CRLA learned that OEO did not intend to make available the Commission's Report, due to be filed on June 25, 1971, until after Mr. Carlucci had made his decision with respect to the refunding of CRLA.

Counsel for CRLA formally demanded its release immediately upon delivery\(^{166}\) and were present at OEO offices in Washington when

had been made with respect to CRLA's activities in the educational field, among them the two previously described in the text. \(^{160}\) Comm'n Report, app. A, at 14-16.

(2) Client-eligibility Standards: The commission did not find a single instance in which CRLA had violated the client-eligibility standards to which it was required to adhere. \(^{160}\) See Comm'n Report, app. A, at 14-16.

(3) Unethical Conduct: The commission found no evidence of unethical conduct on the part of CRLA attorneys. It agreed, of course, that the applicable ethical principles do not restrict legal services attorneys in the same manner as private attorneys. \(^{160}\) Comm'n Report at 56-57. Thus, the commission concluded that the charges of solicitation contained in the Uhler Report were "without foundation." \(^{160}\) Id. at 57.

(4) The Johnstone Memorandum: The commission made the following finding in the main portion of its report: "Because of inferences of misconduct which were drawn [by others] from this memorandum the Commission received extensive evidence on the matter covered therein . . . . The Commission wishes to emphasize that the evidence adduced completely exonerates CRLA as an organization of any wrongdoing." \(^{160}\) Id. at 84. The commission also stated: "The language of [the Johnstone Memorandum] is susceptible to the interpretation that it was reflective of an attitude of cynical disdain toward the Commission. Although the Commission cannot condone its tone, we are convinced that it does not reflect such an attitude but rather a flippant style of expression indicative of immaturity and perfectly consistent with honesty. The Commission has heard extensive testimony from its author Mr. Johnstone and has heard more testimony about him than about any other individual. From this testimony has emerged an altogether consistent picture of a young man with a basic decency of purpose but an altogether too careless manner and tongue." \(^{160}\) Id., app. E, at 56.


the report was to be delivered by the commission. After an aide to Mr. Carlucci advised that the report would not be released to CRLA, suit was filed against OEO in the United States District Court, asserting that immediate production of the Commission's Report was compelled under the provisions of the federal Freedom of Information Act.

It seemed then and seems now incredible that CRLA was compelled to go to court to obtain a copy of the Commission's Report,


The only exemption even arguably applicable was the so-called “fifth exemption” for “inter-agency or intra-agency memorandums . . . which would not be available by law to a party other than an agency in litigation with the agency.” 5 U.S.C. § 552 (b)(5) (1970). The exemption, on close analysis, seems clearly inapplicable. What Congress exempted from disclosure were “those internal working papers in which opinions are expressed and policies formulated and recommended” so as to encourage “the free and uninhibited exchange and communication of opinions, ideas, and points of view” free from the “threat of cross-examination in a public tribunal.” Ackerly v. Ley, 420 F.2d 1336, 1341 (D.C. Cir. 1969). Documents of an essentially factual nature, as distinguished from policy-oriented materials, are not exempt. Environmental Protection Agency v. Mink, 41 U.S.L.W. 4201 (1973); Soucie v. David, 448 F.2d 1067 (D.C. Cir. 1971); Bristol-Myers Co. v. Federal Trade Comm'n, 424 F.2d 935 (D.C. Cir. 1970); General Services Admin. v. Benson, 415 F.2d 878, 881 (9th Cir. 1969). Of course, at the time the suit was filed CRLA was in no position to assure the district court that the Commission's Report, which CRLA had not seen, contained no recommendations of policy. But it was clear from the mandate given it by OEO that the commission's principal task was fact-finding. Indeed, the report when released proved to be of precisely that character.
since there was nothing remotely confidential about that document. It was, after all, the result of quasi-judicial proceedings; its findings were based upon a public record of public hearings. OEO itself did not suggest that the report would forever be treated as confidential. Its position—to the extent it ever articulated one—was merely that Mr. Carlucci was privileged to withhold the Commission's Report from CRLA and the public until after he had made and announced his decision as to the future of CRLA.

OEO's position can, of course, be understood in political terms: any governmental bureaucrat will prefer to be immunized from public comment and political pressure, particularly when grappling with a sensitive question. It is defensible on no other ground. If a condition of disclosure under the Freedom of Information Act were the document's lack of relevance to future decision making, the act would be of benefit only to historians. Moreover, the notion OEO would make that a literally life or death decision concerning the future of CRLA, based upon fact-findings of a quasi-judicial proceeding to which CRLA was a party, without first providing it with a copy of those findings, can hardly be squared with our tradition of due process.170

The complaint and supporting documents were presented to the district court in midafternoon on Friday, June 25, 1971. The court promptly set the matter down for a hearing on Monday, June 28. On Tuesday, June 29, the district court announced that it would not issue

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170. See Mazza v. Cavicchia, 15 N.J. 498, 105 A.2d 545 (1954) (Vanderbilt, C.J.); Des Plaines Currency Exch. v. Knight, 29 Ill. 2d 244, 247-48, 194 N.E.2d 89, 92-93 (Schaefer, J., dissenting); cf. Sorrentino v. State Liquor Author., 10 N.Y.2d 143, 176 N.E.2d 563, 218 N.Y.S.2d 635 (1961). Although Mazza has been criticized for the breadth of the court's opinion—specifically for its conclusion that informal consultations and, indeed, even the preparation by the decision-maker's subordinates of summaries of testimony taken in an administrative proceeding are improper—its central holding that a decision-maker may not rely on the formal, written findings of the hearer-of-testimony without having first disclosed those findings to the parties seems beyond dispute. Administrative decision-making may be informal, and doubtless there is no impropriety in the use of assistants or law clerks; but there would be considerable impropriety in relying upon a final report and findings of a hearing examiner—or, similarly, of an independent fact-finding commission—without disclosing that report and findings to the interested parties. As the New Jersey Supreme Court stated in Mazza, "the individual litigant . . . has a right not only to refute, but, what in a case like this is usually more important, to supplement, explain, and give different perspective." 15 N.J. at 515, 105 A.2d at 555.
a preliminary injunction—relief which, admittedly, would have been tantamount to a final decree—at that time. Concluding that there was no urgency in the matter, the court stated that “the Government should have a reasonable time to evaluate the document, classify it within the terms of the Freedom of Information Act, and exercise its rights to a claimed exemption from publication under the Freedom of Information Act.”171 The case was continued until July 6, 1971, at which time the court stated it would reach the merits of the case. CRLA promptly noticed an appeal, on an emergency, expedited basis, to the Court of Appeals for the District of Columbia Circuit.172

While these judicial proceedings advanced at a furious rate, OEO Director Frank Carlucci had left the muggy climate of summertime Washington and had flown to California, presumably bearing a copy of the object of the litigation: the Report of the Office of Economic Opportunity Commission on California Rural Legal Assistance, Inc. One can only speculate as to the conversations he must have had with the governor and his representatives; but it is fair to conclude that Mr. Carlucci’s hand was visibly strengthened by the unequivocal, and plainly expressed, findings of the Report. Mr. Carlucci’s trip to California was not without results. Before the emergency appeal in the Freedom of Information Act suit could be heard in the court of appeals, the controversy had ended. CRLA Director Cruz Reynoso and his counsel were summoned to OEO headquarters in Washington, where they were advised of a formula by which the controversy might be ended: CRLA would be refunded for an extended term (by OEO standards) of seventeen months while, presumably to salve the governor’s wounds, OEO would announce a grant of $2.5 million for an undefined experimental legal services program. Even as the details of the renewed CRLA grant were being negotiated, Mr. Carlucci publicly announced the refunding of CRLA and the new grant “for planning a comprehensive experimental program for the delivery of legal services to low-income citizens in California.”173 Satisfied with a $2.5 million consolation prize, the governor promptly approved, without fanfare, the new grant to CRLA.174

Yet even in the closing hours of the CRLA controversy, and in sharp contrast to the commission's unequivocal repudiation and condemnation of the Uhler Report charges, OEO's handling of the matter remained unfaillingly political—indeed, devious—to the end. OEO delayed release of the Commission's Report for several hours after the original announcement of CRLA's refunding. That announcement was made in the form of a lengthy statement by Director Carlucci. This statement totally distorts the commission's findings. Its principal reference to the Commission's Report thus states:

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.175

The Carlucci statement proceeds to describe a number of "stringent controls" which OEO would impose upon CRLA in response to findings and recommendations assertedly made by the commission. This was misleading in two respects. Almost without exception, the adverse findings and recommendations implied by the Carlucci statement had never been made by the commission.177 Moreover, the

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176. Id. at 23.
177. We need list only the more flagrant examples:

(1) The Carlucci statement represented that the "Commission indicated that as a matter of policy CRLA, a federally funded agency, should . . . not intervene in labor-management disputes." Id. at 13. In fact, the commission had merely described the limitations imposed by OEO, expressly stating that it "does not consider the merits of the policy embodied in the grant condition." COMM'N REPORT at 64. Moreover, the Carlucci statement implied that CRLA had not fully complied with the grant conditions on labor union representation and for that reason "CRLA's role in this delicate area must be carefully designed and monitored." Of course, the commission's findings were that CRLA had fully complied with these grant conditions. Id. at 66-67, 83; see text accompanying note 162 supra.

(2) Mr. Carlucci, quoting the commission out of context, repeated a statement of the commission 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." Carlucci Statement, at 4, quoting from COMM'N REPORT, at 37. The Carlucci statement, however, failed to mention the commission's finding on this point—namely, that "CRLA has acted responsibly in this regard." Id. at 37.

(3) Mr. Carlucci stated in a context which misleadingly implied that he had reference to statements of the commission, that "it is one thing for a lawyer to pur-
CRLA grant signed by Carlucci on July 1, 1971, while in some respects reworded, did not significantly alter the internal policies of CRLA, which in several instances had been more restrictive than previously required by OEO. Nevertheless, since the release of the Carlucci statement was not accompanied by the commission's report itself or by terms of the new grant, which had not then been finalized, the misleading impressions created by Mr. Carlucci's statement were not immediately subject to challenge by the press or the public.

**Conclusion**

One measure of the significance of the CLRA controversy was expressed, ironically, by a former deputy attorney general of the state of California in his testimony before the commission. This attorney had represented the state in a highly significant CRLA case challenging the practices of the California Farm Labor Service, which the Uhler Report cited as an example of gross misconduct by CRLA attorneys. This attorney testified:

> I am convinced in my own mind from the facts that I know that this is a report that State officials issued containing charges that they know are not true.

> And they agreed with me several months before this report was published that these charges were not true.

sue 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 philosophical or political objectives.” Carlucci Statement at 4. That passage, highly reminiscent of the rhetoric of the Uhler Report, finds no support in any finding or statement of the commission. To the contrary, the commission expressly found that “the charges of solicitation contained in the Uhler Report are without foundation.” ComM'N REPORT at 57.

(4) The Carlucci statement “proposed” certain guidelines to “be adhered to in the area of criminal representation,” thereby implying that the commission had found violations by CRLA. See Carlucci Statement at 15-17. That misleading implication is nowhere contradicted by reference to what the commission actually found—namely, that CRLA had fully complied with the statutory prohibition against representation of defendants in criminal cases. See note 161 and accompanying text supra. Moreover, the substance of the proposed guidelines did not represent a departure from existing policy, either of OEO or of CRLA.


179. The Commission's Report said with respect to CRLA's internal policies:

> "The Commission had been most favorably impressed by the internal controls adopted by CRLA to insure that the highest of professional service is rendered to its clients; that it is institutionally so organized as to operate efficiently with proper financial control maintained; and that the conditions and restrictions of its OEO grant and applicable federal statutes are observed. The Commission commends CRLA for its programs for thorough training of personnel . . . and its practice of conducting every six months an evaluation of each regional office and of the individual attorneys and community workers on each office's staff." ComM'N REPORT at 72-73.
I think this report is a very bad example of what happens when the philosophy against certain groups overcome people's rationality.180

The need to protect legal service programs from political attack was perceived well before Governor Reagan's veto. The architects of the national legal services program foresaw the problem at the outset. According to Sargent Shriver, the function of the blue ribbon National Advisory Committee was to furnish just such insulation. Shriver has pointed out that a legal services program necessarily must differ from other poverty programs in that a lawyer must be free to represent his client independently of external pressure. The advisory committee was composed of representatives from bar associations, professors of law, and other lawyers and judges. As Shriver said: "Their presence was put on this committee so that we would have the best possible defense for the integrity of the lawyer-client relationship that would have to exist at the local level."181 While the National Advisory Committee has played a positive role, it has hardly proved sufficient, as the CRLA controversy surely demonstrates. The need for continuing insulation from political attack is demonstrated by the recent suggestion of Vice-President Agnew that professional independence should give way to "some form of control at the top."182 William R. Klaus, chairman of the American Bar Association Committee on Legal Aid and Indigent Defendants, was quick to reply to this suggestion: "The proposal conflicts with the lawyer's professional independence mandated by the Code of Professional Responsibility, which requires that a lawyer exercise professional judgment without regard to the interests or motives of third persons, be they lay intermediaries or government officials . . . ."183

The immediate palliative to avoid a recurrence of the CRLA debacle would be simply to remove from governors the authority to veto grants to legal service programs operating within their states. The anomaly of placing this authority in the hands of an official who is one of the most likely subjects of suits by those attorneys, and who additionally is particularly susceptible to pressures from others against whom legal services attorneys may appear, is highlighted by the entire history of relations between CRLA and Governor Reagan.

180. R.T. at 1072-73.
181. Id. at 1288-90.
183. Klaus, Legal Services Program: Reply to Vice President Agnew, 58 A.B.A.J. 1178 (1972). See also the material on professional independence in note 9 supra.
Nevertheless, merely eliminating the gubernatorial veto power would be an inadequate remedy. The CRLA controversy also demonstrates that federal OEO is highly susceptible to the same pressures as are felt more directly on the state level. "The professional independence and integrity of the program's attorneys have been threatened," according to the Senate Committee Report on the National Legal Services Corporation legislation, not only "by gubernatorial pressures and vetoes"—surely a reference to the Reagan-CRLA confrontation—but also by "proposed administrative changes in the national program, and attacks by persons opposed to the basic concept of the program."\textsuperscript{184}

What is needed is meaningful assurance that legal service attorneys will be permitted to carry out their professional responsibilities to their clients free from uninformed or politically inspired attack, yet subject to discreetly administered controls to ensure adherence to professional standards and to the guidelines of the program.

A recommendation to transfer the administration of the Legal Services Program from the Office of Economic Opportunity to an independent, nonprofit corporation was made in January 1971 by the President's Commission on Executive Organization. The recommendation was made to permit the program "to continue serving the legal needs of the poor while avoiding the inevitable political embarrassment that the program may occasionally generate . . . ."\textsuperscript{185} In recommending the creation of such a Legal Services Corporation, President Nixon rightly observed that "if we are to preserve the strength of the program, we must make it immune to political pressures and make it a permanent part of our system of justice."\textsuperscript{186} Based on similar reasoning, such a device was broadly endorsed in congressional hearings which led the Senate Committee on Labor and Public Welfare to conclude that:

\textellipsis the Legal Services Program will be more effective if it is independent. The Committee strongly believes that a private, nonprofit corporation is the best way to provide the program independence and protection against political attacks, and to ensure the integrity of the lawyer-client relationship and the professional integrity of Legal Services attorneys. Such a structure will also provide for the program's accountability to the congress, the bar, and clients, and it will provide a permanent structure for the efforts to

\textsuperscript{184} Senate Comm. on Labor and Public Welfare S. Rep. No. 92-792, 92d Cong., 2d Sess. 30 (1972) [hereinafter cited as S. Rep.].


\textsuperscript{186} Id. quoted in S. Rep. at 28.
secure justice for the poor through our legal and judicial institutions.\textsuperscript{187}

Despite the consensus that quickly developed in favor of such legislation, President Nixon vetoed the 1971 bill that would have created the National Legal Services Corporation. His explanation, insofar as it related to legal services, centered on the limitations imposed on the president’s authority to select the members of the corporation’s board of directors. The requirement that eleven of the proposed directors be selected by the president from lists provided by the Judicial Conference, a Clients Advisory Council, a Project Attorneys Advisory Council, and five national professional associations,\textsuperscript{188} he considered “an affront to the principle of accountability to the American people as a whole.”\textsuperscript{189} In the revised bill which was recommended by the Senate-House Conference Committee in July, 1972, this provision was modified so that the president need not limit his nominations to persons proposed by these groups.\textsuperscript{190}

The revised bill also contained a number of provisions reflecting compromises that were made with those not entirely sympathetic with the aims of the legal services program. The bill would have required that the new corporation establish procedures to ensure that program attorneys do not engage in lobbying, but contained the important exception that such legislative activity may be pursued at the request of clients or of members of the legislative body.\textsuperscript{191} Any more restrictive provision would be inimical with the basic notion that attorneys furnished under this program should, in pursuit of their clients’ interests, be free to follow all avenues that customarily fall within the province of the legal profession.\textsuperscript{192} In the case of CRLA, close observation of the state legislature has prevented the adoption of legislation that would have reversed victories won for their clients in the courts\textsuperscript{193} and has

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\textsuperscript{187} S. Rep. at 32. \\
\textsuperscript{188} S. 2007, 92d Cong. 2d Sess. § 904(a) (1972), as contained in Conference Report No. 92-523 at 43-44. \\
\textsuperscript{189} Message from President Nixon to the Senate, Dec. 9, 1971. \\
\textsuperscript{190} H.R. 12350, 92d Cong., 2d Sess. § 904(a) (1972) as contained in Conference Report No. 92-523. For example, under the 1972 bill, the board will consist of nineteen members, ten of whom, including six attorneys, must be from the general public, and nine “representative of” the designated groups, excluding the Judicial Conference. \textit{Id.} § 904(a). The role of the bar associations in effecting the incorporation and organization of the new corporation has also been reduced under the new bill. \textit{See id.} § 903. \\
\textsuperscript{191} \textit{Id.} § 906(e), as contained in Conference Report No. 92-523 at 47. \\
\textsuperscript{192} \textit{See} ABA, \textit{Code of Professional Responsibility}, Canon 7 (1971). \\
\textsuperscript{193} R.T. at 439-41. 
\end{flushleft}
attained significant results that could not have been achieved except through the legislative process.\textsuperscript{194}

The new legislation would also have directed the corporation to establish guidelines for the “free time” activities of legal service attorneys, including the handling of pro bono publico cases\textsuperscript{195} and their “private political activities.”\textsuperscript{196} Such outside activities may give rise to public misunderstanding concerning the uses to which federal funds are being put, especially if mischaracterized by public officials. Nevertheless, unreasonable restrictions on the ability of program attorneys to pursue their rights as citizens may lessen the attractiveness of the program to potential lawyers; they surely would raise serious questions of constitutionality.\textsuperscript{197}

Whatever reservations one may have had concerning either the adequacy or the restrictiveness of the bill’s provisions, none of the features were so fundamental as to destroy the basic soundness of the legislation. The 1971 CRLA funding controversy badly interrupted the

\textsuperscript{194} Id. at 441-42; see Exhibit C-38.

\textsuperscript{195} H.R. 12350, 92nd Cong., 2d Sess. § 906(d) (1972) as contained in CONFERENCE REPORT No. 92-523 at 47.

\textsuperscript{196} Id. § 907(d)(4).

work of that program[198] and undoubtedly has had a chilling effect upon others. Such controversies, the Senate committee reported, "have often hampered the program's attorneys in their efforts to provide full and effective legal representation. Inevitably, these pressures weaken the client-attorney relationship and the confidence of clients and Legal Services Lawyers in the program's future."[199]

Unfortunately, however, the revised bill was recommitted to the conference committee and—evidently because of the threat of another veto—the revised bill that emerged one month later omitted the provisions to establish the legal services corporation. The new report stated only:

The conferees continue to strongly support the existing legal services program and the concept of a legal services corporation and intend to continue to seek appropriate means of expanding the program and insuring its independence, to provide the poor greater access to our system of justice under law.[200]

The potential significance of the failure to adopt such legislation has only become fully apparent with the recent announcement of the dismemberment of the Office of Economic Opportunity. Although the administration has reconfirmed its intention to submit new legislation which will establish a permanent home for legal services administration, as of this writing funding for existing programs has been interrupted and a foreboding sense of uncertainty pervades the legal services movement. It is thus more important than ever that obstacles to the effective continuation of the legal service program be removed before they cause a lasting impairment to its enthusiasm and successfulness. Governor Reagan was unable to destroy CRLA in 1971, but the message of his attempt should be acted upon before it is lost.