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saries. A number of rural newspaper editors throughout the State have told us that the local CRLA office is in the habit of dropping off copies of all court filings and releases on their proceedings.

VII. THE TWILIGHT ZONE

This category has been established for the purpose of including certain conduct of CRLA which we cannot properly criticize as being proscribed but which, nevertheless, causes us grave concern. This is a gray area. The information set forth here should be weighed in this evaluation but is not crucial or critical to its outcome.

A. Lobbying.

CRLA has an office in Sacramento. One of the Sacramento staff attorneys is registered as a Lobbyist with the State Legislature. It is abundantly clear that this office not only generates new legislation, but lobbies extensively on behalf of its own legislative programs and those of others it considers appropriate. During the 1970 session of the Legislature, James F. Smith, CRLA Lobbyist, successfully opposed certain amendments to the State Welfare laws that would have reduced the cost of Welfare to the State.

Although lobbying is not specifically proscribed in the CRLA grant or OEO legal guidelines, neither is it explicitly authorized.

It is time that Congress and/or National OEO clarifies this area of activity. The lobbying question is a very close bedfellow of the "suit against the government"

activity. Clearly it is time that policy decisions were made regarding these activities. Obviously such suits increase costs of government, sometimes dramatically when the suits are successfully prosecuted. It is simply a question of whether, on the one hand, tax dollars ought to pay the salaries of attorneys to bring court actions that increase costs of government, and on the other, lobby and entreat legislators not to rewrite or amend the laws to cut down on these costs.

NOTE: The State Office of Economic Opportunity is informed that prior to appointment of the current Director, the Office issued a policy memorandum to CRLA indicating its approval of CRLA's lobbying activities. As suggested above, this office cannot continue to condone such activities.

B. Fee Generating Cases.

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

> "The grantee shall not provide legal assistance in ... representation in any case in which a fee may be provided by statute or administrative regulations, or in contingent fee or similar cases in which competent private counsel will provide representation because the case may generate a sufficient fee; such case shall be referred to a local lawyer panel, but in the event the lawyer referral panel is unable to make satisfactory arrangements for representation, such satisfactory arrangements meaning that the prospective

> client and a private attorney are able to reach an agreement on representation, in such case, the grantee may provide representation ..." (CRLA Grant, Special Condition 6b.)

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

CRLA has filed suits claiming monetary damages in the following kinds of cases, among others:

Police beating and false imprisonment - $125,000; unlawful detention and violation of civil rights - $423,000 general and punitive damages; infliction of corporal punishment upon a school child - $39,600 in general and punitive damages; claim of illegal firing for union activity - over $500,000 general and punitive damages; a false arrest and police brutality case claiming $40,000 damages; a claim of personal injuries in a counterclaim to an unlawful detainer action - $20,000 damages; a personal injury action against the City of Delano - claim of $100,000 general damages; an action against the City of Delano and its Police Officers - a claim of $11,000 in exemplary and general damages; a

charge of injuries sustained due to an unlawful dismissal by the City of Delano - $5,000 damages. (Exhibits 16-0065, 71, 72, 73, 74, 75, 76, 77, 78.)

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

This Office does not possess the capacity to determine with precision the honesty and propriety of the damage claims asserted and is, therefore, not in a position to judge on which side of the dilemma's horns each case may fall. But it seems clear that CRLA is put to an election here: Either it has filed fee-generating cases (in which event it has violated the terms of its grant), or CRLA has asserted claims for damages without any realistic belief in its power to collect same (in which event the claims would be spurious, frivolous or harassing.)

C. In-Kind Contributions.

Each operational OEO grantee is required to obtain a local share to augment the Federal dollars granted to the

program. In the case of CRLA, this local share must equal 20% of the total dollar value of the grant.

Traditionally, legal programs have provided the local share through the medium of in-kind contributions, i.e., contributions of legal services from attorneys not affiliated with CRLA but whose efforts are focused upon cases and matters being handled by CRLA for its clients.

Concern about the extent, nature and quality of in-kind contributions to CRLA has arisen for the following reasons:

1. It does not appear that attorneys located in the CRLA operational area have given much, if any, contributions of time to CRLA. (It would seem that the intent of the non-Federal share requirement would be to obtain in-kind contributions throughout the CRLA office system, rather than obtaining same from urban areas.)

2. CRLA may have claimed as in-kind contribution time of law students spent in researching articles for law reviews and other publications. We have information that leads us to believe that articles which have no demonstrable relationship to the poor have been counted as in-kind contributions. (Exhibit 05-0202.)

3. Attached is a local contribution agreement made in favor of the South Alameda County Economic Opportunity Agency and signed by Cruz Reynoso for in-kind contribution of services (consultation - legal and economic) in the sum of $3,000. The signature block would indicate that Mr. Reynoso signed on behalf of California Rural Legal Assistance, Inc., in which event it is clearly a disallowance for the South Alameda County CAA. The contribution of this kind could be allowable if Mr. Reynoso worked for the South Alameda County CAP during hours in which he was not paid by CRLA. At best this is very poor judgment by both parties. When CRLA makes such an issue out of its lack of staff, as it has in its refunding proposal, it is difficult to see how anyone in its organization would have the time to donate to other organizations.

Whether, in fact, CRLA was able to generate the total non-Federal share required in the budget would need to be completely audited to establish its authenticity. First, the documentation would have to be audited, then there needs to be an audit of whether those claiming contributions in fact spent the time claimed doing CRLA work in their professional capacities.

The following hours were indicated as CRLA's non-Federal share in their budget for 1970:

Attorneys	12,570
Psychologists	258
Teachers (Secondary)	1,390
Secretaries	3,670
Law Students	97,300
Typists	1,810
File Clerks	4,270
Investigators	6,540

VIII. COMMUNITY REACTION TO CRLA:

This section will serve to inform you of the manifest concern demonstrated by responsible and vital parts of the community served by CRLA. This section is included so that we do not lose sight of the fact that local communities are the most important ingredients of any type of governmental program, particularly where OEO is concerned. However, merely listing them would do injustice to them and would fail to relate them to the spirit and intent of the Economic Opportunity Act and its organizational structures.

The intent and spirit of the Economic Opportunity Act of 1964, as reaffirmed by Congress in succeeding years, was to mobilize every segment of a concerned community towards the eradication of poverty. Thus, OEO is not only a change-oriented agency developing creative solutions to the problems of poverty but also is an integrating force to solidify the drives of productive community action. We must, therefore, look at comments regarding CRLA from concerned citizens with respect to their responsible concern for the intent and spirit of OEO programs as they are manifested and realized in the actual workings of CRLA.

First, let us look at the reaction of several county Bar associations that are coterminous with the service areas of CRLA. OEO guidelines for legal services

programs in part state that one of the goals of any legal service program is to:

> "acquaint the whole practicing Bar with its essential role in combatting poverty and provide the resources to meet the response of lawyers to be involved in the war on poverty."

Thus, OEO mandates that its legal services programs not only inform local bar associations of its activities but will also actively integrate the good offices of said attorneys in providing legal assistance to the poor. However, there is room to question whether CRLA has attempted -- and if it has whether or not it has succeeded -- to enlist the aid, or even gain support, of local bar associations.

For example, a special committee of the Imperial County Bar Association, in a report to its membership on CRLA (see Exhibit 22-1001) summarizes its concerns about whether CRLA was in fact meeting the needs of the poor and living up to the guidelines and codes of ethics; it states that CRLA,

> "functions as a device for promoting special interest groups and only operates as a law office because it has determined that it is a convenient means to effectuate its ends."

The recommendation of the Special Committee was that the Imperial County Bar Association:

> "withdraw its representative from the CRLA board of directors and sever all official connections

between the Imperial County Bar Association and CRLA ..."

The final statement of the Committee was that the County Bar Association once again would take over the function of the Lawyers Referral Services "to provide legal services to the poor." On March 13, 1970, said report was adopted by the Imperial County Bar Association. On December 9, 1970, the Stanislaus County Bar Association stated that:

> "California Rural Legal Assistance is not adequately serving the needs of the poor, measured by the express purposes for which it was originally funded."

Furthermore, it stated that:

> "it is the opinion of the Stanislaus County Bar Association that operation of CRLA should not be continued on their present basis." (Exhibit 22-1032.)

On or about December 21, 1970, the Executive Board of Sonoma County Bar Association adopted a resolution which in part stated that:

> "the Sonoma County Bar Association and/or the Legal Aid Foundation of Sonoma County can best meet the needs of the poor in Sonoma County;"

it further stated that:

> "this executive board reaffirms its position that local control by the Sonoma County Bar Association and/or the Legal Aid Foundation of Sonoma County can best implement the indigent legal services program and provide the most efficient utilization of federal funds." (Exhibit 22-1034.)

Thus, the Sonoma County Bar Association reaffirmed the previous two statements of County Bar Associations that CRLA was not meeting the needs of the rural poor and that local control could best provide these services.

On or about December 27, the State OEO received a resolution from 23 members of the 50 member bar association of Yuba and Sutter Counties recommending:

> "to the Governor of the State of California he veto the forthcoming refunding proposal of California Rural Legal Assistance and VISTA, and that a legal program operated, controlled, and supervised by the Yuba-Sutter Bar Association be established to provide legal aid for those persons with inadequate means to otherwise obtain legal assistance."

The unmistakable pattern that emerges from these comments from Bar associations is that CRLA has not only failed to integrate their efforts with the local bar but, even more importantly, there are severe questions concerning the quality and amount of legal assistance that the poor are receiving from said organization. CRLA has shown a latent hostility to the established legal profession because CRLA attorneys in many cases regard their self-image as "movement lawyers."

Another significant segment of the legal profession, namely the district attorneys, also introduce serious questions as to CRLA's capability to provide competent legal services to the poor and to work harmoniously with

local legal groups. In a letter from the district attorney of Monterey County, Mr. Bertram M. Young (Exhibit 22-1033), the following comment about CRLA is made:

> "The actions of this agency have been in gross interference with and infringement upon the authority of the Grand Jury of the County, the Board of Supervisors of the County, and those fields in which the office of the Attorney General of California could, and would, act for complaints within its authority. This agency has failed miserably to discharge its obligations to the indigent rural poor, has wasted hundreds of thousands of dollars of our taxes, and has caused expensive and timeconsuming involvement of our local agencies in answering its vicious attacks."

On December 14, 1970, the district attorney of Stanislaus County, Mr. Alexander M. Wolfe, (Exhibit 22-1031) reinforced District Attorney Young's contention that CRLA has little respect for locally-elected officials and local control when commenting upon the actions of CRLA to inhibit the Stanislaus County Grand Jury from investigating it. He in part states:

> "In this action, CRLA labeled itself a "federal legal services project." By virtue of this descriptive title, and having in mind the various types of actions which CRLA has filed and the course of conduct it has pursued, it would appear that the federal government, knowingly or unknowingly, is financing groups to undermine the operation, effectiveness and integrity of state and local government. I cannot believe that Congress or the President of the United States ever intended such a result."

The apparent disrespect that CRLA manifests for duly-elected local officials is again exhibited by the

remarks from the County Counsel of Monterey County, William H. Stoffers (Exhibit 22-1014), when he states:

> "I am convinced from what I know about this organization that with them it matters not so much who their clients are (be they rich or poor), but rather who the defendant is, (government, big business, etc.). It may be that they feel that they can best help the poor by knocking over the establishment."

Thus, one can legitimately question whether CRLA is an integrating and essential ingredient for a legal services program for the poor.

In an affidavit to our office dated December 8, 1970 by James W. Houlihan, Assistant District Attorney for the County of Santa Barbara (Exhibit 22-1035), affirms that CRLA is not an essential ingredient to a legal services program for the poor when he states:

> "I do not believe that the poor of this community would suffer if the CRLA office was disbanded. However, as in any community of this size, we should have some workable legal aid for the poor, which is not CRLA, but rather a community action program or whatever program existed in the City of Visalia."

From his comments we can see that several district attorneys or their representatives do not feel that CRLA is working in the best interest of the poor, nor is it attempting to integrate and coordinate its actions with local law professions and enforcement agencies.

Comments from jurists in the State of California

illustrate another severe problem with CRLA. This has to do with the relationship between the intent and guidelines of legal services, and specifically CRLA, vis-a-vis the actual behavior that is manifested by said organization. Judge Roy P. Schmidt of Hollister in a letter to our office dated December 15, 1970, (Exhibit 22-1013) states in part:

> "If the intended purposes are not ignored, then this aid can be capable of doing a great deal of good... If the CRLA's governing body would take steps to eliminate certain philosophies, it would accomplish what it originally intended -- to give legal assistance to those too poor to get help elsewhere."

In a letter dated September 23, 1970, Superior Court Judge Kenneth M. Eymann of Santa Rosa (Exhibit 22-1048), after criticizing CRLA attorneys for attempting to gain constitutional precedent from every case, states:

> "If CRLA were to help the poor and underprivileged in their present rather than their long range problems, it would serve a great and needed purpose. Reorientation of purpose must be accomplished if their program is to be effective."

In an affidavit dated December 8, 1970, Judge Richard C. Kirkpatrick of Santa Maria states:

> "As an attorney, I have referred several clients to California Rural Legal Assistance on domestic relations cases. California Rural Legal Assistance would not handle the cases referred to them within a reasonable length of time or would not handle the case at all even though the income level of these people fell within the limits normally handled by this organization."

Judge Kirkpatrick also noted that -

> "Mr. Morper, another attorney for California Rural Legal Assistance, has appeared before me in connection with civil cases wherein California Rural Legal Assistance was representing clients and from all indications, Mr. Morper does not appear to have the legal ability to try these cases in such areas as laying legal foundations and direct and cross-examinations." (Exhibit 22-1035)

These comments demonstrate that jurists themselves have difficulty reconciling the actual behavior of CRLA with the intent and actual guidelines for legal services under OEO.

Rather than continue to cite letter after letter expressing concern about the present organizational behavior of CRLA vis-a-vis intent and guidelines of OEO legal services, it is more beneficial to merely list the number of concerns that have been manifested from a single illustrative local community. Through this, we can demonstrate the level of concern that exists from many legitimate sectors of the community that not only should be concerned with CRLA but should also have the ability to contribute significantly to policy formation regarding the actual behaviour of CRLA. For without such input it becomes clear that CRLA is not functioning to bring about social change through the desires of its local constitutents but rather is operating as a federally funded program that has little local input. Let us, therefore, take the case of Stanislaus County to

demonstrate the inherent problems of CRLA. On December 1, 1970 Stanislaus County Board of Supervisors (Exhibit 22-1030) authorized the following resolution:

> "That the chief administrative officer be, and hereby is, authorized and directed to draw a letter in the place and stead of said questionnaire urging that the California Rural Legal Assistance be abolished."

On December 2, 1970, our office received a letter from Bert C. Corona, Superintendent, Modesto City Schools (Exhibit 22-1017), in which he outlined ten specific complaints that he had against CRLA. These complaints were summarized in the following comments:

> "In my judgment these men have shown their commitment to violent and illegal means to obtain designed social goals. They have resorted to divisive community tactics and attempted to pit group against group. Surely the rights of the poor and their improved welfare can be achieved through more civilized means."

On December 9, 1970, our office received a letter from the Stanislaus County Bar Association (Exhibit 22-1032) in which the Stanislaus County Bar Association recommended that CRLA "should not be continued on their present basis." The reason for this was that the County Bar felt that CRLA was not "adequately serving the needs of the poor" as measured "by the express purposes for which it was originally funded." On December 14, 1970 our office received correspondence from the District Attorney of Stanislaus County, Alexander M. Wolfe (Exhibit 22-1031), in which he requested that the

Governor not appropriate funds for CRLA. The reason for this request is found in the following statement:

> "It is the opinion of this office that CRLA is not carrying out the purposes for which it was intended as enumerated in its articles of incorporation as filed with the Secretary of State March 3, 1966. This request would not be made if CRLA were truly serving the needs of the poor."

The remaining portion of this letter is a succinct expression of the problems that legitimate governmental agencies have in attempting to work with CRLA. On December 16, 1970 our office received the resolution of the 1970 Stanislaus County Grant Jury, (Exhibit 22-1021) which resolved "that the 1970 Stanislaus County Grand Jury hereby recommends to the Governor of the State of California that he cause investigations to be instituted and conducted by appropriate federal, state and local agencies into corporate activities of California Rural Legal Assistance, Inc.," and furthermore, it was resolved "that the 1970 Stanislaus County Grant Jury hereby recommends to the Governor of the State of California that he veto funding for the legal services program of the California Rural Legal Assistance, Inc." It should also be noted that this resolution was unanimously adopted by a quorum of 16 members present at a regular meeting of the Grand Jury and was not the result of a special event on their calendar.

It is also of significance that among members of the Grand Jury were recognized spokesmen for the poor in Stanislaus County, including the President of the local chapter of the NAACP, and a prominent member of the Mexican-American Community.

Numerous other instances of dissatisfaction with CRLA on the part of the poor which CRLA was founded to serve might be mentioned. For example, we have an affidavit from Mrs. Peggy Joyce Ramirez, Modesto welfare recipient, dated December 16, 1970 wherein she states that on two separate occasions, separated by approximately three years, she was unable to gain assistance from CRLA when she went to their office asking for their help in divorce proceedings. In both instances Mrs. Ramirez was told at the CRLA office "we do not handle domestic cases." (Exhibit 04-0032) The attorney who did eventually handle Mrs. Ramirez's case, Mr. Thomas A. Lacey of Modesto, states in an affidavit dated December 14, 1970 that in his opinion CRLA "will take any case which has some publicity to it. They do not render the kind of services that the poor need, although it would certainly appear that they have ample time to handle these kinds of matters." Mr. Lacey substantiates the last part of this allegation by reference to a case wherein CRLA represented a tenant asking for a restraining order against her landlord, Mr. Lacey's client. Mr. Lacey states:

> "I do not condemn California Rural Legal Assistance for pursuing the rights of the tenant in this case. However, my condemnation lies with the fact that they had two attorneys, in addition to the trial attorney and an investigator sit through almost the whole trial."

The trial continued for three days. Mr. Lacey declares:

> "It would seem to me that if they have time to have that many attorneys tied up in a landlord-tenant lawsuit, just listening to the case and observing, they should have time to handle needy clients in regard to domestic matters." (Exhibit 04-0039)

This shortcoming on the part of CRLA is mentioned by another attorney in Modesto, Mr. E. M. Azevedo, in a letter dated December 15, 1970 wherein he states:

> "I am particularly concerned about this when I have numerous clients who come to me and say that they are seeking our services for which they cannot pay, in some instances, because they have called CRLA and found that it will be thirty, sixty, and sometimes ninety days before they can even talk to a lawyer in their offices. I wonder if a lot of this delay is caused by the fact that everybody in that office is in court somewhere representing one man." (Exhibit 22-1015)

In another letter to our office, dated December 23, 1970, Judge William Zeff of Modesto (Exhibit 22-1037) states:

> "the clear impression gained from observing the activities of the local CRLA office is that its primary concern appears to be with effecting social change and the original expressed purposes of assisting the indigent have

> apparently been lost signt of. Radical changes in the operating procedures of the CRLA are necessary to correct the existing situation if the originally expressed and noble objectives of CRLA are to be implemented."

The Stanislaus County Farm Bureau has strongly urged the "discontinuance of funds to CRLA (as) they are clearly in violation of their legal sphere of activity." (Exhibit 22-1062 and Exhibit 22-1063). The Growers Harvesting Committee wired Governor Reagan on December 21, 1970, urging his veto of CRLA refunding due to the fact that "CRLA has a record of irresponsibility and has consistently concentrated on disruptive and discriminatory activities." (Exhibit 22-1058)

The final illustration of discontent with CRLA in Stanislaus County which we offer here is from the Director of Social Services at the King-Kennedy Memorial Center of the City of Modesto, who is also a member of the advisory board of the Modesto Office of CRLA, Reverend Monroe Carter Taylor. His criticism is aimed at misuse of CRLA funds by CRLA attorneys. In one instance CRLA paid $400 for lunches for demonstrators at the City School Office demonstration scene. In another instance CRLA funds were used to help finance a political campaign: Candidate for the State Assembly, M. Lopez, told Reverend Taylor that:

> "CRLA had made cash contributions to his campaign fund and the CRLA office staff had printed and reproduced ... bumper stickers and various other materials free of charge to him. I later talked to a member of the

> CRLA staff, who no longer is on the staff, and found that what Mr. Lopez told me was true. Apparently they had also printed up bumper stickers advocating free lunches for children during the Modesto City Schools bond elections. I feel that the funds were not properly used as there was a heavy case load of poor clients who needed representation while the two lawyers were off involved with demonstrations and defending them in court."

Reverend Taylor concludes his testimony as follows:

> "In fact it was during this period that I telephoned ... Governor Reagan's staff requesting an audit of CRLA books to determine how the funds were actually being used." (Exhibit 10-0062)

The above illustration dramatically represents a cross section of responsible and concerned citizens. Their criticisms and recommendations concerning CRLA cannot be dismissed as irrelevant and unconcerned or to a man they reaffirm the need for legal services to the poor and their willingness to participate in such programs. These letters give credence to the fact that CRLA has ignored the noble intent of the Economic Opportunity Act and, further, has exploited responsible and concerned citizens, be they poor or well-to-do, for the realization of ideal states of affairs narrowly conceived in radical political philosophies. CRLA has exploited the poor by assuming that the needs and outlook of the poor are homogeneous and thus fit nicely into sterile and false political theories. They have exploited the poor by producing legal services that are narrow and one-sided and

therefore CRLA only caters to those who desire to consume such legal services. They have exploited poor citizens by making them accept one mode of dealing with their problems; radical confrontation with the so-called establishment, surely a figment of demented psychologising. The poor have the right, as citizens, to consume legal service (especially when produced by public money) that is non-ideological and flexible, and suited to the legitimate legal needs of the individual concerned. Furthermore, the communities served by CRLA also have the right to deal with the problems of the poor, when manifested through legal channels, in a professional and orderly manner. The above clearly indicates that these options are neither available to the poor nor to the communities in which CRLA operates. Thus, CRLA as a community phenomena, essential and integrating, is fiction rather than fact. It has not attempted to mobilize the resources of the communities concerned into an integrated effort to solve the problems of the poor, but has set out to establish its own sense of community, thus often producing a situation in which the responsible citizen has no choice but either to remove himself because the personal costs have become too high, or to respond in an unethical manner -- violently, as CRLA is prone to do.

IX. CONCLUSION - THE CASE FOR AN ALTERNATIVE

We could simply let the case rest. We think the information presented above speaks for itself. We were concerned when we set out that in the short time available, the results might be inconclusive. This is clearly not the case: What has been surprising is the systematic and conclusive nature of the results. The very serious problems of CRLA, many of which were eloquently recited in the August 1970 Evaluation, follow a definite pattern, indicating more than haphazard lapses.

We are convinced that mere recitation of CRLA's problems would present an incomplete picture of the whole. For a catalogue of problems, CRLA's August Evaluation is a good primer. In the Introduction to this evaluation we said that the August evaluation's major shortcoming was its failure to consider that the problems they cited have <u>institutional</u> roots. It is to the institutional and structural provenance of CRLA's recurring problems that we now turn.

The key is <u>local control</u> and <u>home rule</u>. These are the essence of the New Federalism, to which the Nixon Administration has given open support. The Economic Opportunity Act was enacted in large measure to supplement what increasingly looked like a colonialist system, in which social services for the disadvantaged were controlled

and administered far from the areas of impact. OEO emphasized communities, and in doing so, created the first important innovation in social services since the New Deal.

CRLA's dominant institutional and structural failing occurs because it was constituted at odds with OEO's prevailing premise. CRLA has had the problems it has, substantially because its organization ignored the rest of OEO's experience -- which has demonstrated the value of community participation and home rule.

In 1967, the State Bar of California entered into an agreement with CRLA, in which the State Bar attempted to increase community participation. The agreement laid particular stress on including local bar members on CRLA's local advisory boards.

Unfortunately, the local advisory boards exist more in theory than in fact, however much CRLA attempts to give the opposite impression. On at least one occasion, a local advisory committee (in Marysville) wrote a letter to the CRLA Central office, complaining about the remoteness of control. Mr. Jose Luis Vasquez wrote to the Central Board members as follows, in part:

> "Like all of the areas served, Marysville has seen several attorneys come and go. Our former directing attorney, John Moulds, left in August. At that time, we wanted J. V. Henry to take his place. Cruz Reynoso came to Marysville and talked to us. We told him our wishes at that time. However, our wishes were not followed. Cruz

> Reynoso appointed someone else. We have no quarrel with Ralph Abascal, who was appointed, but that is not the point. CRLA makes a lot of propaganda about 'institutions being responsive to the people they are supposed to serve.' When it comes to anything real, CRLA is just like welfare or any other agency which they sue. The important decisions are made by the San Francisco office. They do not share our problem or try to understand us.
>
> "Each area where we have an office is different. How can Central CRLA know what is best for the people in Marysville or in El Centro?
>
> "What we want isto be a real voice - not just to have a suggestion box. We want to cooperate with Central, but we want a real voice in CRLA." (Exhibit 09-0107)

The participation of local bar associations is non-existent, despite the 1967 agreement. In the fall of 1970, the State Bar sent out a questionnaire to the presidents of all the state's county bar associations, asking about their participation in CRLA's program. Some local bar members asked at the time if the State Bar was kidding, given their non-existent participation in CRLA's affairs. The formal responses from local state bars indicate the true levels of support. Among those bar associations which did not go on affirmative record condemning CRLA, we were unable to find a single case in which a local bar association had actively assisted or participated in the program.

<u>These efforts to promote local control of CRLA failed because the essential structure of the program fails to give institutional support to local control</u>.

The money comes from Washington, and the direction comes jointly from Washington and from San Francisco. If a local CRLA office cooperates with the local community and bar, as has happened for short periods in several of the CRLA offices personalities, not policy, are responsible. But personalities willing to cooperate are relative rarities among CRLA's attorneys, and the result has been the chaos and hostility in every operational area.

The problem is not difficult to understand. The people who become CRLA attorneys are rarely from the communities they serve. They are often from big cities, often from the East Coast, and equally often possess no appreciation of, or sensitivity for, the communities they serve. The problem is cultural. The colonialist comparison is difficult to resist here, for there is a definite cultural dislocation when an urban lawyer is placed in a small community like El Centro or Marysville. Speaking for the CRLA lawyers, one participant in the August 1970 Evaluation put it well when he referred to one of CRLA's service areas as a "desolate and lonely spot."

No doubt many of CRLA's attorneys feel that way about the areas they serve. And perhaps it is this attitude that explains why a CRLA attorney in the El Centro office, when asked why he was doing the work he was doing, replied in front of the three hundred people present,

"Where else can I make this kind of money right out of law school?"

In some ways it is difficult to blame CRLA's attorneys for feeling cynical about what they are doing, and about their motives for doing it. But the time has come to blame the structure that puts them in such positions.

We have concluded that some of the incidents cited must have taken place without the knowledge of management in San Francisco. There is no other way to explain the flagrancy involved in certain of the violations. But that fact simply illustrates the extent to which CRLA is unmanageable. The only way to eliminate the most aggravated violations of the grant conditions and other standards is to put legal services under local control -- as they are everywhere else throughout the State.

The problem for the community is often acute. Young urban lawyers come in, and perhaps assuming a hostility against them that does not exist, proceed to produce a genuine and legitimate hostility. The August Evaluation recites the willingness of the communities to assist CRLA, if only CRLA would let them:

". . . One of the problems he mentioned, as far as the CRLA staff was concerned, was <u>they were antagonized towards other members of the Bar</u> and that it created a lot of difficulty when CRLA attorneys filed lawsuits or wanted something from the local bar. <u>The general impression that I got was that the people in positions of power, in Modesto, wanted CRLA to cooperate with them in dealing with the problems of the poor</u>. Let the attorneys in

> the community spot the issues and let them sit down with the school board or members of the government to see what can be done to alleviate the problem of the poor rather than filing a lawsuit." (p. 18.)

The problem of local bar cooperation is vital to the operation of a successful legal service program. No one seriously disputes that. It is in a spirit of cooperation that problems are solved outside court. But in most areas served by CRLA, either outright hostility exists between CRLA and the local bar, or there is a complete absence of relations between them.

From another service area the August Evaluation recites the willingness of the local communities to cooperate:

> "I guess what came out of McFarland was for the non-poverty community to say, 'I wish CRLA in McFarland would work with us. If they are going to sue us, fine. But I wish they'd work with us and speak to us and research the problem, not so much legally but factually before they plunge into a suit.'" (p. 15.)

That the communities remain eager to cooperate with CRLA emphasizes their commitment to legal services. It is particularly surprising in view of CRLA attorneys' conspicuous disinterest in any form of cooperation or community participation. The contrast between the OEO legal service program in, for example, Visalia, and CRLA in almost every one of its service areas is incredible. While the Visalia program has the full cooperation and participation of the local bar, CRLA has at best arm's

length coolness, at worst outright hostility.

We were startled when we went out into these communities and watched CRLA try to relate to the communities. In most of its service areas, CRLA is the largest office in town, with probably the only law firm Xerox machine. In virtually every case, CRLA moved into town and began making demands on everyone with whom they had any contact: judges, the local district attorney, welfare department, Farm Labor Bureau, and so on. Often they dress in blue jeans, even in court, and sometimes without shoes.

There is no effective local control over the cases they carry. Because they have no practical economic limitations on the way they prosecute any particular suit, they have unlimited opportunities to harass whenever they choose, not only private defendants (or plaintiffs, as in unlawful detainer actions), but public agencies. They rarely ask; they usually demand. They typically become involved in school activities, in which they encourage high school students to prosecute legal claims based on the constitutional right of a student to be immune from reasonable school disciplinary procedures. In their relations with children, often they act as if they were above the law, indifferent to the wishes of the children's parents, where the children may be useful to them in pursuing a "cause" they may think important. Usually it relates to their general assault on authority and discipline.

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

> "I am convinced from what I know about this organization that with them it matters not so much who their clients are (be they rich or poor), but rather who the defendant is." (Exhibit 22-1014)

In reality, they are the plaintiffs as well as the attorneys, since they have no economic orother stake and can therefore persist to incredible lengths. Their only stakes are philosophical and psychological -- which may press for abandon rather than restraint where the "cause" is right.

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

People in the communities want to know why OEO, which is supposed to help poor people "help themselves," is subsidizing the kinds of suits that are cited throughout this report? Why, in short, should OEO tolerate the prosecution of suits that do not specifically help the poor, when there are still many unmet needs they do need help solving? Why should the public pay for suits that will benefit the rich as much as the poor, if no rich person feels he can afford to bring them? Why should we subsidize a standard of legal services that even the rich cannot afford?

We may recall CRLA's suit against the eight creameries for being deceptive in the dating of milk. Why should the public subsidize a suit of that sort on behalf of the poor (the net effect of which would be to increase the price of milk), when no private person is willing to bring the suit for himself?

Why does CRLA's suit against Standard Oil of California, brought on the eve of the elections in the fall of 1970, to enjoin that company from deceiving the public about the pollution effects of its gas, help the poor "help themselves?" If anyone is deceived, surely, it is the middle class, whose interest in pollution might lead them to be deceived. But why is it legitimate for CRLA to bring this suit, when CRLA everywhere turns away individual poor people with individual problems.

Perhaps the cases most upsetting to the local communities involved the long hair cases -- which not only disrupted school discipline procedures, but were often brought on behalf of people who would not have qualified under CRLA's eligibility guidelines. Is hair length the missing link in problems of the poor, which if restored, would make genuine independence a reality?

It is not enough in response simply to say, as CRLA so often does, that creative change is bound to stir some people up. Slogans are appropriate in some situations, but not where tensions and hostilities and even race hatred may result from them. The record is replete with situations where creative change was available without tension and hostilities, but where CRLA chose the divisive route. No suit was required to secure the safety of Miss Kathe Fish at Gavilan College, because no action was threatened against her. CRLA could have discovered that fact with a telephone call. It choose confrontation instead. What did it get besides fear and hostility in return?

No suit was necessary to determine whether the Santa Maria Berry Farms were spraying dangerous pesticides. A phone call would have done the job. Instead, CRLA lurched into court, and once more got in return the fear and hostility and tension any sensitive man knew would result.

Perhaps a suit against the Sutter County Welfare Department was made possible by Mrs. Hubbard's severe

misfortune. Perhaps it was even the "best" case CRLA had ever seen of that sort. But that fact would not seem to justify CRLA's open exploitation of Mrs. Hubbard's misfortune, so that they could get into court.

Perhaps the Modesto School District was wrong in withdrawing from the National School Lunch Program, but it is hard to see how their action could justify the suspension of all other activities for at least two CRLA attorneys for weeks while they organized demonstrations at the school district, and then defended the people arrested on account of them.

We have heard from many people sympathetic to CRLA that the communities they serve ought not to feel the way they do about certain things. These people say it is absurd to be concerned that poverty lawyers wear no shoes in court. But such statements miss the point about communities and the reasons for home rule. Whether local communities are right or wrong to feel as they do about the way CRLA lawyers dress in court is irrelevant to the issue of community. The fact is they do feel that way. The result is that such behavior, while perhaps acceptable in abstract terms (or somewhere else), in a rural community setting tends to cause disruptions and tensions that were not there before. The argument that barefooted or otherwise unkempt appearances in court are necessary in order for poverty lawyers to relate to the poor are disingenuous. The essence of a

lawyer's responsibility is to the legal system and to the court, and appearance in court is a symbol of his acceptance of that obligation. How a poverty lawyer behaves will very much affect a poor person's level of respect for the legal system. Poverty lawyers can dress anyway they like outside of court for purposes of relating, but what is appropriate out in a poor community is not in a courtroom.

The fundamental premise of OEO is that local people should be able to make their own decisions, make their own mistakes, and not have outsiders dictate to them what they should or should not think. If they feel the same kinship with a barefooted poverty lawyer as they might with a touring Martian, that fact has important consequences for the sense of community.

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

Before we turn to the content of CRLA's exploitation of both its clients and its constituency, it is important to consider the rhetorical difficulties in trying to penetrate the passion for "landmark," revolutionary law.

Many, if not most, lawyers might be tempted simply to dismiss many of CRLA's tactics described in this report as absurd, even surrealistic. For instance, the practice of advising clients in criminal proceedings that every law they are charged with violating is unconstitutional not only does damage to the client by encouraging him to break it (as, for instance, in the Modesto School Demonstrations), but encourages people to think that no law is so solid that it cannot be broken with impunity.

No intelligent lawyer would argue that the law ought never to change. Every lawyer recognizes that a strong constitution is one that can be invoked to protect rights that are being violated. But these facts, which no lawyer would dispute, do not eliminate a lawyer's fundamental obligation to the legal system.

A lawyer whose entire mode of operation consists of challenging the constitutionality of laws he dislikes earns the strong suspicions of others concerning his own feeling of obligation to the legal system. The Rules of Professional Conduct of the State Bar of California are very definite about a lawyer's obligation to law:

"A member of the State Bar shall not advise the violation of any law. This rule shall not apply to advice, given in good faith, that a law is invalid." (Rule 11. Emphasis added.)

The Canons of Professional Ethics of the American Bar Association emphasize the point at greater length, beginning with Canon 1:

"It is the duty of the lawyer to maintain towards the Courts a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance."

Beginning at Canon 30, the obligation becomes more explicit:

"The lawyer must decline to conduct a civil cause or to make a defense when convinced that it is intended merely to harass or to injure the opposite party. . . . His appearance in Court should be deemed equivalent to an assertion on his honor that in his opinion his client's case is one proper for judicial determination." (Canon 30.)

And Canon 31:

". . . The responsibility for advising as to questionable transactions, for bringing questionable suits, for urging questionable defense, is the lawyers reponsibility.

And lastly, Canon 32, on "The Lawyer's Duty in Its Last Analysis:"

"No client, corporate or individual, however powerful, nor any cause, civil or political, however important, is to receive nor should any lawyer render any service or advice involving disloyalty to the law whose ministers we are, or disrespect for the judicial office, which we are bound to uphold . . ., or deception or betrayal of the public. When rendering any such improper service or advice, the lawyer invites and merits stern and just condemnation. Correspondingly, he advances the honor of his profession and the best interests of his client when he renders service or gives

> advice tending to impress upon the client and his undertaking exact compliance with the strictest principles of moral law. He must also observe and advise his client to observe the statute law, though until a statute shall have been construed and interpreted by competent adjudication, he is free and is entitled to advise as to its validity and as to what he conscientiously believes to be its just meaning and extent. But above all a lawyer will find his highest honor in a deserved reputation for fidelity to private trust and to public duty, as an honest man and as a patriotic and loyal citizen." (Canon 32)

The essence of the sections quoted above is that the lawyer's fundamental obligation is to the legal system. Challenging laws for unconstitutionality does not mean a lawyer feels no sense of obligation, but if he does nothing else, a suspicion may rightfully arise.

Furthermore, revolutionary activity or sympathy are clearly irreconcileable with that obligation to the legal system. The revolutionary thrust challenges the validity of the legal system, to which lawyers owe their deepest obligation.

The activities of CRLA, not only in the explicit revolutionary associations of some of its lawyers, and in the overall ideological thrust of their program, call into serious question the depth of their commitment to our legal system. This happens at a time when some people especially in the media are suggesting that the causes of certain people ought to put them above the law. Such talk

is straight from the pages of authoritarian and fascist manuals.

Everywhere we have gone people in the local bar and bench have expressed concern about CRLA's "cause" orientation, about its using the legal system for ideological purposes. Many of these same people are concerned and convinced that the behavior of CRLA attorneys is debasing their profession. The question goes back to presumptions: what does CRLA's general orientation suggest about its sense of obligation to the legal system?

The question of legal service programs and "landmark" law raises an economic question which limitations of space and time make it impossible to do more than mention. As a question of resource allocation, we must ask the question: what kinds of legal services ought the public to subsidize, and in what amounts? The record is filled with examples of individual CRLA attorneys claiming that they are doing something that would otherwise be a violation of CRLA's grant "on their own time." There is hardly any question that many young lawyers, particularly those who become poverty lawyers, have a passion for making new law. A whole new area of poverty law has arisen in the past few years, and it is practiced not only by people in government-subsidized programs, but also private practitioners, who were formerly associated with OEO programs.

There is no scarcity of people wanting to practice "landmark" law. What is in short supply are people willing to do the tedious, boring legal service work, which never produces a single headline, but which is vitally important to millions of individual poor people with individual legal problems.

That we are spending as much as we are to subsidize that which is already in abundant supply, while neglecting the needs of individual people with individual problems, is perverse. The story of CRLA (as well as all legal service programs) has an economic dimension, therefore, which deserves the closer attention of officials in Washington.

As we review this entire evaluation, and try to extract from it the essence of CRLA's activities, we find a surprising coherence in its direction. Its program is undisturbed by ambiguity. The essence of CRLA's direction is a passion to wage ideological warfare, with the poor as ammunition. The result is to force upon the poor a form of exploitation that is in some ways worse and more enervating than any other.

The dominant thrust of CRLA's activities is ideological. Its causes betray complete indifference to the impact on individual poor people. As this report shows, time and again when they have had opportunities to settle cases out of court or solve a problem at a low level of controversy, they chose escalation. The result was always

to stir dissension, fear and division in the communities they are supposed to be serving.

They have exploited the poor in several ways. First, giving high visibility to a cause in which exploitation is alleged but is not a reality, tends to encourage the poor to feel exploited and impotent. The result is to encourage the poor to think they have less control over their own lives than is in fact the case.

Second, in supporting organizations like UFWOC and in their lobbying activities, CRLA chooses one group of poor people over another. In refusing to give Mrs. Mariano service when she was sued by UFWOC for interrupting their organizing activities, they withheld service from the poor person who precisely needs it most. These are the poorest of the poor, for these are the people who will have no job when the union succeeds in getting the growers to automate. Without jobs, there is only despair for these people. CRLA, which is supposed to deliver service to the poor impartially, has chosen sides -- and made it impossible for one group of poor people to get any service at all.

Lastly, the effects of CRLA's presence is to discourage the introduction of an alternative legal service program that would deliver to the poor the services that CRLA was set up to deliver.

In material terms, CRLA has pursued many causes which will and have increased costs for the poor. We have men-

tioned their union activity, which discriminates against some on behalf of others. The suit against the creameries for deceptive marking of milk, if successful, will raise the price of milk. Their prosecuting defenses in unlawful detainer actions, and even soliciting and encouraging the defense of these actions, has increased the costs of being a landlord, and therefore the costs of housing to the poor. Now a landlord must take into consideration the possibility of being forced to prosecute a suit in order to dislodge a tenant who refuses to pay his bill. The result is recorded in a letter written by the President of the Apartment and Motel Association:

> "We would have no objection to their (i.e., poverty lawyers) representing an indigent tenant if there were a substantial grievance involved, but most of the actions we have seen have been attempts to delay the normal eviction procedures by vague constitutional arguments where the tenant has not paid rent or has failed to move after receiving an adequate legal notice to do so.
>
> "As a result, our members are more and more turning away from the acceptance of Welfare Tenants because of the potential hazard of fighting the United States Government with no hope of recovery in a monetary sense and the very real possibility of being unable to regain possession except at exhorbitant costs or excessive delay." (Exhibit 22-1071. Emphasis added.)

In the course of the evaluation, we had to face the question whether the task of building quality legal services for the rural poor was best served (a) by trying to bring about a sweeping reform of CRLA, or (b) by re-

commending that the Governor veto the program with an eye to building an alternative.

The facts demanded a veto for several reasons. First, throughout its stormy history, CRLA has been regaled by criticism from many quarters throughout the state, but has never demonstrated believable interest in anything more than cosmetic changes. Unlike the August 1970 Evaluation rather even than admit that they had serious problems, CRLA tends to dismiss charges of wrong-doing, and commends its attorneys for giving their free time, which they seem to possess in unlimited amounts. CRLA's union involvement has gotten successively worse over its four years and this year it appeared they discarded even the crudest efforts to camalflage it.

Second, our commitment to the fundamental premise of OEO, with its emphasis on communities and home rule, and to the President's New Federalism, made us recognize the extent to which CRLA's recurring problems are structural and institutional. We have come to be convinced that the kinds of people who tend to become poverty lawyers tend to aggravate the problems cited herein. But without local control the aggravation becomes intolerable both for the communities and for the poor. Having concluded that the structure is largely to blame for CRLA's problems, we determined our best course was to avoid the previous cosmetic reform efforts and to the organic change that we are convinced is necessary

if the poor are to get adequate legal service.

A number of important issues are at stake in the Governor's veto of CRLA.

(1) The first question is whether OEO is going to respect the legislative intent clearly underlying Section 242 of the Economic Opportunity Act. That section requires that in order to overturn a Governor's veto, the Director of OEO must make an affirmative finding that the program is "fully consistent with the provisions and in furtherance of the purposes of this title".

We think the evidence presented herein represents the most complete possible indictment of any program -- both from the standpoint of the poor and of the communities in which the program serves. The readiness of OEO to respond to the Governor's veto in this situation will indicate a great deal about OEO's attitude toward Section 242. Unfortunately, to our knowledge, that section has never been tested judicially. At some point in the future, such a test will no doubt take place. But in the meantime, we can only hope on behalf of all the constituencies adversely affected that the Director sustains the Governor's veto in this instance.

(2) A second question goes to the question of Home Rule and the New Federalism. The Nixon Administration has gone on official record for its devotion to these principles, long at the heart of the OEO concept. CRLA is

presently organized in direct contravention of those principles with control far from the areas of operation.

(3) Thirdly, who is going to stand up for people in rural America and grant to them the same rights of local control that have long been taken for granted in the cities? Big cities are never afflicted with OEO Legal Service programs administered from rural areas, far away from them, and we think people in rural areas should be granted equal protection in this regard.

X. RECOMMENDATION

The State Office of Economic Opportunity recommends that California Rural Legal Assistance, Inc., funding for year 1971 be disapproved, pursuant to the Governor's authority under Section 242 of the Economic Opportunity Act of 1964, as amended.

XI. ALTERNATIVE PLAN - PRIVATELY FINANCED LEGAL SERVICES FOR THE RURAL POOR

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

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

design of the program for its particular area.)

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

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

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

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

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