CALIFORNIA RURAL LEGAL ASSISTANCE (CRLA): SURVIVAL OF A POVERTY LAW PRACTICE

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I was born and raised in San Antonio, Texas, one of fourteen children. My dad died when I was four years old. My mother raised all of us. I lived in what is commonly known as the barrio where it's 100 percent Mexican-American or Mexicano or Raza or Chicano. Most of the families were migrant families.

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And the Justices here from Wisconsin and the State of Colorado, I think, are probably aware of the plight of the migrant and the Chicano migrant. . . . In the small towns of America and the State of California, they had no one to resort to except the lawyer that was representing the Chamber of Commerce or the farmer or the farm corporation, the fellow that would hesitate to take a case because once having taken it, he would lose the business of the commercial people.

And so the migrant had no recourse whatever. The only way he knew the courts and the court systems and the lawyers was when he was a defendant in a criminal case, when the police were out there serving him with warrants when he was arrested for minor and petty offenses.

And this frustration builds up, and I speak from personal experience when I say this. The frustration builds, and you have no trust in the judicial system, no trust in the lawyers, no trust in the administration of justice.

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And CRLA came along and they found out that they could trust in people, that once again they could resort to the courts and not to the streets.

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Throughout this article, the authors have used the pronoun forms "we", "our", and "us". It should be understood that such designations do not refer specifically to the authors but variously to CRLA's entire staff, Board of Trustees, local Advisory Committees, Central administrative staff, Counsel for CRLA, or any combination of the aforementioned. On the other hand, nothing in the article necessarily reflects the opinion of any or all these groups. In short, the actors have been many, the perspective is the authors'.

And I think it is a major role that CRLA has played in serving the poor and instilling faith in them and saying, well, this system may work for us. This system could possibly be utilized to serve the poor.

And I know that in many areas of California this organization is not known as the California Rural Legal Assistance but as the Chicano Rural Legal Assistance, because it helps the Chicano. And to do away with it I think would be, I don't know, certainly an injustice to the poor of the state.

Mario Obledo, General Counsel
Mexican American Legal Defense and
Education Fund, before the
Commission on CRLA[1]

While providing legal services to California's rural poor, CRLA has been politically attacked from local, state and national levels. What follows is the story of how CRLA has survived its political environment. The first section tells how CRLA acquired public recognition and political support prior to 1970, so that it was able to survive when Governor Ronald Reagan vetoed its 1971 grant from the Office of Economic Opportunity (OEO). The other four sections provide a more detailed account of the 1971 refunding fight with the Reagan and Nixon Administrations.

I. A Brief Political History

The Organization, Its Philosophy and Practice

CRLA offices began appearing in California's agricultural valleys in August 1966, and by the following January nine were in operation.[2] Not only was CRLA the first OEO legal service program to serve rural areas, it was also the first state-wide program. The organizational structure has had definite advantages. First, it insulated CRLA staff from local community pressures that might interfere with poor people receiving high quality legal services. Second, state-wide organization provided CRLA's staff sufficient resources to be an effective countervailing force against the powerful governmental and corporate or-

1. *Office of Economic Opportunity Commission on California Rural Legal Assistance, Inc., "Hearings,"* Reporter's Transcript [hereinafter cited as Commission Hearings], at 418, 426-27 (April 27, 1971).

2. California Rural Legal Assistance, Inc., received a grant of $1,276,138 on May 24, 1966. An administrative-research office was opened in June in Los Angeles and starting in August, service offices were opened in this order: Madera, Santa Rosa, El Centro, Salinas, Santa Maria, McFarland, Modesto, Gilroy, and Marysville. A legislative office was opened in Sacramento in 1968. The Central administrative-research office was moved to San Francisco in August 1968, and the Santa Rosa office was moved to Healdsburg in September 1971.

ganizations that often controlled their clients' lives. Third, our structure brought CRLA the public recognition necessary to attract top staff and to insure the program's survival.

From the beginning, CRLA's staff and Board of Trustees were determined that the program would also be different regarding its law practice. CRLA was not intended as an extension of traditional legal aid wherein attorneys see as many clients as they can, never go to court except in a defensive posture, rarely use discovery, file appeals, or represent groups. CRLA intended to offer its indigent clients the same economic, political and social bargaining power that large private law firms offered their affluent clients.[3] That meant corporate planning with poverty groups as well as individual divorces, representation before legislative bodies as well as bankruptcies, and constitutional litigation as well as claims of exemption.[4] Our perspective was

> that the problems of the poor result far less from unjust rules than from an inequitable distribution of wealth and power and that the lawyers serving them must focus on building legal institutions which can enhance the power of the poor client to economically and politically cope for himself.[5]

In short, our aim was to "develop long-range remedies which [would] assist the poor as a class and not just isolated individuals."[6]

We always believed we could do the most for our clients

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3. James D. Lorenz, Jr., who drafted CRLA's original grant proposal and was the Program's first Executive Director, envisioned CRLA becoming like the large corporate law firm he worked for prior to CRLA. "Obviously we couldn't duplicate O'Melveny and Myers . . . but we wanted to come as close as we could." Commission Hearings, *supra*, note 1 at 118 (April 26, 1971). Ironically, O'Melveny and Myers—Los Angeles' largest law firm—was counsel for many of California's largest agribusinesses.

4. CRLA never established a "law reform" or "test case" unit as did many large legal services programs. We spoke of "impact cases"—simply cases that affect a lot of our clients—and wanted all CRLA attorneys to be involved in some. "Impact cases," as CRLA defined them, meant enforcing existing laws or working with poverty groups to create a cooperative more often than it meant establishing "new law" in court. We believed that such cases might arise from almost any individual client's problem if it was thoroughly and professionally handled, and that "impact cases" were almost bound to arise if attorneys maintained regular relationships with poverty groups as private firms do with corporations.

5. California Rural Legal Assistance, Refunding Proposal for 1967, *Report to the Office of Economic Opportunity and CRLA Board of Trustees on Operations of California Rural Legal Assistance, May 24, 1966-November 25, 1966, in Support of Application for Refunding* (Los Angeles, Ca., December, 1966), 57 [hereinafter cited as 1967 Refunding Proposal].

6. California Rural Legal Assistance, *Proposal to Aid Farm Workers and Other Poor Persons Residing in the Rural Areas of California,* at 36 (Los Angeles, Ca., March 1966) [hereinafter cited as 1966 Funding Proposal]. See also Lorenz, *The Application of Cost-Utility Analysis to the Practice of Law: A Special Case Study of the California Farmworkers,* 15 UNIVERSITY OF KANSAS LAW REVIEW 409 (1966-67).

and best provide for CRLA's survival if all our activities were highly professional. We viewed ourselves as an organization trying to change established political, economic, and social systems on behalf of our clients, but always according to the systems' own rules. We knew that if CRLA gained the reputation of a highly professional and successful litigation group, that reputation would translate into leverage on behalf of our clients—so a simple letter on CRLA stationery might accomplish what was earlier possible only by taking someone to court. Professional performance would also serve as our first line of defense against political attack. We might survive attacks based on political philosophy, but we could never withstand substantiated charges of fiscal irresponsibility[7] or unprofessional handling of cases.

To keep our offices in touch with the real needs of their communities, poor peoples' Advisory Committees were established wherever we had a service office. These groups set priorities for our local offices, thus helping to focus resources on problems of the poverty community in addition to individuals' problems.[8] The Advisory Committees also acted as a shield against those who attacked us in the name of the poor.

Local Opposition

Local bar associations. Bar associations have often been antagonistic toward OEO legal services programs, even those that are locally staffed and controlled.[9] CRLA was neither staffed nor controlled locally, and its early professional staff came almost entirely from big cities. Quite naturally, antagonism among rural bar associations ran high.

Despite our efforts to allay local hostility,[10] only one bar

7. We always managed and documented our fiscal affairs very conservatively. CRLA staff, for instance, complete far more detailed time sheets and travel reimbursement statements than are required by OEO.

8. The Advisory Committees, by setting priorities, also prevented our offices from being deluged with the multitude of divorce and bankruptcy cases that have so often undermined the professionalism and effectiveness of traditional legal aid projects.

9. According to some writers, antagonism is based primarily on fear of outside interference, especially by the federal government; fear of business loss; fear of "creeping socialism" in the legal profession; and fundamental ideological differences regarding the reform orientation of legal services—reform which always cuts against local economic interests that employ lawyers. H. Stumpf, Study of OEO Legal Services Programs: Bay Area, California, Submitted to OEO September 15, 1968; A. Pye and R. Garrity, *The Involvement of the Bar in the War Against Poverty*, NOTRE DAME LAWYER, XLI, at 860-886 (1966).

10. Prior to establishing an office in its area, CRLA attorneys would usually contact the bar president, the chairman of the lawyers reference service, and other bar officers to discuss the nature of the program, eligibility standards, and referral systems. In five regions we were able to address full meetings of the local bar prior to establishing an office.

association—the Santa Clara (San Jose) Bar Association—officially recognized CRLA's presence. Six associations took no official stand, but numerous attorneys in each expressed strong antagonism. The Imperial County Bar Association passed a resolution endorsing an anti-CRLA resolution earlier adopted by the State Bar.[11] And the Stanislaus County Bar Association brought suit to enjoin us from opening an office in their area.[12]

An "Agreement of Understanding" negotiated between CRLA and the State Bar in 1967[13] provided a place on our Board of Trustees for each local bar association where CRLA had a service office. This provision and continued efforts by CRLA staff have tended to neutralize local bar opposition. But CRLA's relationship, while good with most individual attorneys,

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11. Soon after CRLA's original funding proposal was submitted to OEO in March 1966, the Board of Governors of the State Bar adopted a resolution condemning the proposal. The State Bar objected to CRLA's departure from "the concept of neighborhood legal service offices established and operated by residents of local communities," and CRLA's intention to offer "its services to political and economic groups as well as individuals." One strongly worded paragraph of the resolution stated:

> The proposal is basically one of militant advocacy on a state-wide basis of the contentions of one side of an economic struggle now pending. Ostensibly designed to furnish only legal services to the poor, the proposal also encompasses the furnishing of political and economic aid.

Resolution adopted by the Board of Governors of the State Bar of California, April 21, 1966.

Clinton Bamberger, National Director of the Office of Legal Services, commented at the time that "advocacy of the contentions of one side of an economic struggle now pending" was about the best one-line definition of the War on Poverty that he had heard. Commission Hearings, *supra* note 1, at 132 (April 26, 1971).

Sargent Shriver, Director of OEO, called the President of the State Bar, John Sutro:

> And Mr. Sutro said to me that these lawyers might be useful to and used by the poor in suits against the growers. And I said, well, I thought that was quite possible and that, in fact, that was the point, that what we were trying to do was give them help which would equalize or help that situation. And I said to him then what did he protest about that? I said, "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 people will represent the pickers." And that was the end of the argument.

Commission Hearings, *supra* note 1, at 1306 (May 1, 1971). Shriver went on to say how Sutro soon became "a very strong friend of the legal services program." *Id.*

12. The Bar Association charged, among other things, that it was illegitimate for CRLA to practice law as a corporation; that CRLA intended to hire non-attorneys to "solicit legal business"; and that we were operating contrary to the intent of Congress in adopting the Economic Opportunity Act (Title 42, Ch. 34, U.S.C.) in that we were not locally sponsored or subject to local controls. Stanislaus Superior Court Judge Robert M. Carter issued a Temporary Restraining Order on October 13, 1966, which ran in 10 days, and the Bar's application for a temporary injunction was denied. Stanislaus County Bar Ass'n v. California Rural Legal Assistance, Inc., Stanislaus County Superior Court No. 93302, filed October 7, 1966.

13. Letter from A.S. Halsted, Jr., for State Bar of California, to James D. Lorenz, Jr., Director, California Rural Legal Assistance, June 2, 1967, Agreed: James D. Lorenz, Jr., June 15, 1967.

has never been other than an uneasy peace with a few local associations.

Local politics. Bar associations were not the only opposition we faced at the local level. As CRLA attorneys and community workers began challenging welfare departments, housing authorities, and agribusinesses, local officialdom began coalescing against CRLA offices.

The situation in Marysville was only an example. Almost immediately after we opened an office there in early 1967,[14] we found ourselves embroiled in controversy with the local welfare director, Mrs. Mary Quitoriano, who had been hired by the Board of Supervisors in late 1965 on the promise she could cut welfare costs substantially. The Board of Supervisors later received a report from the State Department of Social Welfare highly critical of Quitoriano's unlawful procedures to avoid making welfare payments. But the report was dismissed on the grounds Governor Ronald Reagan's State Welfare Director was incorrectly interpreting his own regulations.[15]

During May and June 1967 our Marysville staff filed 28 fair hearing appeals with the State Department of Welfare. After the first decision came back in favor of CRLA's client, the Board of Supervisors, on urging of the Sutter County Taxpayers Association, hired an attorney to represent Director Quitoriano at the appeal hearing.[16] The Taxpayers Association then persuaded the Supervisors to direct a letter to Governor Reagan condemning CRLA's "harassment" of county officials which "forced the county to hire additional counsel to protect its Welfare Director," and demanding that our funds be cut off.[17] William P. Clark, Jr., Governor Reagan's Executive Secretary, replied that while the Governor was not empowered to terminate funds, his office would keep an eye on CRLA and act at the proper time.[18] By early September, the State Department of Social Welfare had decided 13 of the appeals, 12 in favor of our clients.

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14. The County's major newspaper, the Appeal-Democrat, welcomed the opening of our office as "socialized legal counsel" and described our clients as "whining, complaining . . . deadbeats." Editorial, "*Aid for the Ruling Poor,*" Appeal-Democrat (Marysville/Yuba City, Ca.), February 22, 1967, at 30, col. 1.

15. Roger Nelson, *Says Supervisors Should Exercise 'Stronger Leadership'—State Report Critical of Sutter Welfare Unit,* Appeal-Democrat (Marysville/Yuba City, Ca.), April 9, 1967, at 1, col. 1.

16. *Fights on Welfare to Cost Cash,* Independent-Herald (Yuba City, Ca.), June 5, 1967, at 1, col. 8.

17. *CRLA Unit Here Opposed,* Appeal-Democrat (Marysville/Yuba City, Ca.), June 19, 1967, at 1, col. 1.

18. *Reagan's Aide Pledges Look at Legal Group,* The Sacramento Bee, August 9, 1967, at A-4, col. 1.

State and National Recognition

Precipitating factors. Prior to the summer of 1967, CRLA was little known outside its nine service areas. That situation changed radically when, in a period of ten days, we brought suits against the Reagan Administration and the U.S. Department of Labor. The suit against Reagan, filed in late August and won in November before the California Supreme Court,[19] prevented the Governor from making cutbacks in the State Medi-Cal program. Needless to say, it stimulated considerable bad press for the Governor.[20]

On September 8 we obtained an order temporarily restraining the U.S. Department of Labor from importing braceros.[21] Prior to hearing, we negotiated an agreement with Department officials that limited bracero importation for the 1967 harvest and resulted in complete cessation of importation in subsequent years.[22] This was in spite of the public pleas of California agribusiness and the State Farm Labor Service,[23] as well as the intervention of Democratic Congressmen B. F. Sisk (Fresno County) and John J. McFall (Stanslaus and San Joaquin Counties—CRLA's Modesto Office) on the growers' behalf.[24]

Agribusiness attack. We knew both suits would be controversial, but we never imagined the intensity of State and national political forces that would be directed against CRLA.

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19. Morris v. Williams, 67 C.2d 733, 63 Cal. Rptr. 689 (1967).

20. The Reagan Administration's announced reason for cutbacks in August 1967 was that the Medi-Cal program was running a projected budget deficit of $20 million. After the cuts were restored, it was determined that the program would, in fact, run a $50 million surplus. Don Harris, *Reagan Hit for Call to Ignore Court,* Los Angeles Citizen, September 15, 1967, at 1, col. 7.

21. Ortiz v. Wirtz, No. 47803 (N.D. Cal. 1967) filed September 8, 1967. Nearly five years later, Sargent Shriver told Justices of the Commission on CRLA how he first heard of the case by telephone from Secretary of Labor Wirtz: "Those lawyers that work for you have just sued me in California," said Wirtz. After hearing what the argument was about, Shriver said,

> Well, Bill, don't you think they're right? If the Department of Labor has failed to fulfill the requirements of the law, shouldn't a suit be brought to require that you fulfill it . . . what these lawyers in California have done is, in fact, to sort of hold you up, you might say, make you follow the legal process. . . . And I'm sure—well, I'm sure he agreed with that. And he said, as a matter of fact, 'Now that I talk to you, I do.'

Commission Hearings, *supra* note 1, at 1294-95 (May 1, 1971).

22. *California Expects to Get By This Year Without Braceros,* The Fresno Bee," September 27, 1968, 4B, col. 2.

23. *Additional Braceros Fail to End Harvest Shortage,* The Modesto Bee, September 26, 1967, at B-2, col. 1; UPI Dispatch, *Farm Labor Shortage is on Increase,* The Fresno Bee, September 30, 1967, at 1B, col. 1; Harold Geren, *Area Farmers Need 4,679 Workers to Salvage Crops,* The Modesto Bee, October 8, 1967, at A-1, col. 1; Harold Geren, *Shortage of Crop Workers Mounts,* the Modesto Bee, October 10, 1967, at A-1, col. 2.

24. *Sisk Blasts US Labor Department Legal Aid Unit in Grape Crisis,* The Fresno Bee, September 22, 1967, at 1B, col. 6; *McFall Urges Braceros Use in Grape Harvest,* The Fresno Bee, September 28, 1967, at 15A, col. 1.

O.W. Fillerup, Executive Vice-President of the Council of California Growers, said our action against the Labor Department was to support Cesar Chavez's farmworker unionizing efforts.[25] Pointing to Chavez's and Larry Itliong's membership on CRLA's Board of Trustees, Fillerup complained:

> The federal government, through the Office of Economic Opportunity, and the AFL/CIO now find themselves in a financial partnership in union organizing disguised as a legitimate social project to aid the rural poor.[26]

Grower publications, including the *California Farmer*, followed essentially the same line: California farmers were being undermined by federally subsidized farmworker unionization.[27]

Congressional attack. Republican Senator George Murphy, Democratic Congressman Sisk and Republican Congressman Mathias (Kern, Tulare, and Kings Counties—CRLA's McFarland Office) led the Congressional attack. Murphy argued that we were trying to help Chavez, but his primary complaint was that we had challenged another government agency. Noting that CRLA was the same group that had filed suit against the State of California regarding its Medi-Cal program, he told the Senate,

> The citizens of California have been horrified by the spectacle of CRLA lawyers, paid by their tax dollars, going to court against the Secretary of Labor and his Justice Department attorneys, also paid by the taxpayers, in an action which will inevitably result in losses to farmers and higher food prices to American consumers. Poor old John Q. Public is paying the bill three times for this absurd three-ring circus.[28]

To guarantee against this sort of thing happening again, Murphy proposed an amendment to the Economic Opportunity Act to prohibit all OEO legal services programs from taking legal action against governmental agencies.[29]

Congressman Sisk responded to the bracero suit by sending

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25. In an effort to make CRLA's original grant more palatable to agribusiness interests, OEO Director Sargent Shriver did two things: He insisted that the CRLA office proposed for Delano—headquarters of Cesar Chavez's organizing activities—be established in McFarland (7 miles from Delano). And he imposed a special grant condition prohibiting CRLA from giving assistance to any collective bargaining group, whether or not the group met OEO financial eligibility standards. Such a prohibition was never imposed on a legal services grant before, but it has been a condition of all CRLA grants. *See also* note 11, *supra.*

26. *Growers Score Legal Aid Groups as 'Unionizers'*, The Fresno Bee, October 17, 1967, at 1B, col. 5 (valley ed.).

27. *Growers Accuse CRLA of 'Political Maneuvering'*, California Farmer, October 21, 1967, at 13.

28. U.S., Congressional Record-Senate 90th Congress, 1st Session (September 28, 1967), 27129.

29. *Id.*

a series of public letters to President Lyndon Johnson, Sargent Shriver, and CRLA. He complained to Johnson that CRLA's actions were "destroying thousands of my constituents," and if OEO and the Department of Labor were unwilling to rectify the situation, he would see that Congress did.[30] He wrote CRLA that,

> . . . your concern should be for individual people and not a federally funded law firm to litigate all of the major social problems of our society. . . .[31]

Later Sisk announced he would seek a way to cut off CRLA's funds.[32]

In a speech to the House on September 26, former Olympic decathalon champion Bob Mathias called for the General Accounting Office (GAO) to investigate CRLA's involvement with Cesar Chavez's United Farmworkers Organizing Committee (UFWOC).[33] He claimed to have evidence, including photographs, a police report, and signed statements which showed that CRLA personnel were illegitimately involved with UFWOC. A four-man GAO team commenced investigating on November 6. Their number soon grew to twelve and their investigation continued for nearly three months.[34]

Several other Congressmen attacked CRLA and/or the Department of Labor. Congressman Charles Gubser (R., Santa Clara and San Benito Counties—CRLA's Gilroy Office) char-

30. *Sisk Blasts U.S. Labor Department, Legal Aid Unit in Grape Crisis,* The Fresno Bee, September 22, 1967, at 1B, col. 6.

31. *Sisk Blasts CRLA Labor Department,* The Fresno Bee, October 1, 1967, at 4A, col. 4. Sisk wrote Shriver that henceforth legal services programs should not be allowed to sue government agencies without Shriver's personal approval. *Id.* Later, he took the position that local bar associations or Community Action Agencies should review cases before suits are filed against government agencies. U.S., Congressional Record-House, 90th Congress, 1st Session (October 31, 1967) 14285.

32. *Local Poverty Unit to Lose Some of Power,* Los Angeles Times, December 1, 1967, § 1, at 26, col. 1.

33. U.S., Congressional Record-House, Extension of Remarks, 90th Congress, 1st Session at 4784 (September 26, 1967). Mathias' call for an official inquiry was enthusiastically received in Kern County. First the Kern County Association of Cities unanimously endorsed the investigation. (*Legal Aid Unit Inquiry Gets Kern Support,* The Fresno Bee, October 4, 1967, at 1B, col. 3 [valley ed.]) Then the McFarland City Council voted endorsement. (*City Council Backs Mathias' CRLA Probe,* The Fresno Bee, October 11, 1967, at 10D, col. 1). Then the Republican Central Committee of Kern County (*GOP Central Committee Issues Call for CRLA Investigation,* Delano Record, October 19, 1967, at 1, col. 6) the Delano City Council (*Delano Supports Investigation of CRLA Functions,* The Bakersfield Californian, November 9, 1967, at 51, col. 1) and the Bakersfield City Council endorsed Mathias' move. (*Council Asks Probe of CRLA,* The Bakersfield Californian, November 14, 1967, at 13, col. 8).

34. Comptroller General of the United States, Report No. B-161297, REPORT ON INVESTIGATION OF CERTAIN ACTIVITIES OF THE CALIFORNIA RURAL LEGAL ASSISTANCE, INC., UNDER GRANTS BY OFFCE OF ECONOMIC OPPORTUNITY, May 29, 1968 [hereinafter cited as GAO Report].

acterized the out-of-court agreement between CRLA and the Department of Labor as "tribute paid to a rump organization" and as "a new low in groveling submission to blackmail by an agency of the U.S. Government."[35] Congressman McFall said CRLA should confine its activities to individual legal problems as do public defenders and not act as ombudsman over the operations of other Federal agencies.[36] Congressman Burt Talcott (R., Monterey and San Luis Obispo Counties—CRLA's Salinas and Santa Maria Offices) released a letter advising his indigent constituents to

> seek free legal aid from a local attorney before responding to one of these anti-poverty attorneys . . . . [whose] principal purpose in our area appears to be political more than legal. Purporting to help the poor is simply a tactic to divert attention from their real motives.[37]

Governor Reagan. California agribusinesses expended considerable energy and money to elect Ronald Reagan Governor in November 1966.[38] The Governor reciprocated by calling a special conference for growers in May 1967, at which high ranking officials of his Administration promised, among other things, that it "would only take minutes" to get braceros from Mexico.[39] Naturally, our bracero suit, on top of the Medi-Cal case, infuriated the Governor. Speaking to 7,600 at a State Republican convention in Anaheim on September 24, 1967, Reagan carefully avoided mention of the Medi-Cal suit, but decried

> the spectacle of a federal government body opposing the decision of an officer of the President's Cabinet . . . leaving the taxpayers both the costs of prosecution and the defense.[40]

Reagan then went on to discuss the Sutter County welfare situation where CRLA,

> using taxpayers' money, is harassing a county welfare office to the point where that county's board of supervisors has to hire a lawyer at $35 an hour to protect its county welfare director.[41]

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35. U.S., Congressional Record-House, 90th Congress, 1st Session (September 21, 1967), 12337.
36. U.S., Congressional Record-House, Appendix, 90th Congress, 1st Session (September 26, 1967), 4784.
37. Editorial, Gilbert Moore, *Talcott's Advice May Boomerang,* San Luis Obispo Telegram Tribune, October 5, 1967, at 10, col. 4.
38. The California Farmer estimated that growers' newspaper and magazine ads, radio and TV spots, billboards, and other organizational efforts netted Reagan 800,000 votes. California Farmer, June 17, 1967, at 14 (central ed.).
39. James Dufur, *Braceros Use is Eyed if Harvest is Late,* The Fresno Bee, May 12, 1967, at 1A, col. 1.
40. Carl Greenberg, *Reagan Calls War on Poverty Spending in State Failure,* Los Angeles Times, September 24, 1967, § A, at 1, col. 2.
41. *Id.*

At an October 3 press conference in Sacramento, Reagan was embarrassed when asked by newsmen how he could construe CRLA's welfare appeals as "harassment" when his own State Department of Social Welfare had thus far decided 12 of 13 appeals in favor of CRLA's clients.[42] It would seem, said the reporter, that Reagan's quarrel was really with his own State Welfare Director.

Support from California organizations. We realized from the beginning that CRLA's survival would require the support of urban organizations and public figures whose interests were parallel with ours. We sought the backing of urban bars and law schools as well as statewide Chicano and other minority, church, labor and civil rights groups by advising them of our clients' problems and what CRLA was doing. The results of our efforts became apparent as soon as the attacks on our bracero and Medi-Cal suits began. First, we were able to put together a telegram of support to President Johnson signed, as the *Los Angeles Times* put it, by "a broad cross section of labor and civil rights organizers, church leaders and law professors."[43] Secondly, many of the signators made separate public endorsements of CRLA and sought, through organizational publications and personal correspondence, to stimulate letters to Congress in support of CRLA and opposition to the Murphy Amendment.

Finally, various of our supporters worked on significant political figures with whom they had leverage. For instance, Congressman Sisk, who depends heavily on Mexican American support in Fresno County, found himself attacked by the President of the Mexican American Political Association (MAPA) for "continually pushing for bracero and other subsidies for growers, while ignoring the needs of local farmworkers."[44] The Fresno Chapter of MAPA reminded Sisk publicly that they, too, were "part of his constituency, not just farmers."[45] And they urged local Assemblyman George N. Zenovich to publicly support CRLA. Three weeks later he did.[46]

42. *Reagan Backs Welfare Director, Hits CRLA,* Appeal-Democrat Marysville/Yuba City, Ca.), October 3, 1967, at 1, col. 5; *CRLA Challenges Claim it Harasses Public Agencies,* The Modesto Bee, September 26, 1967, at B2, col. 3. *Of the 28 appeals our Marysville office made to the State Department of Social Welfare, all were eventually determined in favor of our clients.*

43. *President Urged to Keep Backing Rural Legal Aid,* Los Angeles Times, September 26, 1967, § 1, at 3, col. 6. The signators included leaders of the State AFL/CIO, a number of urban members of the California Legislature, leaders of two national Mexican American organizations, the West Coast Director of the NAACP, several officials of the California Council of Churches, and a number of prominent law school professors.

44. *MAPA Leader Says Sisk Aids Only Growers,* The Fresno Bee, September 23, 1967, at 1B, col. 8.

45. *Id.*

46. *Zenovich Backs CRLA Suits Against Agencies,* The Modesto Bee, October 13, 1967, at A12, col. 1.

Effect of the Murphy Amendment.[47] Throughout CRLA's existence, our most prominent detractors—Senator Murphy and Governor Reagan—have been most responsible for getting CRLA the out-of-state recognition its survival has required. The 1967 Murphy Amendment is an excellent example. It brought to our defense not simply other legal services programs, but the leadership of the nation's entire legal establishment. Earl F. Morris, President of the American Bar Association (ABA), personally lobbied in Washington against the Amendment,[48] and traveled to California to speak with the Board of Governors of the State Bar regarding the appropriateness of CRLA's actions in the bracero and Medi-Cal cases. Later, when rumor spread that the Amendment would be proposed in the House of Representatives, ABA President-elect William T. Gossett, a former General Counsel of Ford Motor Company, worked hard on House Republicans, especially Minority Leader Gerald Ford of Michigan.[49]

Following the Amendment's defeat in the Senate 36-52 and its failure even to be introduced in the House, most agreed that it was the active lobbying of the ABA leadership which saved all of legal services from Murphy's attempted emasculation.[50] But in all discussions, articles, and editorials which appeared in publications like *The Washington Post,*[51] the *St. Louis Post Dispatch,*[52] and *The New Republic,*[53] it was "California Rural Legal Assistance" that emerged as the controversy's most newsworthy actor. So, for instance, when a reporter with *The Sacramento Bee* surveyed various California Congressional offices, he found that "mail on Vietnam, taxes or pornography" was miniscule compared to the avalanche of letters, wires and petitions regarding the poverty bill and that

> many of the messages express support for California Rural Legal Assistance, Inc., an OEO financed organization which

47. Congressional Record-Senate, *supra,* note 28.

48. *Bar Raps Murphy Shots at CRLA-Type Lawsuit,* The Modesto Bee, October 23, 1967, at A10, col. 3. Morris wrote to Senator Joseph S. Clark (D., Pennsylvania), who managed the anti-poverty bill for the Administration in the Senate,

> One of the outstanding accomplishments of the legal services program . . . relates to the opportunity afforded to the poor to challenge unjust and arbitrary action by government agencies and officials. We strongly support this facet of the OEO program and, therefore, appreciate your effective leadership in opposing the Murphy Amendment. *Id.*

49. Jerry Landauer, *Legal Aid Skirmish in Poverty War,* Wall Street Journal, November 8, 1967, at 12, col. 4.

50. *Id.*

51. Editorial, *Lawyers for the Poor,* The Washington Post, October 16, 1967, at 18, col. 2.

52. Editorial, *The Law and the Poor,* St. Louis Post Dispatch, October 17, 1967, at 2B, col. 1.

53. *Why Reagan's Mad,* The New Republic, October 21, 1967, 13.

> has triggered extensive controversy with several lawsuits against public agencies.[54]

And before the end of 1967, CRLA was the subject of highly favorable feature stories in *The New Yorker*,[55] and *Time* magazine.[56]

With public recognition came support from national political leaders. Vice-President Humphrey began mentioning us in speeches.[57] Senator Edward Kennedy, addressing a New York convention of legal services attorneys, held CRLA up as a model for all of legal services.[58] And we were apprised by Robert Kennedy's office that the Senator would be pleased to assist us whenever called upon.

Reagan's First Veto Attempt

The Governor's strategy. Though the Murphy Amendment was dead and CRLA was considerably better known, the program was still in danger because OEO regulations provide a Governor 30 days to veto OEO grants made in his State.[59] Such a veto is subject to override only by the Director of OEO.

We submitted our application to OEO for 1968 funding in late November 1967, and OEO announced its approval of the grant on December 22, 1967. Newspapers throughout the State immediately began speculating that Reagan would veto,[60] and the Governor's Executive Secretary, William P. Clark, would not deny the possibility:

> The encouragement of litigation has perhaps opened the door too wide to the indigent clients. They [CRLA] have imposed burdens on rural courts by their incursions into so-

54. Leo Rennert, *North State Solons Get Urgent Pleas to Keep War on Poverty Going*, The Sacramento Bee, November 13, 1967, at A8, col. 1.

55. Calvin Trillin, *U.S. Letter: McFarland*, THE NEW YORKER, November 4, 1967, 173-182.

56. *Legal Aid, Champion of the Rural Poor*, TIME, December 15, 1967, 75.

57. UPI Dispatch, *HHH Defends Controversial CRLA Actions*, The Bakersfield Californian, October 10, 1967, at 4, col. 2.

58. Here was a program that had idenified an injustice, made it visible through the initiation of litigation, and had achieved not only the possibility of relief in the particular plaintiffs' cases but also a means of future relief in future cases . . . if you are not perturbing someone in some government each week, then the chances are you are not doing an effective job. For your job is to change the status quo when the status quo ignores the needs, the problems, and legitimate aspirations of the poor.

Address by Senator Edward M. Kennedy at OEO's Legal Services; Northeast Regional Conference, New York, September 29, 1967, at 2.

59. 42 U.S.C. § 2834 (1964). In order to avoid the possibility of Reagan vetoing our 1967 grant, OEO continued to fund us as a research and demonstration grant through 1967 since research and demonstration grants are not subject to a gubernatorial veto.

60. Harry Bernstein, *Reagan Hit for Stand on Legal Aid to Poor*, Los Angeles Times, December 22, 1967, § 1, at 16, col. 1.

> cial legislation. This could be carried to all sorts of extremes.[61]

Our response, just as widely publicized, was that the Reagan Administration

> apparently looks with favor on helping poor people with legal services only if they are suing other poor people such as in divorce cases. . . . Any type of litigation by poor people to vindicate their rights against employers or government agencies [is] looked on with disfavor.[62]

On January 9, amidst the public debate, Clark sent a letter to Lawrence Horan, OEO Western Regional Director, saying that Reagan would approve the CRLA grant only if fifteen specified conditions were met.[63] The conditions were clearly designed to destroy the program. For instance,

> CRLA shall request a resolution of authorization from the county bar association in each county they provide legal services. The resolution should indicate the recognition of the local bar of its jurisdiction for providing legal services and the abdication of this responsibility. . . . In all instances where CRLA does not receive the said authorization, they shall terminate operation.[64]

Another condition would prohibit CRLA from suing public agencies until it

> shall be ascertained by receiving in writing a refusal of referral from at least three private attorneys and all privately funded legal service programs normally available to provide this type of assistance in that area.[65]

OEO's response. Horan immediately spoke with Earl Johnson, Director of the National Office of Legal Services,[66] and Johnson took the matter up with Shriver. Shriver's response was immediate: "If I don't override that veto, we might as well turn the Country over to the John Birch Society."[67] Johnson later explained why those in charge of OEO were so unequivocal regarding the potential veto.

> It was my feeling that CRLA had become a symbol, clearly a symbol to all the legal services programs of the policies that we were attempting to advocate and to have other programs follow, and I was thoroughly convinced that if that symbol

61. UPI Dispatch, *Veto of CRLA Warned*, Appeal-Democrat (Marysville/Yuba City, Ca.), December 21, 1967, at 1, col. 2.
62. Harry Bernstein, Los Angeles Times, supra, note 60.
63. The ten most substantive conditions among the fifteen are reprinted in *CEB Legal Services Gazette*, Vol. II, No. 4, January 1968, at 96-97.
64. *Id.* at 96.
65. *Id.* at 97.
66. Johnson replaced Clinton Bamberger in June 1967.
67. Commission Hearings, *supra* note 1, at 265, April 27, 1971.

> were destroyed there was no hope that the policy would be followed by other programs.[68]

Horan responded to Clark's letter on January 13, rejecting all the proposed conditions as either inconsistent with the philosophy of the Economic Opportunity Act or with a lawyer's responsibility under the professional canons of ethics.[69] Horan also wrote Reagan,

> We do not lightly dismiss the prospect that a program which has benefited upward to a million and a half farmworkers, pensioners, welfare recipients, and Indian poor could be dissolved by a stroke of your pen, barring override of your veto. . . . I would, of course, recommend such action to Mr. Shriver in this case.[70]

On Monday, January 15, Horan held a news conference in Los Angeles, made public his position, noted Shriver's praise for CRLA, and clearly implied that Shriver would override any veto Reagan tried to effect.[71] Reagan, he said, had until the following Sunday, January 21, to veto the grant or it would become effective without his signature.

That week we met several times with the Governor's staff and Regional OEO officials in San Francsico. The Governor's representatives said the Governor *might* withdraw his veto threat if we were willing to make some cosmetic concessions. On Friday morning, January 19, the last working day before the veto deadline, a letter from Horan was hand delivered to the Governor's office setting forth seven such "conditions," none of which would alter our program in any way.[72] The Governor was to review them, make his decision on the grant, and have it telephoned to OEO officials in San Francisco by mid-day.

A lesson in press relations. That day the Governor gave us a first-rate lesson in press relations. All day we waited in San Francisco with Regional OEO officials getting almost hourly assurances from Clark that the Governor had not yet returned to his office from a meeting of the Board of Regents of the University of California, but would make and convey his decision immediately upon his return. Having received our last assurance at 5:00 p.m., we waited until 7:00 before calling the Governor's office ourselves. The only person still working was a

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68. *Id.* at 268.
69. CEB Legal Services Gazette, *supra* note 63, at 98-99.
70. *Id.* at 100.
71. Harry Bernstein, *Shriver May Override Any State Veto of Rural Legal Aid,* Los Angeles Times, January 16, 1968, § 1, at 3, col. 2.
72. Letter from Laurence P. Horan to the Honorable Ronald Reagan, January 19, 1968, in *CEB Legal Services Gazette,* Vol. II, No. 5, February 1968 (in part), at 132-134.

secretary who informed us that a press release "on the CRLA matter" had been dispatched almost two hours earlier. She read us the release and a letter from Clark to Horan which was quoted therein. The press release stated that

> OEO has exhibited a recognition of the deficiencies in the CRLA program . . . . [and] on the basis of agreements reached for modification and careful monitoring, . . . it is felt CRLA will now meet sufficient standards of professional conduct and management.[73]

The letter from Clark to Horan acknowledged Horan's "acceptance and insertion of most of the conditions presented by this office on 9 January 1968."[74]

Reagan's aides had nearly succeeded in immobilizing us while they distributed a very misleading press release early enough to make the late evening news shows and morning newspaper editions, but late enough to prevent us from getting out our side of the story. Regional Director of OEO Public Affairs Paul Weeks immediately commenced phone calls to the news desks of major California papers, charging that the Governor was making grossly misleading statements regarding the CRLA grant and that his proposals to change CRLA had *not* been accepted by OEO. Fortunately Weeks' efforts were successful. Many papers, including the *Los Angeles Times*,[75] ran stories the next morning encompassing both sides of the controversy.

Some days later, a representative of the Governor's office contended that the controversy over whether Horan or Reagan was telling the truth, "ends up being mostly a matter of semantics and timing."[76] We had learned that timing, indeed, plays an important part in how the public is allowed to view a happening through the media.

Solidifying Our Base

Increasing public credibility. In May 1968, Acting Comptroller General of the United States Frank H. Weitzel forwarded to Congressman Mathias the 49-page report that resulted from GAO's three month 12-man investigation of CRLA's alleged in-

73. Office of the Governor, Press Release No. 38, January 19, 1968.
74. Id.; *cf. CEB Gazette, supra* note 72, at 131.
75. Tom Goff, *Reagan to Accept U.S. Rural Legal Aid Grant: Says Objections Were Complied With; No Changes Made, OEO Director Claims,* Los Angeles Times, January 20, 1968, § 1, at 3, col. 1.
76. Harry Bernstein, *Reagan's Stance Told on Legal Aid: Opposes Concept of U.S. Counsels for the Poor,* Los Angeles Times, February 4, 1968, § E, at 6, col. 1.
77. GAO Report, *supra* note 34.

volvement with Cesar Chavez's Union.[77] In his letter of transmittal to Mathias, Weitzel wrote,

> 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.[78]

The Congressman did not release the report for some time, but when he did, California papers ran headlines like, "Investigators Give Rural Legal Aid Group a Clean Bill of Health,"[79] and "Charges Against CRLA Unfounded."[80]

This good news was followed in October 1968 with the announcement by OEO that the National Advisory Committee for Legal Services had selected CRLA the outstanding program in the country and CRLA Deputy Director Gary Bellow the outstanding legal services attorney in the country. Since the National Advisory Committee included such prominent lawyers as the presidents of the American Bar Association, the American Trial Lawyers Association, the National Bar Association, and the National Legal Aid and Defender Association, the award meant something in the eyes of the national legal community. Other awards came from groups as divergent as the Franciscan Fathers of California (January 1968), the San Francisco Board of Supervisors (April 1969), and the 25th Annual Exhibition of Advertising, Editorial Art & Design in the West (February 1970).[81] All these, of course, brought favorable attention to the program.

A broadening constituency. Farmworkers and the Chicano population in our service areas have always represented the largest part of CRLA's clientele, and nearly all of CRLA's impact litigation has been aimed at securing their rights to vote,[82] to jobs,[83] to receive fair wages[84] and working conditions,[85] decent housing,[86] and an unbiased judiciary,[87] as well as the benefits of

78. Letter from Frank H. Weitzel to Congressman Bob Mathias, covering GAO Report (undated), *supra* note 34.

79. Leo Rennert, *Investigators Give Rural Legal Aid Group a Clean Bill of Health*, The Fresno Bee, June 23, 1968, at 12A, col. 1.

80. Peter Golis, *Charges Against CRLA Unfounded,* Press Democrat (Santa Rosa, Ca.), June 26, 1968, at 6, col. 1.

81. The latter award was for an informational brochure CRLA designed and produced.

82. Castro v. State of California, 2 C.3d 223, 85 Cal. Rptr. 20 (1970).

83. In Re Pacific Telephone and Telegraph, California Public Utilities Commission No. 9036, filed April 13, 1970; In Re Pacific Gas and Electric, California Public Utilities Commission No. A-51552, filed December 15, 1969.

84. Rivera v. Division of Industrial Welfare, 265 Cal. App. 2d 576, 71 Cal. Rptr. 739 (1968).

85. Munoz v. California Dept. of Employment, Sacramento Superior Court No. 191631, filed April 10, 1969.

86. James v. Valtierra, — U.S. —, 91 Supreme Court Reporter 1331 (1971).

87. In Re Judge Gerald S. Chargin, 2 C.2d 617, 87 Cal. Rptr. 709 (1970).

unemployment insurance,[88] federal food programs,[89] and the welfare system.[90]

We found, however, that many of our impact cases on behalf of farmworkers were also of considerable concern to middle class urban groups. Our efforts to protect farmworkers from the hazards of cropdusting,[91] for instance, attracted the attention of the Sierra Club and other environmental groups. They were particularly supportive of our work to prohibit the use of DDT in California,[92] and throughout the United States.[93] The Association of California Consumers, whose members were concerned with the quality of foodstuffs, were also vitally interested in such cases as well as CRLA's litigation to establish the right of class action in consumer fraud actions.[94]

Groups working to improve public schools actively supported our efforts to strike down the State's requirement that school bonds must be approved by two-thirds of the electorate,[95] as well as our actions to insure against culturally biased testing,[96] and to enforce national legislation under which needy children could receive free milk[97] and free or reduced price lunches.[98]

Senior citizens groups became another part of CRLA's broadening constituency as they saw themselves benefited by our litigation regarding State health programs.[99] In 1969, in fact, we were brought into a direct service relationship with senior citizens when the National Council of Senior Citizens funded CRLA to operate a special legal services-lay advocacy unit for older persons in San Francisco.

CRLA's focus has and will continue to be the California farmworker. But since the same powerful industry-government interests which adversely affect our clients similarly affect more affluent members of society, the coalition of individuals and or-

88. Romero v. Hodgson, 319 F. Supp. 1201 (N.D. Cal. 1970); *aff'd per curiam* 403 U.S. 901 (1972).
89. Hernandez v. Hardin, 50333 (N.D. Cal. 1968), filed November 19, 1968.
90. Damico v. California, 389 U.S. 416 (1967).
91. Ybarra v. Fielder, Santa Barbara Superior Court No. SM 6833, filed October 14, 1969.
92. In Re Petition of Association of California Consumers, filed with U.S. Department of Agriculture, March 26, 1970.
93. Environmental Defense Fund v. Hardin, 428 F.2d 1093.
94. Vasquez v. Superior Court, 4 Cal. 3d 800 (1971) (originally filed in San Joaquin County Superior Court No. 97734, May 6, 1969).
95. Larez v. Shannon, 2 C.3d 813, 87 Cal. Rptr. 871 (1970).
96. Diana v. State Board of Education, C-70-37 RFP (N.D. Cal. 1970), filed January 7, 1970.
97. San Benito Consumers' Co-Op v. Hardin, C-69-492 RFP (N.D. Cal. 1969), filed December 2, 1969.
98. Marquez v. Hardin, 51446 (N.D. Cal. 1969), filed June 8, 1969.
99. Morris v. Williams, 67 C.2d 733, 63 Cal. Rptr. 869 (1967).

ganizations with a self-interest in CRLA's survival has steadily grown.

The pros and cons of impact case publicity. Impact cases often generate a considerable amount of publicity, which we have always regarded as an excellent means of informing poor people of their rights and the public generally of our clients' problems. Publicity regarding impact cases can also bring favorable public attention to CRLA as an organization, thus making it less vulnerable to political attack. To further this purpose we have tried, where appropriate, to show that CRLA legal actions are beneficial to the general public—usually translated "taxpayer"—as well as to our clients. We estimated, for instance, that our bracero suit[100] resulted in saving taxpayers $300,000 a year in welfare payments that would otherwise have gone to displaced domestic farmworkers.[101] During a twelve-month period just prior to Governor Reagan's veto of our 1971 grant,[102] over 1300 articles covering CRLA activities appeared in 150 California newspapers, prompting one San Francisco news clipping service to comment that CRLA, after Union Oil and Bank of America, was the third most reported private organization in the State.[103] More important, approximately 85 percent of these articles took a position either favorable to or neutral toward what CRLA was doing.[104]

There are, of course, definite liabilities to receiving impact case publicity. For instance, since individual service cases are rarely newsworthy, the impression conveyed through the media is that CRLA handles *only* "impact" or "law reform" or "test" cases. This has led CRLA's detractors to charge that we neglect the needs of indigent individuals who seek our help. In fact, 95-98 percent of our cases and 80 percent of our attorneys' time have always been devoted to day-to-day service matters.[105]

Publicity received concerning some of our cases has also offended our friends. One of the reasons behind Cesar Chavez's picketing our offices in May 1970 was that publicity connected with many of our farmworker cases gave the public impres-

100. Ortiz v. Wirtz, *supra* note 21.
101. AP Dispatch, *CRLA Director Praises Ban on Bracero Ag Labor*, Woodland Democrat, September 26, 1968, at 1, col. 3.
102. The period was July 1, 1969-June 30, 1970.
103. California Rural Legal Assistance, *1971 Refunding Proposal*, at 6 (September, 1970). [hereinafter cited as 1971 Refunding Proposal].
104. During the same period, eight of California's major newspapers also published editorials commending the program. *Id.*
105. REPORT OF THE OFFICE OF ECONOMIC OPPORTUNITY COMMISSION ON CALIFORNIA RURAL LEGAL ASSISTANCE, INC., TO THE HONORABLE FRANK CARLUCCI, DIRECTOR, JUNE 25, 1971, AT 35 [hereinafter cited as Commission Report].

sion that the plight of the farmworkers was being overcome through CRLA.[106] This made Union organizing among workers and fund raising in urban areas much more difficult. It is true, of course, that farmworkers are not necessarily benefited just because they win in court. Winning a case in the Supreme Court might be widely reported, but it gives no assurance that the case's beneficiaries will demand their new rights or that the losers will terminate their illegal practices. Clearly farmworkers can best realize their rights by organizing themselves to counter balance the powers of the corporate agribusinesses that employ them. And Cesar Chavez has been responsible for the most successful organizing ever done among American farmworkers.

The second Murphy Amendment. The Governor made no attempt to veto CRLA's 1969 grant,[107] though isolated boards of supervisors, Congressmen, city councils, growers and taxpayers associations from time to time called for our defunding or at least our withdrawal from their counties. The next major attack came in the Fall of 1969 when Congress considered amendments to the Economic Opportunity Act for the first time under a Republican President. When the authorization bill was introduced on the Senate Floor on October 14, Senator Murphy proposed a surprise amendment to give state governors effective control over legal services programs.[108] That is, under Murphy's amendment state governors could veto legal services programs in whole or in part, and the OEO Director could not override the veto.

It was, of course, CRLA that Murphy held up as the prime reason why he and Governor Reagan[109] believed such an amendment was necessary. And his charges, which received considerable press, were not new. First, CRLA was helping Cesar Chavez's Union in its strike and boycott against California table grape growers.[110] Second, CRLA was using tax money to attack other tax supported institutions so that "the overburdened taxpayer loses coming and going."[111] And finally, CRLA had clearly strayed from what the Congress intended when it established the Legal Services program:

106. Harry Bernstein, *Chavez, Rural Legal Agency Comes to Terms,* Los Angeles Times, May 26, 1970, § II, at 4, col. 7.

107. OEO approved our 1969 grant in mid-November 1968, so Reagan would have to act on it before Republican President Richard Nixon took office.

108. U.S., Congressional Record-Senate, 91st Congress, 1st Session (October 14, 1969), S12565.

109. Just before offering his amendment, Murphy read into the Record a letter he had received from Governor Reagan which, said Murphy, best stated the issues with which his Amendment dealt. *Id.*

110. *Murphy Move to Give Governors Poor Legal Aid Veto Clears Senator,* The Sacramento Bee, October 14, 1969, at A3, col. 5.

111. *Id.*

> It is my understanding at the time the legal services program was proposed that it was to provide individual legal services to some poor fellow who could not afford a lawyer. . . . The program was not to set up a bank of lawyers to enjoin the California State Legislature or the Secretary of Labor or the Governor of the State or to come in and try to attempt to write complete legal reform. This is a different field of operation, so far as I am concerned. That is the tack that has been followed by the California Rural Legal Assistance.[112]

With hardly any debate, the Senate passed Murphy's amendment 45-40. Obviously if it became part of the finally approved Economic Opportunity Act, CRLA and many other legal services programs, particularly in the South, would be destroyed.

The House of Representatives would normally be more receptive than the Senate to such an amendment, and we could never expect President Nixon to veto the OEO bill because of Murphy's amendment. So we were not optimistic. What we did not forsee was the amount of public awareness and political pressure that would be generated in favor of full and independent legal services for the poor. And thanks to Senator Murphy, CRLA would again be held up as the symbol of what was best in legal services.

The nation's legal profession and the judiciary reacted even more strongly to Murphy's 1969 amendment than it had in 1967. The Board of Governors of the American Bar Association passed a resolution unanimously opposing it.[113] The United States Judicial Conference, chaired by Chief Justice Warren Burger, also voted unanimously against it.[114] The deans of major California law schools registered their opposition,[115] as did many urban bar associations.

The coalition of minority, church, labor, poverty, civil rights, and other groups that consistently supported legal services blitzed their Congressmen with letters, telegrams, phone calls, and visits.

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112. U.S., Congressional Record-Senate, 91st Congress, 1st Session (October 14, 1969), S-12570.

113. John D. Robb, Chairman of the ABA's Committee on Indigent Defendants, commented later that, "You don't often get unanimous resolutions by Bar Associations, but I have never seen such unanimity as I have seen directed against the Murphy Amendment." John P. MacKenzie, *Murphy Loses Fight on Poverty Lawyer Veto,* Los Angeles Times, December 17, 1969, § 3, at 1, col. 5.

114. *Judicial Body Opposes Restraint on Legal Aid,* Los Angeles Times, November 3, 1969, at 4, col. 2.

115. These included Boalt Hall, UCLA, USC, Stanford, Loyola, USF, Santa Clara, and UC Davis. Thomas J. Foley, *Veto on Legal Services for Poor, Nixon Aide Will Battle Murphy Amendment,* Los Angeles Times, November 15, 1969, § 2, at 1, col. 4.

News coverage, of course, was widespread and editorials, supporting the War on Poverty, legal services, and CRLA appeared in hundreds of newspapers including the *New York Times*,[116] *The Washington Post*,[117] the *St. Louis Post Dispatch*,[118] and the *Los Angeles Times*.[119]

By the time the issue came up for debate on the House Floor in December, Albert Quie (R., Minnesota), ranking minority member of the Education and Labor Committee, and Edith Green (D., Oregon), ranking majority member, proposed a substitute poverty bill transferring OEO grant-making powers to State governors. The Quie-Green proposal applied Murphy's concept of State control to *all* OEO programs, and was strongly supported by Governor Reagan.[120]

On December 12, 1969, after seven hours of debate, the House defeated the Quie-Green substitute bill by a teller vote of 167-187. In the process of debate, Murphy's Amendment was deleted from the House version of the bill, thus leaving its fate up to the Senate-House Conference Committee. It was deleted without a fight in the Conference Committee.[121]

Refunding for 1970. We submitted our proposal for 1970 funding to Regional OEO in late September 1969. It was immediately approved and sent to Washington, where President Nixon's OEO Director Donald Rumsfeld put a "hold" on it. Rumsfeld contended it would jeopardize our chances of defeating the Murphy Amendment if he announced CRLA's refunding before the House voted. Since our funds ran out on December 31, and the Governor had 30 days to consider a veto, our grant had to be approved by Rumsfeld by the end of November or we would be without funds in January.

After several weeks of unsuccessful negotiating to get the grant approved, we called one of Rumsfeld's aides at the end of November and told him that unless our refunding was announced immediately, we would use all our political and media contacts to publicize the fact that CRLA's existence was in jeopardy be-

116. Editorial, *Legal Aid—For Lawyers,* New York Times, October 29, 1969, at 46, col. 1.

117. *Lawyers For the Poor,* The Washington Post, October 22, 1969, at A22, col. 1.

118. *The Poor Get it Again,* St. Louis Post Dispatch, October 21, 1969, at 2B, col. 1.

119. *Legal Aid Restriction Bad Bill,* Los Angeles Times, November 10, 1969, § II, at 6, col. 1; War on Poverty in Jeopardy, Los Angeles Times, § II, at 6, col. 1.

120. *Reagan Backs Bills Overhauling OEO,* The Fresno Bee, December 8, 1969, at 4A, col. 6.

121. The Fresno Bee's headline, *Governors' CRLA Veto Power Fails,* December 19, 1969, at 1, col. 4, was not atypical of the way newspapers in California and elsewhere interpreted the amendment's defeat.

cause of Rumsfeld's inaction. We were told by phone at 6:00 the next morning that Rumsfeld had approved our grant and forwarded it to the Governor's office.

Governor Reagan, confronted with CRLA's first refunding by a national Republican Administration, was reported both amazed and infuriated. He called Rumsfeld, reminded him of his long-standing and well known opposition to CRLA, and threatened a veto. Rumsfeld advised Reagan that unless he presented valid reasons, the veto would be overridden. Anticipating a veto, Rumsfeld ordered the preparation of override documents. The veto never came—in 1969, at any rate.

II. THE REAGAN VETO

Posing the Issue

Lewis K. Uhler. After graduation from Boalt Hall in 1958,[122] Lewis K. Uhler became seriously involved with the John Birch Society through John Rousselot, the organization's national Director of Public Relations. When Rousselot went to Congress in 1960, Uhler was his Administrative Assistant. When Rousselot ran to regain his seat in June 1970, Uhler was manager of his primary campaign.

Reagan appointed Uhler Director of the State Office of Economic Opportunity (State OEO) in July, and as Rousselot acknowledged several months later, the appointment was aimed directly at CRLA:

> The battle over CRLA was a monumental challenge. I think the governor picked him for the job because he had built this reputation for being painstaking and thorough in research. I recommended him as an outstanding, dedicated man willing to work long hours.[123]

One of Uhler's first acts was to abolish the poor people's Advisory Committee to State OEO because, according to *The Sacramento Bee*, he did not believe the poor should be involved in making decisions at the State level.[124] As he told a convention of mayors in San Diego, "The problem with the War on Poverty is that poor people are on the boards of directors."[125] During the next couple of months, Uhler also fired most of the agency's professional/technical assistance staff—the State OEO

122. Ironically, Uhler, Cruz Reynoso, and Edwin Meese, the Governor's Executive Secretary, were all members of the same graduating class.

123. George Williams, *Lew Uhler, Epitome of the Reagan Aide, Directs the Fight Against CRLA*, The Sacramento Bee, May 9, 1971, at A4, col. 1.

124. George Williams, *Reagan Picked Uhler to Build State's Case Against CRLA*, The Sacramento Bee, May 10, 1971, at A4, col. 1.

125. *Id.*

is funded by Federal OEO to provide technical assistance to California poverty programs. In their places he hired persons with investigative experience—former police, FBI, and CIA agents, many of whom had also worked in the campaigns of conservative politicians like Senator James Buckley of New York, Mayor Sam Yorty of Los Angeles, and Governor Reagan.[126] After bringing in personnel from the State Bureau of Criminal Investigation and Identification to give his investigators an accelerated course in how to probe, Uhler turned the new staff's attenton to eliminating California OEO programs which were offensive to the Governor and his political/financial backers.[127]

OEO evaluation of CRLA. At CRLA, we were entirely ignorant of what Uhler was doing and were getting the impression that refunding for 1971 might not be very complicated,[128] even though Reagan would probably have a big election victory just behind him. The first step of our refunding process took place in August with the annual OEO evaluation. Since CRLA is a controversial program, OEO has always assigned evaluators whose professional credentials and public credibility could not be challenged. The most prominent member of the 1970 team was former Associate Justice of the U.S. Supreme Court Tom C. Clark. But there was considerable prestige among the other thirteen, too: Jerome Shestack, Chairman, ABA Committee on Individual Rights and member of the ABA Board of Governors; Judge Winslow Christian, California Appellate Court; Henry Quevedo, Executive Director, U.S. Cabinet Committee on Opportunity for the Spanish Speaking; Richard Ibanez, President elect of the Lawyers Club of Los Angeles County; Allen Ashman, National Legal Aid and Defender Association; Robert Bennett, Professor of Law, Northwestern University School of Law; and George Ranney, Deputy Director of the Bureau of the Budget, State of Illinois. Also included was Carl Johnson, Director of Legal Services for State OEO, who had also repre-

126. Richard Rodda, *Federal Study Claims Solon Campaign Workers Get California OEO Staff Positions,* The Fresno Bee, May 3, 1971, § A, at 13, col. 1.

127. The Sacramento Bee, May 10, 1971, *supra* note 124.

128. Fearful perhaps that a heightened anti-CRLA image would cost him more votes in the cities than it would win in the countryside, the Governor apparently ordered a low profile for the CRLA "evaluation" until after the November gubernatorial election. During his campaign, from July to November, the Governor was reported criticizing CRLA only twice—on both occasions before small gatherings where local growers were extremely hostile toward us. We did learn in late July that the California Farm Bureau was conducting a "special two month study of CRLA activities," and that the Bureau had been asked by the Governor's office "to provide information on CRLA." Letter from Thomas F. Olson, General Counsel, California Farm Bureau Federation, to All County Farm Bureau Secretaries, July 15, 1970. But we did not regard such activity on the part of either organization as extraordinary.

sented Governor Reagan during our 1969 evaluation.[129]

Over five days, members of the team visited nine of our eleven office areas interviewing judges, private attorneys, government officials, and poverty groups, as well as our clients and staff. The evaluators encountered numerous persons who, while philosophically opposed to CRLA, conceded we were a highly professional and competent group. As expected, however, some private attorneys and government officials made serious charges against us. ABA evaluator Shestack filed this report on one such attorney, William F. Moreno, of Monterey County:

> Mr. Moreno, I should note, has filed a number of charges against the CRLA Salinas Office. Mr. Eugene Epstein, President of the Monterey County Bar Association, told me that he thought the charges unfounded. Even a cursory examination of some of the charges showed them to be loose and emotive.
>
> Mr. Richard Ibanez and I interviewed Mr. Moreno at length. Mr. Moreno was vituperative in his criticism of the CRLA program, but when pinned down on specific charges, they appeared nebulous and fanciful and the result of a deep philosophical antagonism to the program. Mr. Moreno said that he thought individual lawyers should aid the poor as he did, but not through a government program. In terms of his own service to the poor, he said, "I sit in the position of Christ," and then added reassuringly, "Not that I am Christ." When questioned closely Mr. Moreno was unable to substantiate the broad accusations he made and on the more specific ones, those checked out were without substance. I spend this much time on Mr. Moreno only because he frequently writes to officials and legislators asserting his complaints and those often require long, detailed replies by the Salinas Office, taking up valuable time. If one's past is any guide to the future, I think that Mr. Moreno's complaints can be summarily dismissed as one would a frivolous or scandalous pleading.[130]

Apparently most persons interviewed by the evaluators differed from Mr. Moreno because their final report was highly laudatory:

> While not perfect, CRLA is an exemplary legal services program, providing a balanced approach between orthodox legal services and highly successful impact litigation.[131]

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129. Mr. Johnson was fired by Uhler soon after he completed our evaluation.

130. Jerome J. Shestack, "Evaluation of the Salinas Office of the California Rural Legal Assistance Program," submitted to H. Tim Hoffman, Regional Legal Services Deputy Director, at 20 (August 26, 1970).

131. Letter from Frank N. Jones, Deputy Director, Office of Legal Services, Washington, D.C., to Daniel Luevano, Chairman, CRLA Board of Trustees, October 12, 1970.

Uhler questionnaire. On November 6, two days after Reagan was reelected Governor, Uhler sent a questionnaire to 3,400 attorneys and judges throughout California. The questionnaire was clearly unprofessional and prejudicial. First, both in his cover letter and at the end of the questionnaire, Uhler emphasized, "You may reply anonymously, if that is your desire."[132] Second, some of the ten questions were very slanted. For example:

> Are CRLA members in your community involved, on behalf of CRLA, in community activities of an activist or political nature? (a) yes; (b) no. If yes, please explain or give details:
>
> Do you feel the main thrust of CRLA's efforts has been toward "causes" or class actions, or toward litigating or otherwise solving specific, individual problems? Emphasis on: (a) individuals; (b) causes. Comments:

Third, Uhler asked respondents to give "an opinion of the standard of legal ethics adhered to by CRLA attorneys."

When we learned of the questionnaire about November 12, we wrote protests both to Uhler and to OEO Director Rumsfeld and made sure copies of the questionnaire were available to the 600 lawyers and judges at the annual convention of the National Legal Aid and Defender Association (NLADA) meeting in San Antonio, Texas, November 11-14. Uhler and Rumsfeld never answered our letters. But on November 17 the NLADA released a convention resolution censuring the State OEO and Uhler, demanding an immediate withdrawal of the questionnaire, and requesting the State Bar of California "to institute proceedings against the State of California OEO and Lewis K. Uhler."[133]

Newspapers all over the State carried the NLADA release, emphasizing Uhler's right-wing political background.[134] Public disclosure of the questionnaire and censure gave us an opportunity to comment publicly. We emphasized the positive things said about us by the OEO evaluation team, "which included Tom Clark and a member of Uhler's own staff," and accused Uhler's office of

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132. Letter from Lewis K. Uhler to "Dear Barrister" regarding Evaluation of the California Rural Legal Assistance program, undated, with "CRLA Questionnaire" attached.

133. National Legal Aid and Defender Association, "Resolution Urging Censure of the State of California Office of Economic Opportunity and Lewis K. Uhler, Director"; NLADA Press Release, "National Legal Aid and Defender Association Censures California Governor's Office of Economic Opportunity Misleading Questionnaire," November 17, 1970.

134. *State's Poverty Agency Assailed,* San Francisco Chronicle, November 19, 1970, at 8, col. 5.

> soliciting any kind of scurrilous information it can use as an excuse to do away with CRLA and its activities on behalf of our clients.[135]

We had been careful to attack Uhler, not the Governor, and we were anxious to know if the Governor would respond. He did not. Instead, Uhler took up his own defense at a press conference in Sacramento. He said that CRLA was trying to "intimidate" his investigation, that he would not withdraw his questionnaire, that with his small staff he could not "think of a more appropriate way, nor a fairer way, of getting information," and furthermore, "We are planning to send out more questionnaires asking for information about CRLA."[136]

Trying to Influence Reagan

Our perspective and strategy. We regarded the Governor's failure to defend Uhler as significant and concluded that Reagan was keeping his options open to disown him if political considerations warranted. Our strategy, therefore, was to continue focusing our attack on Uhler, while showing the Governor we were backed by substantial numbers of his own supporters among bar associations and local officials. We also hoped supportive newspaper, radio and TV editorials, and public statements by various groups and prominent individuals would indicate that a CRLA veto would be generally unpopular. Such a showing would obviously be helpful in securing a quick override from federal OEO if Reagan did veto us.

OEO's funding announcement and Reagan's response. Terry Lenzner and Frank Jones, the Director and Deputy Director of the National Office of Legal Services under Rumsfeld, were very close to our program. When they were fired by Rumsfeld on November 20 because they supported aggressive, politically independent legal services, we saw bad implications for our refunding. But on December 1, a Rumsfeld news release described CRLA as "commonly recognized as one of the best Legal Services programs," cited our awards, praised a number of our impact cases, and announced that our 1971 grant would be increased $205,539 over 1970.[137] We believed Rumsfeld was trying to reestablish with legal services programs the credibility

135. Harry Bernstein, *Legal Aid Association Hits Inquiry by State; CRLA Calls Questionnaire 'Political', Censures OEO,* Los Angeles Times, November 19, 1970, § I, at 3, col. 4.

136. A.P. Dispatch, *Lawyers Hit Probe of CRLA,* San Jose Mercury, November 19, 1970, at 1, col. 3.

137. OEO Press Release No. 71-43, "California Rural Legal Agency Receives $1.8 Million Grant," (December 1, 1970).

he lost when he fired Lenzner and Jones. But he was also trying to dissuade the Reagan Administration from vetoing CRLA.

California newspapers immediately began speculating on the likelihood of a gubernatorial veto, and public comments from Reagan's office were not reassuring. During an interview on CRLA with the Associated Press, the Governor said, "I'm opposed to what I think has been a perversion of the original Congressional intent."[138] And the same AP story reported Reagan's Human Relations Secretary Lucian Vandegrift telling a Republican women's group that federal court welfare rulings adverse to the State "were instigated by—of all things—suits brought by federally paid attorneys."

In broader perspective, the attacks on legal services appeared to be part of a pattern wherein the Reagan Administration was publicly criticizing programs—such as the Family Assistance Plan—backed by the Nixon Administration. If, as some political writers speculated, the Governor was positioning himself nationally to challenge the President in 1972, and if legal services was one of the issues Reagan was planning to use, there was no way we could head off a veto. We had no choice, however, but to show the Governor that such action would not be popular with all of his constituency.

Public support for CRLA. By late December the Governor had received letters and telegrams endorsing CRLA from at least one judge in four of our service regions, as well as two Associate Justices of the California Supreme Court, a former Chief Justice of that Court, and numerous other trial and appellate judges.[139] Also writing the Governor on our behalf were the county bar associations of Los Angeles, San Francisco, Santa Clara (San Jose), Sacramento, Monterey, Tulare, and Beverly Hills, and the Mexican American Bar Association of California.[140] Supporting communications also went to the Governor from hundreds of individual attorneys, including thirty and forty-name petitions from attorneys with O'Melveny and Myers,[141] Gibson, Dunn, and Crutcher, and other of the State's most prestigious law firms.[142] And in an unprecedented action by the American Bar Association, John Robb, Chairman of the ABA's Standing Committee of Legal Assistance and Indigent Defense,

138. Peter Weisser, *CRLA at Mercy of Reagan in 'Yes' or 'No' Decision on Federal Grant,* San Jose News, December 10, 1970, at 15, col. 2.
139. Copies of letters and telegrams on file with CRLA.
140. Resolution, telegrams, and letters on file with CRLA.
141. *Supra* note 3.
142. All letters, telegrams, and petitions on file with CRLA.

sent a telegram to Reagan urging CRLA's refunding.[143]

Endorsements also went to the Governor from twelve Democratic State Senators, twenty-five Assemblymen (one Republican), numerous city councilmen, county supervisors and other local officials, as well as the coalition of Chicano, Black, labor, church, senior citizens, and OEO-funded groups that had long supported CRLA.[144] Twenty-seven newspapers, including the *Los Angeles Times*,[145] the *Santa Barbara News Press*,[146] and the McClatchy *Bee* papers,[147] published supportive editorials. By Christmas, in fact, we had received copies of nearly a thousand letters to the Governor urging our refunding, and we naively thought he might have been persuaded.

Dealing with the Reagan Administration

Communicating directly with Uhler. At our request, we met with Uhler in Sacramento on December 10. We objected to the bias and secretiveness of his evaluation techniques, and Daniel Luevano, Chairman of CRLA's Board of Trustees, pressed to determine if the investigation had revealed any wrongdoing the Board should take action to correct. Uhler said he wanted an objective evaluation of CRLA. He promised that his staff would henceforth contact our local staffs when investigating in their areas. And while it was too early, he said, to discuss particular complaints or alleged violations, he promised that of course CRLA would have a chance to review and comment on all adverse allegations before they were released publicly or even went to the Governor.

It was soon apparent that Uhler's commitments were worthless. In Madera, the Directing Attorney of our local office encountered the District Attorney—a vocal CRLA critic—and was introduced to a Uhler investigator, who, said the District Attorney, was in town to "rake CRLA over the coals."[148] Later, when the investigator came to our local office, he refused an of-

143. Telegram from John Robb to the Honorable Ronald Reagan, December 19, 1970. The ABA had consistently supported the national legal services program, but never before had it intervened on behalf of an individual project.

144. Copies of all letters and telegrams on file at CRLA.

145. Editorial, *Equal Justice for the Needy*, Los Angeles Times, December 21, 1970, § II, at 8, col. 1.

146. Editorial, *Improve Legal Aid, Don't Ban It*, Santa Barbara News Press, December 15, 1970, at D10, col. 1.

147. Editorial, *Equal Justice for the Needy*, The Fresno Bee, December 22, 1970, at 14A, col. 1 (valley ed); Editorial, *1970 Grand Jury's Reckless Action Against CRLA Program is Unbecoming*, The Modesto Bee, December 24, 1970, at A10, col. 1. Copies of other supportive editorials on file with CRLA. Also on file are 26 adverse editorials which ran during the same time period.

148. Memorandum from Carlos Ynostroza to Cruz Reynoso (December 10, 1970).

fer to meet with any of our staff about whose work he had received complaints or with any of our clients. He met only with our Director Attorney, who reported that the investigator "delivered quite a sermon" asking some of his biased (though candid) questions:

> Doesn't CRLA lack faith in the "establishment"?
> Doesn't CRLA solicit business?
> Aren't CRLA clients just "pawns" which CRLA uses "to advocate its own philosophy of the way things should be?"[149]

Worse, friendly attorneys in four of our service regions reported attempts by Uhler's staff to solicit anti-CRLA resolutions from their local bar associations. Each attempt failed. Clearly Uhler's task was not one of objective evaluation.

We made an appointment with Uhler for 10:30 a.m., December 21, in San Francisco, to discuss allegations made against CRLA. At 10:45 his office called to cancel the appointment. When we could not reach him the next day, we called Edwin Meese, the Governor's Executive Secretary, on December 23. Meese claimed no knowledge of the matter and said we should talk to Uhler. Uhler accepted a phone call from us later that day but said he was still not prepared to discuss complaints and allegations with us. He said he would be getting back to us. He did not.

The veto announcement. During the early evening of Saturday, December 26, Reagan's office announced our program had been vetoed "because of gross and deliberate violations of OEO regulations and its failure to represent the true legal needs of the poor," and promised that a "privately financed alternative to CRLA is in the final stages of development."[150] Attached to the Governor's news release was a vetoing letter to Frank Carlucci, who had been nominated Director of OEO on December 10 when Rumsfeld vacated the position to assume one on the White House staff.[151] Also attached was a letter from Uhler to the Governor vaguely sketching "alarming examples" of our alleged misconduct, with accompanying letters, affidavits, and organizational resolutions to "document" the case against CRLA.

Our public response. We learned of the Governor's actions when some of the reporters with whom we had regular contact called us for comment. In an attempt to prevent stories on late evening news broadcasts and in Sunday papers from being

149. *Id.*
150. Office of the Governor Press Release No. 585 (December 26, 1970).
151. *Frank Carlucci—A Man People Will Get to Know*, San Francisco Chronicle, December 11, 1970, at 12, col. 1.

totally characterized by the Governor's views, we spent most of Saturday night contacting wire services and major newspapers as well as network news departments.

Since the most outlandish charges of misconduct always have more impact in a public forum than the best reasoned defenses, our strategy was not to respond to specific charges—we could not get a very clear description of them, anyway—but to impugn the Governor's motives. We contended there were three major reasons the Governor vetoed our grant: First, he was ideologically opposed to allowing the poor full access to the courts. Second, we were too successful. The Governor had lost every major piece of litigation CRLA had brought against him. Third, the Governor was doing the bidding of large California growers upon whose financial backing he heavily relied. In short, we said, the Governor had acted out of retaliatory and political motives to terminate a program recently termed "exemplary" by a prestigious team of evaluators, "including former Associate Justice Tom Clark." In that light, we insisted, the Governor's charges were ludicrous.

Because of the many reporters, TV, and radio news staffs who were already acquainted with CRLA's history and current situation, our late Saturday night efforts were highly successful. On Sunday, every major newspaper story on the veto included our response, which was important since news media reports shape people's impressions—including those of Congressmen, Senators, Presidents and their staffs—regarding public incidents like our veto. And whether it is accurate or mistaken, public opinion is a reality highly regarded by public officials.

III. THE WHITE HOUSE COMPROMISE

Perspective and Tactics

Our political perspective. On Sunday December 27, we spent much of the day responding to interview requests from radio, TV, and newspaper reporters. But our attention turned to Washington. We had to get recently nominated OEO Director Carlucci to override Reagan's veto immediately because we would run out of funds on Thursday, December 31, just four days away.[152]

If the decision was made by Carlucci on the merits of Reagan's charges and our performance, the veto would obviously be

152. We sent Carlucci a multi-page telegram stating our case and requesting an immediate override. Telegram from Cruz Reynoso to Frank Carlucci (December 27, 1970).

overridden. But we believed the decision would be made in the White House, not OEO, and political factors would be controlling.[153] Going against us were the facts that Governor Reagan had apparently made the destruction of CRLA his highest priority, and he had leverage on the President. He was head of the Republican Party in California—the state with the most delegate and electoral votes in the 1972 Republican National Convention and Presidential election. And he was an acknowledged leader of conservatives within the President's party nationwide.

On the other hand, most intra-party criticism after the 1970 elections came from left of the Republican center. At the mid-December Republican Governor's conference in Sun Valley, Idaho, much criticism was voiced regarding Vice-President Spiro Agnew's extremely partisan campaign tactics and the part taken by the White House in unseating liberal Republican Senator Charles Goodell of New York. In California itself, Democratic Congressman John Tunney, who had often mentioned CRLA favorably during his campaign, defeated Senator George Murphy in November 1970. Moderate Republican Houston Flournoy was reelected State Controller by a 1.4 million vote margin, far larger than Governor Reagan or anyone else was able to amass. And soon after the election Flournoy was accompanied to Washington by Assembly Minority Leader Robert Monagan and Assemblyman William Bagley, both Republican moderates and the latter a long time Nixon loyalist, to meet with their friend, Counselor to the President Robert Finch.[154] They pressed the point that Nixon would have to take a more liberal stance—i.e., away from Reagan—in order to win California in 1972.

Another factor in our favor, we believed, was Robert Finch himself. He was a known moderate and reportedly very concerned about politics in California where he planned to run either for Governor or for Cranston's Senate seat in 1974. And he had no liking for Reagan. We believed, in fact, that there was very little liking for Reagan in any quarter of the White House staff.

Our overall assessment, therefore, was that even if our refunding was decided on purely political considerations, we had a good chance. We believed the White House staff was looking for opportunities to move the President's image from the right toward the political center. If the CRLA decision received sufficient public attention, it presented just such an opportunity.

153. Harry Bernstein, *Nixon Expected to Step into CRLA Veto Case,* Los Angeles Times, Decmber 29, 1970, § 1, at 3, col. 5,

154. Rolland Evans and Robert Novak, *The Nixon-Reagan Staredown,* The Washington Post, February 3, 1971, § A, at 17, col. 3.

Our strategy. If we could not get an immediate override from Carlucci, our only hope lay in generating pressure on the President and the White House advisors who would be dealing with our situation. Such advisors, in addition to Finch, would include Assistant to the President for Domestc Affairs John Ehrlichman, and former OEO Director Donald Rumsfeld, who we believed was overseeing the entire matter for the White House. We did not realize at the time the major roles Vice-President Agnew and Attorney General John Mitchell would eventually play.

There were three kinds of pressure to generate. First, moral pressure. Show OEO and the White House that Reagan's charges were fallacious, that "on the merits" his veto could not be sustained. Secondly, political pressure. Show the White House that our refunding mattered to the legal profession and Republicans in Congress, and not just to minority groups, labor unions, civil rights and church organizations. Finally, the pressure of public exposure. Focus public attention on the factors affecting the White House decision making process: Reagan's behind-closed-doors political pressure versus the merits of his charges against us.

Carlucci confirmation hearings. On Monday, December 28, we received several pieces of good news. First, California Senator-elect John Tunney, still a member of the House of Representatives, got fifteen other members of the California Congressional delegation to sign a joint letter to Carlucci urging an immediate override.[155] Second, Republican Assemblyman William Bagley[156] disclosed that he had tried to dissuade Reagan from vetoing the CRLA grant and now he was writing to Acting Director Carlucci to urge an override.[157] Third, we learned Carlucci's confirmation hearing before the Senate Committee on Labor and Public Welfare, which had been scheduled for late January, was rescheduled for Wednesday, December 30. The switch was interpreted in the media as "a move by Senate Demo-

155. Letter from Democratic Congressmen John Tunney, Phillip Burton, Charles Wilson, Jerome R. Walde, Lionel Van Deerlin, John E. Joss, Augustus F. Hawkins, Don Rees, George E. Brown, Jr., Richard T. Hanna, Robert L. Leggett, James Corman, Edward R. Roybal, Jeffery Cohelan, Michael Harrington, Chet Halifield, and Bob Eckhardt, and Republican Congressman Alphonso Bell to Frank Carlucci (December 28, 1970). Letter on file with CRLA.

156. Evans and Novak, The Washington Post, *supra* note 154.

157. *Plea to US, Bagley Wants Reagan Veto Killed,* The Sacramento Bee, December 29, 1970, at A4, col. 1. We hoped other Republican State Legislators would support us, but on January 3, the 37 Republican Assemblymen voted in caucus to support Reagan's veto 35-2. Bagley and Pete Wilson of San Diego were the dissenters. Ralph Bennett, *Poverty Grant Veto Decision Due From Nixon by Sunday,* Evening Tribune (San Diego, Ca.), January 28, 1971, at C8, col. 2. No Republican State Senators supported CRLA publicly.

crats to put increased pressure on Carlucci to set aside the Reagan veto."[158] But we were informed that the White House had requested the change. That meant unanimous consent would be necessary to confirm; and since we had many strong supporters on the Committee—including Alan Cranston of California—it was an opportunity to pressure the Administration into refunding us immediately, or, failing that, at least to focus public attention on our situation.

We met with Cranston in Washington on Tuesday morning, December 29, and briefed him on our favorable OEO evaluation, Reagan's unethical "investigative" techniques and denial of due process,[159] and the utter ridiculousness of the Governor's charges.[160] Cranston was outraged and met privately with Car-

158. Leo Rennert, *Cranston Calls for Nixon Probe of Process Leading to Reagan CRLA Veto,* The Sacramento Bee, December 29, 1970, at A1, col. 4.

159. *Supra* notes 132, 136, 148. Also, on Monday, December 28, 1970, CRLA Litigation Director Martin Glick telephoned Uhler's office in Sacramento to request a copy of the charges against CRLA which had been released to the press two days earlier. He was told that "maybe if CRLA called back on Wednesday, December 30, Mr. Chickering [a Uhler aide] would have something to say." On the very day this refusal was made, Uhler held a press conference to distribute further his sample charges with accompanying documents. Despite several more requests, we were never allowed access to these materials by the State. California Rural Legal Assistance, by William F. McCabe, Jerome B. Falk, Jr., and Stuart R. Pollak, *CRLA's Memorandum on Procedures,* HEARINGS REGARDING THE VETO BY THE GOVERNOR OF THE STATE OF CALIFORNIA OF THE 1971 FUNDING OF CALIFORNIA RURAL LEGAL ASSISTANCE BEFORE THE OFFICE OF ECONOMIC OPPORTUNITY COMMISSION ON CALIFORNIA LEGAL ASSISTANCE, 4 [hereinafter cited as *Memorandum on Procedures*].

160. The Governor's charges were almost incredible. For instance, a December 19, 1970, letter signed by "Dr. Clifford F. Loader, President, League of California Cities, Mayor, City of Delano," on the League's letterhead stationery, purported that the League had petitioned the Governor to veto CRLA. In fact, the League had taken no position. Loader—an open critic of CRLA—had acted entirely on his own. Spokesmen for the League made both these points to the press on December 30, 1970. Bruce Keppel, *Author of Document Cited by Reagan Backs CRLA,* The Sacramento Bee, December 30, 1970, at A1, col. 1. Another piece of evidence against CRLA was a ten-month-old letter from Cameron Henry, Executive Director of the Economic Opportunity Commission of Imperial County, Inc. (EOC), to James H. Carter, President of the Imperial County Bar Association, purporting that the EOC opposed CRLA. On December 29, 1970, Henry wrote to Carlucci, while William Moreno, Chairman of the EOC Board of Directors, wrote to President Nixon. They explained the context of Henry's February 16, 1970, letter and Moreno noted that numerous Uhler investigators had been in Imperial County during the last six weeks but that none contacted Henry or Moreno. Both urged CRLA's refunding, and Moreno protested "the flagrant fraud which is evident in Mr. Uhler's investigation of California Rural Legal Assistance." A third piece of evidence which Uhler released to the press was a resolution of the Board of Supervisors of Madera County recommending that the Governor veto the CRLA grant. The resolution was dated *January 2, 1968,* and it represented the last action the Board had taken regarding CRLA's grant. On the other hand, we had on file a letter dated December 24, 1970, to Governor Reagan from Phillip J. Brown, City Administrator of the City of Madera, commending CRLA. A fourth charge was that CRLA had refused to accept service of process from a county grand jury. The charge was true, but in making it the Reagan Administration suppressed the fact that Judge Thomas MacBride of the

lucci that afternoon. After reviewing CRLA's record and the Governor's charges, Cranston urged an immediate override with the proviso that both CRLA and the State OEO should then be thoroughly investigated and any improprieties on either side corrected—whether that meant new grant conditions or total defunding. To do anything less than override immediately would arouse public doubt about CRLA's integrity, and Cranston could not in good conscience allow Carlucci's nomination to be confirmed. Carlucci would give no assurances, and Cranston publicly announced his position.[161]

Prior to the hearing the next day, Carlucci came under added pressure as numerous Democrats and two Republicans on the California Congressional Delegation publicly urged an override.[162] And Senator Walter Mondale (D., Minnesota), a key member of the confirmation committee, announced,

> If he [Carlucci] doesn't [override], there would be nothing left of OEO's legal services. CRLA is the best in the country.[163]

The American Bar Association (ABA) released a joint telegram to Carlucci praising CRLA and urging an immediate override. It was signed by presidents, past-presidents, and standing committee chairmen of the National Bar Association, the National Legal Aid and Defender Association, the American Trial Lawyers Association, and the American Bar Association.[164] Public telegrams supporting CRLA also came from California Attorney General Thomas Lynch,[165] and the Deans of Harvard, Yale,

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Sacramento Federal District Court, acting on motion of the U.S. Attorney's office and CRLA, had issued a temporary restraining order and a preliminary injunction against the Grand Jury's proceedings concerning CRLA. Stanislaus County Grand Jury vs. CRLA, USDC (E.D. of Ca.), Civ. S 1868, (*filed* November 30, 1970). A fifth charge involved the Sonoma County Bar Association. On December 21, 1970, the Bar's Executive Committee passed a resolution reaffirming that their 1967 application to OEO for funds to operate a legal services program should be approved. The Reagan Administration used the resolution to imply the Bar's opposition to CRLA and support for the Governor's veto. Learning of the misrepresentation, Sonoma Bar President Newton Dal Pogetto wrote on January 4, 1971, to Carlucci explaining the resolution's original meaning and making it clear that, "The resolution was not intended as a criticism of the work of California Rural Legal Assistance." All aforementioned letters on file with CRLA.

161. Leo Rennert, *Cranston Calls for Nixon Probe of Process Leading to Reagan Veto,* The Sacramento Bee, December 29, 1971, at A1, col. 4.

162. *Id.* The Republicans were Alphonzo Bell of Los Angeles County and Paul McClosky of San Mateo County.

163. *Id.*

164. Telegram from Edward F. Bell, John W. Douglas, Jacob D. Fuchsberg, John D. Robb, to Frank Carlucci, December 29, 1970. Louis Pollack, Chairman and Cecil Poole, Chairman-Elect of the ABA's Section of Individual Rights and Responsibilities, also wrote Carlucci on December 31, 1970, urging an override.

165. Letter from Thomas C. Lynch to Frank Carlucci (December 29, 1970).

Stanford, Columbia, and University of Pennsylvania law schools.[166]

During the hearings, Carlucci announced that he would not override the Governor's veto but had received Reagan's approval to extend CRLA's existence thirty days to give OEO time to study the already overdue evidence—which Reagan now promised to present on January 6. Cranston said this procedure was unacceptable, noting that 30-day extensions had been used to decimate legal services programs in Florida and Mississippi. Senators Mondale, Edward Kennedy (D., Massachusetts) and Committee Chairman Gaylord Nelson (D., Wisconsin) joined Cranston in criticizing Reagan's veto, saying it would threaten legal services throughout the country. But Carlucci would not concede, and Cranston blocked his nomination.[167] The "CRLA issue" was suddenly one of national significance.

Putting the Merits of the Case Before OEO

The Uhler Report. Lew Uhler met with Donald Lowitz, OEO General Counsel, and his Special Assistant William Walker, on January 6 to present OEO with copies of the 283-page California Evaluation of California Rural Legal Assistance (Uhler Report).[168] Uhler did not bring the much publicized "9,000 pages of documentation" to Washington, but Lowitz ordered him to forward them immediately. After the meeting, Uhler called reporters into the Governor's Washington office and distributed a 6-page release summarizing the report.[169] He invited newsmen to examine the Report itself, but would not allow any copies out of his possession. The same procedure was followed regarding West Coast reporters at the Governor's office in Sacramento.[170]

166. Telegram from Abraham Goldstein, Dean, Yale Law School; Derek Bok, Dean, Harvard Law School; Bayless Manning, Dean, Stanford Law School; Michael Sovern, Dean, Columbia Law School; Bernard Wolfman, Dean, University of Pennsylvania Law School, to Frank Carlucci (December 30, 1970).

167. *Hearings on Nominations to the Office of Economic Opportunity Before the Subcommittee on Employment, Manpower and Poverty of the Senate Committee on Labor and Public Welfare,* 91st Congress, 2nd Session, at 158-159 (December 30, 1970).

168. State Office of Economic Opportunity, Lewis K. Uhler, Director, *Study and Evaluation of California Rural Legal Assistance, Inc.* (1971) [hereinafter referred to as Uhler Report]. In a telegram to Carlucci on December 30, we had asked to be present at the meeting to refute charges immediately, but the request was denied.

169. Press Release, Office of the Governor (January 6, 1971).

170. CRLA staff member Loretta Tulley went to the State OEO office in Sacramento on January 6 requesting a copy of the Report. She was told that "none is available and anyway we are closing." It was learned later that a reporter was in the State OEO office at that time examining the Report. CALIFORNIA RURAL LEGAL ASSISTANCE REPORT TO THE OFFICE OF ECONOMIC OPPORTUNITY, at 10 (January 13, 1971).

When we asked Walker for a copy of the Uhler Report later that afternoon, he refused in deference to "the Governor's request."

Fortunately, a Washington reporter we knew was enterprising enough to obtain a copy. At his apartment until 4:00 the next morning we examined the Report, contacted as many major newspapers as we could, and dictated the Report's contents to our San Francisco office so the process of investigation and formal refutation could begin.

Again the Governor had advertised false charges through the media. The sheer volume of the Uhler Report lent the performance credibility, and its 127 charges were made to order for media consumption. Not only did CRLA violate conditions of its grant regarding criminal representation,[171] fee generating cases,[172] eligibility standards,[173] and representtion of the United Farm Workers Organizing Committee.[174] Not only did CRLA attorneys perform inefficiently[175] and incompetently,[176] go to court *barefooted*,[177] have improper relationships with federal judges,[178] solicit clients and stir up litigation,[179] bring frivolous actions,[180] and in many other ways violate the ethics of their profession.[181] Not only was CRLA's dominant thrust "ideological,"[182] "radical,"[183] and "revolutionary."[184] But also, according to the Uhler Report, and apparently for headline value only,

> *Prior to the courthouse incident*, . . . CRLA attorneys interceded at Soledad in an attempt to arrange a visit for Angela Davis to meet with the older Jackson brother (emphasis added).[185]

We publicly stated, of course, that the charges were "fallacious, fraudulent, and libelous," had been developed in a manner

171. Uhler Report, *supra* note 168, at 158-167.
172. *Id.* at 237-239.
173. *Id.* at 168-174.
174. *Id.* at 136-157. The Uhler Report alleged that CRLA's "grand strategy is to organize and unionize farm workers in California into a labor monolith—a monopoly union—under the control and direction of UFWOC [United Farm Workers Organizing Committee]." *Id.* at 156.
175. *Id.* at 218-225.
176. *Id.* at 91-101.
177. *Id.* at 268.
178. *Id.* at 82.
179. *Id.* at 175-191.
180. *Id.* at 203-217.
181. *Id.* at 73-77.
182. *Id.* at 274.
183. *Id.* at 88-90.
184. *Id.* at 272-273.
185. *Id.* at 73. The allegation is preceded in the Uhler Report by a brief narrative regarding the courtroom escape attempt led by Jackson's younger brother at the San Rafael Courthouse in August 1970, during which the presiding judge, two inmates, and young Jackson were killed with weapons allegedly registered to Angela Davis.

which denied CRLA due process, and represented "McCarthyism at its worst."[186] But denials hardly make good press. The Governor still had the initiative.

Dealing with OEO officialdom. Until the very last day of our seven month refunding fight, the highest ranking Administration officials we were allowed to deal with formally were Don Lowitz and Bill Walker. (Lowitz and Walker both came to OEO from Illinois where Lowitz had managed Rumsfeld's Congressional campaigns. Since we knew both men were closely connected with Rumsfeld, it made little difference that Carlucci was never accessible to us.) Lowitz and Walker clearly identified not with OEO and its anti-poverty purposes but with the political well-being of the Nixon Administration. They listened to arguments about what was good for poor people but they talked about what was "politically realistic" for the Administration.

We met with Lowitz and Walker on the morning of January 8 to present evidence refuting Reagan's original December 26th charges, to inform them that evidence was currently being compiled regarding the 127 charges in the Uhler Report, and to find out when OEO's Office of Inspection would begin an independent investigation of Reagan's allegations. We were informed that OEO had no current plans to investigate the charges, that it was "too simplistic" to talk about a refunding decision being made "on the merits", that "political realities" were the important thing, and that we should be considering new grant conditions, the imposition of which would save face for Reagan without entirely destroying CRLA.[187]

The same morning Michael Kantor, an official in the National Office of Legal Services who helped us throughout the refunding fight,[188] put us in contact with a nationally syndicated columnist who, while we were with him, got Donald Rumsfeld on the phone. Rumsfeld insisted that Carlucci was in complete charge of the CRLA matter, but when pressed to speculate on what might happen, Rumsfeld described a scenario: At the end of January CRLA could be given a three to six month grant dur-

186. CRLA Press Release (January 7, 1972).

187. We were shown a publicized telegram from Uhler to Carlucci complaining that the State's witnesses were "being harassed, intimidated and pressured" by CRLA "to get them to change their stories." Lowitz and Walker's point, apparently, was not that OEO believed Uhler's accusations but that because they came from the Governor's office, they assumed a political significance with which we had to deal.

188. Kantor resigned from OEO in February 1971 to become Executive Director of Action for Legal Rights, a lawyers' lobbying effort to remove the legal services program from OEO and place it under the auspices of a National Legal Services Corporation, thereby extricating the program from some of the political pressures to which it is currently subject.

ing which an intensive investigation would be carried out jointly by an "independent body", the FBI, and perhaps the Civil Service Commission. These prestigious groups would eventually issue a report clearing the program of all but a few minor charges. These charges would justify attaching to CRLA's grant some cosmetic conditions (making no substantive change in the program) which would be publicized as "stringent new conditions" that *greatly* affected the substance of the program. Publicity given the "stringent new conditions" would save face for the Governor, and CRLA could be refunded. Rumsfeld told the columnist that this was only "a wild guess." But given the position Rumsfeld occupied, we believed it was a plan the White House was entertaining to avoid a confrontation with Reagan.

We immediately demanded an afternoon meeting with Lowitz and Walker and called a press conference for the next day. We told Lowitz and Walker that if OEO would not give us assurance they were taking steps to investigate Reagan's charges and to make a refunding decision "on the merits" by the end of January, we would publicly attack Carlucci as conspiring with Reagan to destroy CRLA. We also demanded a meeting to present our case formally to OEO as Uhler had. Finally, we took the position that since CRLA had done nothing wrong, we were unwilling to undermine the program's reputation and the leverage it could exert on behalf of its clients by submitting to cosmetic conditions the sole purpose of which was to save face for the Governor.

Late that night, apparently after checking with the White House, Walker notified us that staff from OEO's Office of Inspection were being dispatched to California immediately to investigate Reagan's charges and would report their findings to Carlucci in sufficient time for him to decide our refunding by the end of January. He also said we could have "equal time" on January 13 to present our case to OEO.

At the press conference the next morning we continued to deny Reagan's charges. But based on Walker's assurances, we contended that Federal OEO officials were doing the best job they could under difficult political circumstances. This was the first of a number of decisions we made during January not to attack Federal OEO publicly.

Presenting "the merits" to OEO. During the next few days the one hundred thirty-person CRLA staff continued to work throughout the State of California literally day and night interviewing witnesses, examining court records, taking affidavits, and collecting other documentation to refute formally each of the

127 charges made in the Uhler Report. In Sacramento and Washington we tried unsuccessfully to gain access to the 9,000 pages of documentation that allegedly evidenced the Uhler Report. In Sacramento we were told they were "the property of the Governor and State OEO and are not to be released."[189] In Washington we were refused access "at the Governor's request."

At our meeting with Lowitz and Walker on the 13th, we made four main points. First, Reagan's charges were fallacious. We presented over 2,000 pages of court records, affidavits, and other materials refuting each charge in the Uhler Report.[190]

189. On January 7, 1971, CRLA law clerk Art Torres went to the State OEO office to request a copy of the Uhler Report and 9,000 pages of documentation. He was told he could obtain a copy at the Governor's office. He went to the Governor's office and was told to go to the State OEO office. When he informed Mr. Ed Gray at the Governor's office that he had just been sent to see him by State OEO, Mr. Gray implied that Mr. Torres was lying and refused to supply him with either the Report or the 9,000 pages of exhibits. *Memorandum on Procedures, supra* note 159, at 5. Several days later CRLA received a copy of the Report from Uhler's office. For the record, Uhler had written a "Dear Cruz [Reynoso]" letter of transmittal dated January 6, which read, "Simultaneously with the presentation of our Report on CRLA to Federal officials in Washington, we are submitting this copy of our report to you."

On January 11, after the 9,000 pages of exhibits had been received by Federal OEO and long after they had been made available to the press, Reynoso sent a telegram to Uhler informing him members of our staff would come to his office to pick up or at least examine the exhibits. But when Peter Schilla and Loretta Tulley of our Sacramento Office arrived and spoke with John Sawicki, Uhler's Deputy Director, he said

> The documents are the property of the Governor and State OEO and are not to be released. I am in daily communication with Mr. Uhler, and we are not releasing a copy to CRLA. That is our posture.

Memorandum on Procedures, supra note 159, at 5.

190. The Uhler Report, *supra* note 168, charges of criminal representation provide only an example of evidence that the Report's writer(s) was guilty of either gross negligence or deliberate fraud. On pp. 158-167 are cited 24 instances of "criminal cases" handled by CRLA in violation of its grant conditions. The Report concludes, ". . . CRLA attorneys have ignored the proscription as to representation of those accused of crimes," *supra* note 168, at 165. These are the facts: The prohibitive regulation in question, which was issued on January 15, 1968 (Community Action Memo 79—Amendment to Economic Opportunity Act, § 222(a)(3)), provides

> [L]egal services programs may not henceforth undertake defense of any new criminal case at any stage following *indictment or information* . . ." (emphasis added).

The regulation then lists 7 exceptions:

(A) A waiver is granted by OEO
(B) "Representation of arrested persons before indictment or information" (and criminal cases where no indictment or information occurs)
(C) "Parole Revocation"
(D) "Juvenile court matters"
(E) "Civil contempt"
(F) "Alleged mistreatment of prisoners after sentence and incarceration"
(G) "Criminal cases which were undertaken prior to receipt of this memo"

Of the 24 cases cited by Uhler, 23 were clearly not prohibited by federal regulation or conditions of our grant: 4 were commenced *prior* to January 1968, effective date of the restriction on criminal representation (Florez, Uhler

In addition to evidence on specific allegations, we presented an unsolicited letter to Carlucci from William J. Bradford, a former Deputy Attorney General of the State of California, who had defended the Reagan Administration in a number of major suits brought by CRLA attorneys. He wrote, he said, not simply to "enthusiastically endorse the integrity of the CRLA attorneys," but to reveal the "illegal" and fraudulent acts perpetrated by the Governor's staff to support his accusations against CRLA. Bradford concluded:

> I request that you [Carlucci] consider this letter before reaching a decision on the charges against CRLA and the Governor's report; and, in particular, I request consideration of the fact that State officials who know the facts have personally told me that the specific charges in it are without foundation.[191]

Second, we reviewed the utter lack of due process with which Uhler had proceeded against us.[192] While Uhler represented his Report as a compilation of facts and opinions of unbiased officials and other citizens,[193] in fact he suppressed numerous pro-CRLA responses to his November questionnaire,[194] and composed the Report almost entirely from vague pejoratives of those philosophically opposed to us or from self-serving statements of growers, landlords, welfare officials, and other unsuccessful defendants in CRLA litigation.[195] He did not check with CRLA regarding a single allegation.

Report, *supra* note 168, at 162; Grady, *Id.* at 159; White, *Id.* at 160; Padilla, *Id.* at 164); 2 were handled only after an OEO waiver had been granted (Ybarra, *Id.* at 164; Segovia, *Id.* at 162); 4 involved traffic and other minor matters not on indictment or information (Mazon, *Id.* at 161; Padilla, *Id.* at 164; Hudson, *Id.* at 162; Reyes, *Id.* at 161); 2 were handled by CRLA employees only at preliminary hearings prior to information or indictment (Goodwin, *Id.* at 151; Johnson, *Id.* at 159); 2 were juvenile cases (Lopez, *Id.* at 161; Diaz, *Id.* at 47); 3 were civil cases concerning prison conditions after incarceration (Randolph, *Id.* at 88; Bill Daniels' case, Id. at 79; Dick Gonzales' case, Id. at 79); 4 were civil cases not covered in any manner by the restriction (White, *Id.* at 160; DeJesus, *Id.* at 159; Arguijo, *Id.* at 159; Cardoza, *Id.* at 159); 3 were handled by CRLA attorneys on their vacation time without use of any CRLA resources (Bryant, *Id.* at 164; Jarpa, *Id.* at 164; Modesto School, *Id.* at 160); and one was not handled by CRLA at all but involved a CRLA attorney spending a few minutes making a courtesy appearance for an out-of-town lawyer (Santiago, *Id.* at 144). Only one (Whitney, *Id.* at 159) of the 24 alleged violations might reasonably be so construed, and it was not handled by CRLA staff. It was handled by a VISTA attorney working with our Marysville office. Note that White and Padilla were permissible for two independent reasons.

191. Letter from William J. Bradford to Frank Carlucci, Jr., January 11, 1971.

192. *See* notes 132, 136, 148, 170, 160, 189, *supra*.

193. The Uhler Report, *supra* note 168, at 12, states that

> In weighing the credibility of testimony we have looked carefully at an individual's position and political philosophy. Opposition to CRLA emanating from a person who opposed the concept of legal services for the poor we tended to discount.

194. We knew because we got copies of them.

195. For instance, the charges of Salinas attorney, W.F. Moreno, (*supra* note 130) are contained on pp. 227-232 and 187-189 of the Uhler Report.

Third, we contended that any grant of less duration than 12 months posed irreparable injury to staff morale, to our relationships with creditors, and to the strong reputation we had established with the legal community, the judiciary and with administrative agencies.[196] The real losers, of course, were our clients. It was their interests that would be compromised as CRLA's strong reputation among the bar and judiciary faded.[197] We took the position that CRLA should be refunded at least through December or terminated outright. We would not accept a slow death.

Finally, we presented a 31-page "Memorandum of Fact and Law in Support of Immediate Refunding of California Rural Legal Assistance, Inc." In addition to elaborating the aforementioned facts, the document spelled out legal theories, especially with regard to the due process clauses of the Fifth and Fourteenth Amendments, which would allow us to pursue refunding through the courts if OEO refused to act immediately.

Throughout our day-long discussions with Lowitz and Walker, they repeatedly raised "the practical considerations of White House-Sacramento politics" and the votes in Congress that would be affected by a decision to refund CRLA. They told us immediate refunding was politically impossible. Furthermore, they would give no assurances as to how or when a decision would be made but promised to do their best to resolve the matter by the end of January. Regarding the 9,000 pages of exhibits, we were promised access at 9:00 a.m. the next day to all but 40, which the Governor had specifically asked we not be allowed to examine. One thing was clear from our meeting: White House decision-makers were far more concerned to keep Governor Reagan happy than we had suspected.

Deciding our public posture. The next day, January 14, we had to decide how to handle the press conference we had announced prior to our meeting with Lowitz and Walker. What posture should we assume toward Carlucci and Federal OEO? We had received no assurances from Lowitz and Walker, but since our meeting with them on January 8, we had learned the names of staff from OEO's Office of Inspection in Seattle, New

196. To help us make these points, we brought to the meeting Joseph Segor, former Executive Director of the South Florida Migrant Legal Services Program, which in 1969 was vetoed by Florida Governor Claude R. Kirk, Jr., and was forced to exist for many months on temporary OEO funding. The program literally fell apart before OEO finally dismissed the Governor's charges and reestablished regular funding.

197. To help us make this point, we were accompanied to the meeting by Mario Obledo, Executive Director of the Mexican-American Legal Defense and Education Fund.

York, Washington, D.C., and San Francisco who had received emergency assignments to investigate Uhler's charges in California. And we learned on January 12 that at least one inspector had interviewed Uhler, examined his 9,000 pages of "documentation," and reported to Washington that the State's investigative methodology was indefensible and there was no evidence to support the Governor's charges.

Given these facts, we made another decision not to attack OEO. But this left us with nothing really newsworthy to tell the press. All we could do was lay it on Reagan again, and that was old news. Needless to say, the news conference stimulated little publicity and probably hurt our credibility with the Washington press corps which must choose daily between a myriad of news conferences to cover.

Politicing the White House

Citizens, public officials and organizational leaders. Since the veto was announced we had been keeping our supporters apprised of our situation and encouraging them to communicate with their Congressmen, Carlucci and the White House. We received copies of letters, telegrams, petitions, and resolutions from boards of supervisors, city councils, mayors, city managers, and school administrators, Chicano, Black, labor and church organizations, and thousands of individual citizens. Most of these came, of course, from California. But through the efforts or legal services programs across the country, many organizations outside California publicly endorsed us, including Father Theodor M. Hesburgh, Chairman of the U.S. Commission on Civil Rights and the National Urban Coalition.[198] We were also greatly aided in Congress by the lobbyists of such organizations as the AFL/CIO and the United Auto Workers.

The legal community. The group most significant to the White House outside of Congress was obviously the nation's legal community. From California, letters and telegrams went to Carlucci and the White House from bar associations representing over two-thirds of the attorneys in California, the deans of nearly every accredited law school, and almost a thousand private attorneys and law professors.[199] In mid-January, the Board of Governors of the State Bar reaffirmed their previously announced approval of our 1971 grant. Finally, the presidents of the Los Angeles and San Francisco Bar Associations, the deans

198. Copies of all communications on file with CRLA.
199. Copies of all communications on file with CRLA.

of four California law schools, a former president of the State Bar, and other prominent California attorneys sent a joint telegram to President Nixon requesting a meeting on CRLA.[200]

From outside California, help came from the same forces that aided legal services at the time of the 1967 and 1969 Murphy Amendments. Several past presidents of the American Bar Association, (ABA), members of the House of Delegates, and chairmen of standing committees petitioned the White House.[201] And on January 20, twenty prominent attorneys, including Warren B. Spahn, Chairman of the ABA House of Delegates, former ABA President Bernard G. Segal, former U.S. Assistant Attorney General John Doar, and Whitney North Seymour sent a joint telegram to President Nixon urging an override. Letters, telegrams and organizational resolutions also went to Carlucci and the White House from the President of the Colorado Bar Association and other out-of-California bars as well as law school deans, law professors, and hundreds of private attorneys.[202]

Republicans in Congress. The fight was between a Republican Governor and a Republican President. For Democrats, especially liberal Democrats, to become publicly identified with CRLA would create a partisan issue and simply make it harder for the White House to deal with Reagan on our behalf. So efforts were focused on moderate Republicans.[203]

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200. The request was not granted. Telegram from Maynard Toll, Sharp Whitmore, Robert Raven, Bayless Manning, James J. Brosnahan, Edward C. Halbach, Lou Garcia, Nathaniel S. Colley, Edward L. Barrett, Archibald M. Mull, Jr., and Murray L. Schwartz to The Honorable Richard M. Nixon, President, U.S. of America (undated).

201. As our situation became more visible, we began getting offers of help from out-of-state attorneys never before involved in a legal services fight. One New York lawyer, for instance, called us back several days after his original inquiry to report that he had gotten seventy attorneys in his firm to sign a petition to the President and Attorney General Mitchell requesting our refunding. Copies of all communications on file with CRLA.

202. (Copies of all communications on file with CRLA.) Our contention to OEO and members of Congress that the nation's legal establishment fully endorsed CRLA was undermined only by the fact that ABA President Edward L. Wright of Little Rock, Arkansas, would not say anything publicly about our circumstance. We were told he simply would not involve himself in something so political.

203. Our approach to Republicans was that the matter should be decided "on the merits," not political considerations. The Governor was seeking to destroy CRLA, we contended, because he was philosophically opposed to legal services for the poor, not because CRLA had broken conditions of its grant. We, on the other hand, believed in channeling poor people's grievances into the legal process, and our efforts were being undermined by political interference.

Legal services supporters in other states sought the support of liberal Republican governors like Daniel Evans of Washington, Tom McCall of Oregon, Francis Sargent of Massachusetts, William Cahill of New Jersey, Richard Ogilvie of Illinois, Raymond Schafer of Pennsylvania, and Nelson Rockefeller of New York. Evans and Sargent contacted the White House on our behalf, but we never determined if others did.

We were definitely helped in efforts to sway moderate Republicans by a January story in *Newsweek* and a nationally syndicated column by conservative James J. Kilpatrick. The *Newsweek* article quoted Lewis Uhler as saying,

> Why should we pay the salaries for a lot of guys to run around and look up rules so they can sue the State? The most a poor person is going to need a lawyer for is some divorce problems, some bankruptcy problems, some garnishment problems. What we've created in CRLA is an economic leverage equal to that existing in large corporations. Clearly that should not be.[204]

The quote made Reagan's position absolutely clear, and it was very offensive to many prominent figures in his own party. Not unexpectedly, Kilpatrick supported the veto on philosophical grounds, but he characterized the Uhler Report as "a thoroughly sloppy job" and "about as objective as a nonpartisan evaluation of the Chicago police by Eldridge Cleaver."[205]

In the Senate efforts were concentrated on Republican members of the Labor and Public Welfare Committee, which was responsible for confirming Carlucci as well as reviewing bills related to OEO. Senator Jacob Javits, ranking Republican on the Committee, circulated a letter to the President which was signed by Committee members Charles Mathias of Maryland and Richard Schweiker of Pennsylvania, as well as non-Committee Republicans Clifford Case of New Jersey and Edward Brooke of Massachusetts. The letter expressed the

> hope that a *prompt decision* will be made *on the merits* concerning an override of the veto of the program by Governor Ronald Reagan of California, and that the decision [would] reflect the Administration's continued commitment to an independent legal services program. (emphasis added)[206]

A few Democrats were of particular importance to the White House. For instance, Senators Abraham Ribicoff of Connecticut and Fred Harris of Oklahoma had influence over the fate of Nixon's Family Assistance Program, as did Henry Jackson of Washington over the Defense budget. They and a number of other key Democratic Senators were asked to communicate their support privately to the White House. Throughout the month,

204. *California: War on the Poor?* NEWSWEEK, January 18, 1971, at 18.
205. James J. Kilpatrick, *Reagon Was Right In Torpedoing CRLA, But Will He Be Upheld?* Oroville Mercury Register, January 21, 1971, at 6, col. 6.
206. Letter on file with CRLA. Prominent members of the bar in their own states tried unsuccessfully to get Minority Leader Hugh Scott of Pennsylvania and Minority Whip Robert Griffin of Michigan to sign the letter. It was reported to us later, however, that Scott advised the White House that in his "political judgment," CRLA should be refunded.

of course, Senators Cranston and Tunney kept pressure on OEO and the White House by demanding access to public documents the Administration was withholding and otherwise cajoling on our behalf.

In the House of Representatives, we naively hoped for support from moderates on the California Republican delegation. All we found was a great deal of fear about arousing the Governor's enmity. The only exceptions were Alphonzo Bell of Los Angeles and Pete McClosky of San Mateo. Since Bell was a member of the Education and Labor Committee, which reviews OEO bills before they go to the Floor, we asked his help in getting other members of the Committee to sign a letter to the President similar to the one signed by the five Republican Senators. Unfortunately, the letter secured only three signatures in addition to Bell's, and since there were sixteen Republicans on the Committee, the letter was withheld. Prominent members of the bar in their districts also asked for support from the Republican House leadership including Minority Leader Gerald Ford of Michigan, Minority Whip Leslie Arends of Illinois, and John Anderson of Illinois.

Direct White House contact. We could never gain direct access to persons who were part of the White House decision-making group. We did not expect the Attorney General or Ehrlichman or Rumsfeld to sit down with us, but we were very disillusioned that Robert Finch refused access. The White House was obviously dealing with its CRLA-Reagan problem as a very sensitive issue, and the best we could do was get our materials to several White House aides who were far removed from the decision-making process.

The Reagan-Nixon Meeting

Vice-President Agnew visited Governor Reagan in Sacramento on January 14, and immediately thereafter the Governor's office announced that during Reagan's Washington trip the following week to address the National Press Club, he would also confer with President Nixon. That conference took place on Saturday, January 23, just a week before Reagan was to meet with the Republican State Central Committee to begin planning for the 1972 National Convention. Reagan met for over an hour not simply with the President but with Agnew and Attorney General Mitchell, who was openly recognized as the President's 1972 campaign manager.

News stories covering the meeting billed it as a discussion concerning various domestic issues contained in Nixon's Janu-

ary "State of the Union" message, including revenue-sharing, governmental reorganization, and welfare reform.[207] Since no inside word on the meeting was available to us, we were particularly cognizant of Reagan's comments to the media. His praise for Nixon was disturbing, as was his announcement that he would lead a pro-Nixon delegation to the Republican National Convention in 1972.[208] We were encouraged, however, that Reagan's one statement indicating conflict with the Nixon Administration concerned CRLA. He said if OEO overruled his veto, he would take the Federal Government to court.

> The burden of proof is on the Federal government under the law. We have provided 9,000 pages of documentation showing that CRLA has not helped the poor.[209]

We concluded that Reagan must have gotten something from the President—satisfaction, perhaps, regarding his request to avoid Federal welfare regulations—but apparently CRLA had not been part of the package. Apparently the White House was still more responsive to the Republican moderates in California who had advised the President to move carefully away from Reagan if he hoped to carry California in 1972.

Not until several weeks later did we learn how much we had underestimated Reagan's power to intimidate the White House. On February 3, Rowland Evans and Robert Novak, columnists generally recognized as among the most knowledgeable of Republican insiders, wrote that the White House had for some time been extremely anxious to solicit Reagan's favor, not move the President's image away from him. White House orders to Administration officials and Republican moderates in California were quite the opposite of what we had believed, according to Evans and Novak:

> Don't attack Reagan in any ideological dispute with the President; what we need from the Governor is control of the big California delegation at the 1972 convention; don't jeopardize that by fencing with Reagan over issues.[210]

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207. Asked if the CRLA matter had been discussed, White House spokesman Jerald Warren would concede no more than, "This may have come up." Leo Rennert, *Reagan, Nixon Discuss Revenue Sharing,* The Modesto Bee, January 24, 1971, at 1, col. 3.

208. *U.S., State May Clash on CRLA,* Pasadena Star News, January 24, 1971, at 1, col. 3.

209. *Id.* We were further encouraged to find CRLA the focus of the rest of Reagan's public comments in Washington. During his week-end appearance on ABC's "Issues and Answers" and his address before the National Press Club on Monday, January 25, he spent considerable time condemning us for wasting tax dollars and for using our "clients as ammunition . . . to wage ideological warfare." *CRLA, Welfare Criticized by Reagan,* San Diego Union, January 31, 1971, at C5, col. 1.

210. Evans and Novak Editorial, *supra* note 154.

What in fact had happened at the January 23rd meeting between Reagan and Nixon was that

> Reagan declared the 1972 California delegation would be a Nixon delegation, but then he added, pointedly, how deeply he felt about his disputes with Washington over welfare regulations and the CRLA funding. . . . Mr. Nixon's reply was so cordial that Reagan returned to Sacramento confident that Washington would never suspend California's welfare money . . . and would not, as OEO officials supposed, override his CRLA veto.[211]

The Last Week of January

Characterizing the issue publicly. During the last week of January, CRLA and Reagan both tried to pressure the White House by shaping public opinion through the media. We insisted that anything short of a complete override had to be interpreted as "Nixon buckling in to Reagan and the Right Wing of the Republican Party" in order to get their support in 1972.[212] At the same time Reagan was saying that "Federal bureaucrats" could override his veto only if they established that CRLA was "in conformity with all the rules, laws, and regulations concerning the program." "To do this," he said, "they'd have to be rather dishonest because it isn't."[213]

On Wednesday, January 27, the Governor's office released a letter to the President from five California Congressmen asking the Administration to sustain the Governor's veto. The list included only those we already knew were ideologically opposed to us: Charles Gubser, Robert Mathias, Burt Talcott, and Barry Goldwater, Jr., and Del Clawson of Los Angeles County.[214]

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211. *Id.* We also learned several weeks later that Robert Finch, whose support we had counted on, was effectively neutralized by the same forces working against us. That is, Finch had for some time been a focal point of anti-Reagan sentiment in California Republican circles. In addition, Finch's and Reagan's personal ambitions both focused on control of 1972 California convention delegates and the 1974 race for Alan Cranston's Senate seat. Finch's presence in the White House was obviously no advantage to Nixon's relationship with Reagan, and the White House knew that if Finch played any role in our refunding the Governor would be infuriated. Finch was therefore told to stay out of the CRLA matter, and he did. Kevin P. Phillips, *Reagan, Finch and 1974*, The Washington Post, February 13, 1971, at A15, col. 3.

212. AP Dispatch, *Reagan May Lose Fight with CRLA*, Huntington Park Signal, January 27, 1971, at A2, col. 1.

213. Tom Goff, *Reagan Sure Nixon Backs CRLA Veto*, Los Angeles Times, January 29, 1971, § I, at 1, col. 5. Reagan still left the door open for an override, however:

> If it should come to pass that they would still override, I'm quite sure it would not be simply to continue with business as usual. *Id.*

In other words, he expected significant new conditions to be added to the CRLA grant if we were refunded.

214. A United Press International story on the release mistakenly listed as a signator Don Clausen of Crescent City—in whose district we have an office—

We actually thought Reagan could do better among the California Republican Delegation. Apparently many were neutralized because of mail coming from their districts and our visits to their offices.

Help from the Democrats. On Thursday morning, January 28, Carlucci met with the National Advisory Committee on Legal Services, with CRLA staff in attendance. During the meeting, Carlucci admitted, "I sure as heck would hate to sustain a veto on the basis of this Report [the Uhler Report]." He went on, however, to mention "the political muscle Reagan has put behind this one," and casually added, "The whole California Republican Congressional Delegation has asked for a meeting with the President on Reagan's behalf." Carlucci was mistaken, probably misinterpreting the Gubser-Mathias-Talcott-Goldwater-Clawson letter to the President. But we did not know that at the time.[215]

To counter Reagan's apparent success with House Republicans, Congressman Don Edwards' office located sixteen members of the Democratic Congressional Delegation from California and received their approval to send a joint telegram to the President:

> We urgently and respectfully request a meeting with you, Mr. President, tomorrow, Friday, January 29th, to discuss Governor Reagan's veto of the CRLA program. We are convinced of the value of this program and support it unanimously.[216]

That afternoon twenty-seven Democratic Senators were also asked to be in touch privately with John Erlichman, who had taken charge of our situation since Reagan's White House visit.[217]

And the next day, Friday, January 29, Majority Leader

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instead of Del Clawsen of Compton. U.P.I.'s error actually resulted in somewhat undermining Reagan's efforts because Clausen issued a denial which was widely reported. *Clausen Denies Report on CRLA Opposition,* Santa Rosa Press Democrat, January 28, 1971, § 1, at 1, col. 1.

215. In fact, just before the Advisory Committee meeting began, the Administrative Assistant of a California Republican Congressman who had refused CRLA support told us that Uhler had called the night before asking the Congressman to join other Republican Congressmen in a visit to the President. According to the aide, Uhler's pitch was entirely political. He stressed that Reagan had put "his prestige on the line," that Nixon was "hurting in the polls in California," and that "the best way to improve the President's image was to go against an OEO program gone astray."

216. Telegram from Glen Anderson, Philip Burton, James C. Coreman, George E. Danielson, Ronald V. Dellums, Don Edwards, Augustus F. Hawkins, Robert L. Leggett, John F. McFall, George P. Miller, John E. Moss, Thomas M. Reese, Edward R. Roybal, Lionel Van Deerlin, Jerome R. Waldie, Charles H. Wilson to The President, January 28, 1971. Harold Johnson, in whose district our Madera office operates, wrote to Carlucci independently.

217. Friends on the White House staff told us that mail, telegrams, and phone messages regarding CRLA were stacked on tables in John Ehrlichman's offices; the decision was clearly being made under his leadership.

Mike Mansfield, at the request of Senators George McGovern and Edward Kennedy, made the Democrats' only public statement, a speech on the Senate Floor urging President Nixon to support CRLA.[218] By week's end, the White House knew Congressional Democrats were going to make a big issue out of the CRLA matter if Reagan's veto was sustained.

The Cranston-Carlucci Matter. Blocking Carlucci's confirmation helped focus public attention on the veto, but it also made the matter highly partisan. Since groups like the American Bar Association are very reluctant to involve themselves in visibly partisan issues, Cranston decided to assume a low public profile throughout January. But there was still a problem. So long as Cranston was publicly on record as unwilling to confirm Carlucci unless the CRLA veto was overridden, an override would appear motivated by Cranston's threat. We were informed repeatedly by friends in contact with Robert Finch that our veto could not possibly be overridden while Cranston "holds Carlucci captive." On January 28 Republican Congressman Paul McClosky was told by a White House aide that Carlucci could decide the CRLA issue by month's end if he were assured Cranston would not block his confirmation no matter how he decided. On Friday afternoon, January 29, Cranston gave Carlucci that assurance.

Late the same day Bill Walker told us the decision was "completely up in the air," and that we should do what we could to "get someone on Mitchell"—apparently our chief antagonist. Friday evening we were in touch with the few people we knew who had access to Mitchell and many more who knew someone who knew someone who knew someone who knew Mitchell.

The Compromise

White House decision making. On Saturday, January 30, we waited at OEO headquarters in Washington. And while we never were able to determine exactly what happened in the White House that day, we later pieced together this story from well connected columnists and our own meager White House sources: Before the President left Washington on January 29 for the Virgin Islands, he instructed John Ehrlichman to compromise the CRLA issue in such a way that the program would be saved and Reagan would be precluded from attacking the Administration. The ideal decision would be one that both sides would play as a victory, thus diffusing the controversy.

218. U.S., Congressional Record-Senate, 92nd Congress, 1st Session, S-526 (January 29, 1971).

The chief protagonists at the White House on January 30 were Carlucci, Lowitz and Walker arguing for an override and representatives of the Attorney General and the Vice-President supporting the veto. At the same time Assistant Attorney General Patrick Gray, who was to represent OEO if suit were brought by either CRLA or Reagan, was in Sacramento negotiating with Reagan's Executive Secretary Edwin Meese.[219] Robert Semple of the *New York Times* reported later that Ehrlichman "emerged from the process with considerable respect for rural legal assistances' accomplishments," but not sufficient respect to distract him from the political ramifications of the decision.[220]

Carlucci's press statement and our response. About 7:45 Saturday evening Carlucci, Lowitz and Walker returned to OEO headquarters from the White House. We met with Lowitz and Walker and were handed a Carlucci press statement which had just been put on the wires. It announced a plan to take the Administration off the political hot seat by 1) letting the Governor's veto stand "at this time," 2) issuing CRLA a new six-month grant, and 3) appointing a "high-level Commission . . . to complete a full and impartial review of the matter," while the Justice Department and the Civil Service Commission reviewed CRLA's "possible violations of federal law or federal prohibitions on political activity."[221]

Most politicians and organizations refuse ever to admit publicly they have been defeated. And some newsmen who were well acquainted with CRLA, especially those on the *Los Angeles Times* and the *New York Times,* immediately interpreted the decision as a CRLA victory. We had, in fact, received a new six-month grant and "a high level Commission" was going to look into the charges we knew were false. Furthermore, the Governor would certainly play it as a victory and we ought not appear in a weakened position. To claim anything less than victory would, in fact, lend credibility to the Governor's charges.

After some discussion, we decided against the victory tactic. First, it was a matter of simple honesty. We had not won. We

219. David S. Broder, *CRLA—The Story Behind the Story,* Los Angeles Times, February 21, 1971, § F, at 3, col. 1. On February 15, 1972, Gray was promoted to the position of Deputy Attorney General when Richard G. Kleindienst was nominated for the position of Attorney General. And on May 3, Gray was appointed Acting Director of the Federal Bureau of Investigation.

220. Robert B. Semple, Jr., *Reagan Deals Blow to Nixon's Choice for Top Anti-Poverty Position,* New York Times, February 8, 1971, at 24L, col. 1 (late city ed.). The White House and Carlucci's office always denied that anyone other than Carlucci made the decision.

221. OEO Press Release No. 71-62, "OEO Director Frank Carlucci and Governor Reagan Reach Agreement on Refunding of California Rural Legal Assistance Program Grant" (January 30, 1971).

believed it would be hard to keep the program together on a six-month grant. And if the Uhler Report, as Carlucci's press statement said, was to "serve as basis for Congressional review of legislation affecting the future of the legal services program," the whole legal services movement was in great danger. Second, we could not criticize the decision makers if we publicly interpreted their decision as a victory, and it was now imperative that we attack the Nixon Administration for knowing the facts and refusing to act on them, for selling out poor people to placate Reagan. Finally, we always depended on the media to "contact" many supportive groups and individuals we could never reach personally. If they believed we had won the battle, they were more likely to lose concern for CRLA.

So our press statements accused the Nixon Administration of taking the first step toward withdrawal of legal representation from poor people and of being only rhetorical when calling for "peaceful redress of grievances under the law instead of in the streets." In short, the Administration was willing to deny the poor their rights and make a mockery of its own public positions to placate a politically powerful Governor. CRLA, we pledged, would continue to serve its client community while fighting the Nixon Administration in Congress, the courts, and before the American people.[222]

The Governor's response. Within thirty minutes of our conversation with Lowitz and Walker, Walker brought us a copy of Reagan's news release. Regan had, as expected, played the White House's compromise as a complete victory. The Governor stated that he had

> agreed with Federal OEO to permit a short-term extension of the grant for CRLA . . . [to] enable us to begin the transition from the present program to one which better meets the needs of the poor . . . I have directed the State Office of Economic Opportunity to immediately move ahead with plans to develop a program of legal assistance . . . through local bar associations. In many cases, I am sure, it will be possible for this program to take over legal assistance for the poor even prior to the end of the temporary CRLA funding, and that will provide a smooth transition *when the CRLA is phased out next July* (emphasis added).[223]

Apparently stunned by the extent of Reagan's victory claim,

222. CRLA News Release, "OEO Funds CRLA for Six Months" (January 30, 1971).

223. Statement by Governor Reagan on Funding of CRLA (January 30, 1971).

Carlucci's office quickly drafted and released an addendum to his original statement:

> This is not a phase out or transition grant . . . If the Commission finds that CRLA is conducting its activities in compliance with the OEO statutes and guidelines, I [Carlucci] will, of course, refund it in full.[224]

In Sacramento that evening, while introducing U.S. Senator William Brock of Tennessee to the Republican State Central Committee, the Governor announced that his veto of California Rural Legal Assistance had been sustained. "Before he could get the words out of his mouth," reported *The Sacramento Bee,* "nearly 800 Republicans were on their feet applauding and cheering."[225]

IV. THE COMMISSION ON CRLA

Getting a Commission

Our position. On Monday, February 1, members of the White House staff called several of our prominent supporters to advise that we should not regard Carlucci's decision as a defeat, that the White House truly intended to appoint an honest Commission and see that all the facts come out. It was suggested, for instance, that CRLA, Reagan, and the White House each might appoint a Commissioner. From our perspective, of course, such an arrangement would be disastrous. It would probably result in a minority report with no clear Commission opinion. Don Lowitz said something else disturbing—that the Commission might look at national policy regarding legal services, not just the Governor's charges against CRLA. Again we saw the possibility of nebulous findings.

We could not afford a Commission that was simply evenly balanced or one that considered broad questions of legal services policy. The Commission had to be of sufficient public stature that its findings would be both widely reported and unquestioned by the public, and it had to concentrate on the specific charges Reagan made against us. For over a month the Governor had advertised horrendous charges through the media, leaving us with little to do but deny. If handled properly, the Commission hearings would provide an opportunity to regain some

224. OEO Press Release No. 71-62 a, "Addendum to Press Release on Funding of CRLA" (January 30, 1971).

225. Richard Rodda, *New GOP Senator Brock Backs Employment Priority in Deficit Budget,* The Sacramento Bee, January 31, 1971, at A1, col. 1 (final ed.). A television newsman told us later that a small contingent of Committeemen were visibly disappointed.

of our public standing and the bargaining power we had developed for our client community.

In early February we brought in outside counsel to deal with OEO and later to represent us before the Commission.[226] On February 3, our counsel wrote Carlucci concerning the Commission's procedure,[227] contending that the Commission should limit its inquiry to Reagan's charges against CRLA; that its hearings be public and in California where the witnesses were;[228] that the proceedings be adversary in nature with the witnesses for both sides subject to cross examination; that OEO pledge to open all of its files to the Commission;[229] and that the Commissioners' activities result in public written findings long before the expiration of our six month grant.

Pressuring Carlucci. We did not want to recommend nominees for the Commission ourselves, since the same right would then be given the Governor. To bring pressure on the White House and OEO, we asked organizations such as the American and Mexican American Bar Associations, the National Bar Foundation, The National Legal Aid and Defender Association, and the American Association of Law Schools to recommend names to OEO. We also went to Congress for help. Senators Javits, Mathias, Schweiker, Case and Brooke again petitioned the President, this time suggesting that the Commission hold *public* hearings in *California.*[230] On February 9, Congressman Edward Roybal of Los Angeles and Senator Joseph Montoya of New Mexico wrote Carlucci "as Mexican American members of Congress" asking that the Commission "include a Mexican American whose credibility in the community is unquestionable" and that the Commission's

226. Our counsel were William McCabe, formerly with the Civil Rights Division, U.S. Department of Justice, later Director Attorney of our Gilroy Office, and now a partner in Jacobs, Sills, and Coblentz, a San Francisco law firm; Jerome Falk, a former law clerk for U.S. Supreme Court Justice William O. Douglas, and now with Howard, Prim, Rice, Nemerovski, Canady, and Pollak, a San Francisco law firm; and Stuart Pollak, a former law clerk for U.S. Supreme Court Chief Justice Earl Warren and currently a partner in Howard, Prim, et al.

227. Letter from William McCabe to Frank Carlucci (February 3, 1971).

228. We were afraid the Administration might conduct a closed inquiry in Washington, so the truth would never come out.

229. We were informed that staff of OEO's Office of Inspection were furious because Carlucci's compromise decision was entirely contrary to their findings in California. We were anxious, therefore, to expose the 300-page report that contained those findings. During early February various supporters suggested ways the report might be obtained: 1) bringing a law suit that involved discovery, 2) initiating a General Accounting Office investigation called by Carnston and Tunney, 3) calling Carlucci and other OEO officials before Senator Edward Kennedy's Subcommittee on Administrative Practices, and 4) calling Carlucci before Senator Mondale's Subcommittee on Migratory Labor. Each approach was finally put aside in favor of proceeding before the Commission.

230. Letter on file with CRLA.

hearings be *public* and in *California*.[231] Congressman Augustus Hawkins of Los Angeles helped secure the support of the Black Caucus, the House's thirteen Black Representatives, who also telegraphed the President demanding the Commission include a minority member, "conduct public hearings in California," and "issue public written findings."[232]

On February 10, the ABA's Section on Individual Rights and Responsibilities urged Carlucci to appoint a Commission that would be representative of the bar, the law schools, and the client community and that would hold open hearings regarding the specific charges Reagan made against CRLA.[233] Many other organizations made similar statements as did editorials in *The Washington Post*[234] and the more conservative Washington *Evening Star*.[235] In California, sixty-nine newspaper editorials during February and March were supportive of CRLA, and most of these addressed the Commission issue, urging open hearings in California.[236]

By mid-March, despite constant pressure from our counsel, Senators Cranston and Tunney, and other of our supporters, Carlucci had still not appointed a Commission.[237] We knew, however, that on March 24 he would again appear for confirmation before Senators Cranston, Mondale, Kennedy and other members of the Senate Committee on Labor and Public Welfare. And we could not imagine his risking a second rebuff by not having the Commissioners appointed.

On March 18, Assemblyman Charles Warren (D., Los Angeles), Chairman of the Assembly Judiciary Committee, let it be known he would institute hearings regarding Reagan's charges if federal OEO did not act soon.[238] And on March 23, the day before Carlucci's confirmation hearing, we were told the

231. Letter on file with CRLA.

232. Telegram to the President from Charles C. Diggs, Jr., Michigan, Robert M.C. Nix, Pennsylvania, John Conyers, Jr., Michigan, Augustus F. Hawkins, California, William Clay, Missouri, Louis Stokes, Ohio, Shirley Chisholm, New York, Ronald V. Dellums, California, Parren J. Mitchell, Maryland, Charles B. Rangel, New York, and Ralph H. Metcalfe, Illinois (February 12, 1971). California Republican Congressmen were again hesitant to take any position.

233. Commission Report, *supra* note 105, at 4-7.

234. Editorial, *A Setback (Another One) for the Poor*, The Washington Post, February 13, 1971, at A14, col. 1.

235. Editorial, *Politics and Poverty*, Evening Star (Washington, D.C.) February 16, 1971, at 20, col. 1.

236. Editorials on file with CRLA.

237. We feared, of course, that even if he wanted to, Carlucci might have considerable difficulty persuading prestigious, impartial persons to associate themselves with the White House compromise—which had been discredited quite thoroughly in the media.

238. *State CRLA Hearings Threatened if Federal Agencies Fail to Act*, Los Angeles Journal of Commerce, March 19, 1971, at 1, col. 2.

names of the Commissioners confidentially by federal OEO officials, who said they would be announced publicly on March 26. The Commission would be chaired by Robert B. Williamson, recently retired Chief Justice of the Maine Supreme Court. Also sitting would be Thomas Tongue, Associate Justice of the Oregon Supreme Court and Robert B. Lee, Associate Justice of the Colorado Supreme Court. A quick check in the Justices' home states revealed that each was highly respected by the bar and each was a Republican—hard for Reagan to attack.

At his confirmation hearing Carlucci was not pushed regarding the appointment of the Commissioners, but Senator Cranston pressed hard for assurances that the Commission would hold public hearings in California. Carlucci gave such assurances.[239] He was confirmed unanimously.

Establishing Procedures

Reagan's Position. The first meeting of the Commission and parties was set by federal OEO for Saturday, March 27, in Washington. The Commissioners and counsel for CRLA appeared, but representatives of the Reagan Administration failed to appear.[240] The meeting was immediately rescheduled for Wednesday, March 31, in San Francisco.

Uhler appeared at the Wednesday session to express, as he put it, the position of the State of California as dictated by certain "policy considerations."[241] That position was later described in the Commission's Report:

> Mr. Uhler strongly urged that the Commission function as an administrative investigative body which should adopt a fact-finding methodology, suggesting that the Commission staff should seek out evidence and present its own witnesses, holding hearings in private, executive sessions, including secret *ex parte* interviews throughout the State of California in all areas where CRLA has rendered services, and make general and comprehensive findings concerning all phases of the CRLA program, not limited to the charges and matters contained in the Uhler Report.[242]

Uhler said the State would not participate in proceedings that

239. Commission Report, *supra* note 105, at 5-7.
240. Federal OEO maintained publicly that Uhler's office had been apprised of the meeting through telephone conversations confirmed by a telegram. The only explanation for Uhler's non-appearance came from the Governor's press secretary Paul Beck: "As far as I can find out, we did not get a wire telling us about the meeting." *CRLA Quiz Starts Without Reagan Aides,* Los Angeles Times, March 28, 1971, § A, at 25, col. 1.
241. Commission Hearings, *supra* note 1, at 76-80 (March 31, 1971).
242. Commission Report, *supra* note 105, at 11.

were public or adversary in nature.[243] He insisted repeatedly throughout the morning session that the veto of CRLA had been sustained,[244] and on that basis, said Uhler, "We [the State] are not a party."[245]

Counsel for CRLA argued, of course, for public adversary proceedings. And before the morning was over, Chairman Williamson had made it clear several times that the Commissioners themselves favored public adversary proceedings:

> We picture it at this: that we are not an investigative body. We have no investigative 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.[246]

Uhler suggested that the Commission must have been "ill advised"[247] or "misled"[248] regarding their function, which was to evaluate CRLA, not the State's own evaluation of CRLA.[249]

Reagan's Tactics. During the noon recess in San Francisco, Carlucci received a significant phone call in Seattle, where he was to address a convention. It was from Vice-President Agnew's office advising that Commissioners should be recalled and instructed to proceed in a manner that secured Reagan's cooperation.[250] Later in the day Chairman Williamson called requesting clarification of the Commission's task. Carlucci reaffirmed to Williamson that the Commission was to decide its own procedures, and that the public, adversary type hearings they preferred were acceptable. He then confirmed by telegram.[251] After several more hours of argument in San Francisco, the meeting was recessed until April 12, when the Commission wanted to finalize procedural matters.

Before the April 12 meeting, considerable public pressure was put on the Commission by CRLA antagonists. The most celebrated event was a press conference in Sacramento on April 8 by Moe Camacho, President, and Kenneth Brown, Public Relations Officer, of the California Correctional Officers Association (CCOA). Camacho and Brown claimed that CRLA was part of a group of "Communist, leftist, and revolutionary attorneys" involved in a "conspiracy to disrupt the prisons from within;" that CRLA attorneys were responsible for prison guards being

243. *Id.*
244. Commission Hearings, *supra* note 1, at 23, 38, 58-9, 64, 72, 73, 74, 94, 97-8 (March 31, 1971).
245. *Id.* at 25, *cf. Id.*, at 65.
246. *Id.* at 22.
247. *Id.* at 38.
248. *Id.* at 86.
249. *Id.* at 61.
250. We learned of this call from OEO sources months later.
251. Commission Report, *supra* note 105, at 15.

"murdered and others stabbed by inmates," and that only in private "executive session-type hearings" would anti-CRLA witnesses be able to "speak freely . . . without fear of retaliation or intimidation."[252] Congressman Gubser also wrote Carlucci publicly urging a private investigaton rather than public hearings.[253] And on April 9, Uhler announced that the California Farm Bureau also opposed public hearings.[254]

At the closed door session on April 12 in San Francisco, the Commissioners unsuccessfully urged Uhler to participate as a party, then settled on public, adversary procedures with provision for anyone with complaints against CRLA to come before the Commission with his own counsel.[255] On April 22, Carlucci announced that "because of his heavy caseload," Justice Tongue had resigned and been replaced on the Commission by Former Chief Justice of the Wisconsin Supreme Court, George R. Currie.[256] But a *Los Angeles Times* reporter obtained a copy of Tongue's resignation letter and published it, revealing that the Justice has accepted appointment to the Commission on the assumption that "the State of California could be expected to cooperate" and since it would not, he could no longer serve.[257]

Two Kinds of Hearings

CRLA's case before the Commission. Public proceedings commenced on April 26 in San Francisco, and by June 6, the Commission had conducted 15 days of open hearings in San Francisco and eight of the nine communities where CRLA has service offices,[258] as well as a private session in Soledad Prison. In addition to hearing everyone Uhler directed toward them, the Commission advertised in 10 newspapers that covered CRLA's

252. Jack Welter, *Prison Guards Claim CRLA Out for Blood*, San Francisco Chronicle, April 9, 1971, at 16, col. 2. Camacho also released a letter to Chairman Williamson stating his position. Letter from Moe Camacho to Honorable Judge R.B. Williamson, April 8, 1971.

253. *Gubser Asks Broader U.S. Probe of CRLA*, San Jose Mercury, April 7, 1971, at 8, col. 1. Gubser was also concerned that the Commission not limit itself to charges made in the Uhler Report. "If Uhler's report is the brief, we've lost our case. Let's face it, he didn't prove his case." *Id.*

254. AP Dispatch, *Key Groups Back Reagan in CRLA Row*, Evening Outlook (Santa Monica, Ca.), April 10, 1971, at 6, col. 7.

255. Uhler criticized the Commission publicly, characterizing their planned proceedings as "un-hearings", and was himself publicly rebuked in a statement from Reagan's office. Tom Goff, *Reagan Rebukes Aide for Comment on CRLA Inquiry*, Los Angeles Times, April 17, 1971, at II-1, col. 6.

256. OEO Press Release, "Wisconsin Justice Named to Commission on California Rural Legal Assistance" (April 22, 1971).

257. Jack Jones, *Oregon Justice Quits U.S. Panel Probing CRLA, Letter to OEO Director says California Officials are Failing to Cooperate*, Los Angeles Times, April 22, 1971, at I-3, col. 3.

258. The Commission did not conduct hearings in McFarland. McFarland witnesses presented testimony at the Madera hearing, 100 miles away.

service areas encouraging everyone who wished to come forward. The Commission finally heard 165 witnesses.[259]

Since the Reagan Administration would never come forward to present witnesses or cross-examine CRLA's,[260] the Commission allowed attorneys antagonistic to CRLA in each community to play the prosecutor role. In all, fifteen attorneys were so involved,[261] but the greatest burden was assumed by William L. Knecht, Assistant General Counsel of the California Farm Bureau, who worked closely with Uhler's staff throughout the State, and presented the Commission a 61-page brief at the conclusion of hearings.[262]

Reagan's case before the media. While our counsel were presenting CRLA's case in a judicial setting, the Reagan Administration was presenting its case through the media. Reagan's efforts consisted of new charges against CRLA, attempts to discredit the Commission, and pressure on the Nixon Administration to suspend the Commission's proceedings.[263] On April 26, the first day of public hearings, and in the same building the Commission was sitting, Uhler held a press conference to release a letter from Raymond Procunier, Director of the State Department of Corrections, saying attorneys from CRLA and other organizations "played a major role" in prison disruptions.[264] At a news conference in Sacramento the next day, Reagan called on the Commission to resign:

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259. Commission Report, *supra* note 105, Appendix B, at 1-16.

260. At the commencement of each hearing where State representatives were present, the Commission reinvited them to participate. Commission Report, *supra* note 105, at 24.

261. *Id.* at 21.

262. California Farm Bureau Federation, By William L. Knecht, *Concurrent Brief*, Before the Office of Economic Opportunity Commission on California Rural Legal Assistance, Inc. (June 11, 1971).

263. The Reagan Administration also tried to obstruct the Commission's judicial hearings from within by ordering State employees not to testify on CRLA's behalf. For instance, Deputy Attorney General Jay Linderman, who had represented the State in a number of important CRLA lawsuits, was prepared to testify regarding the integrity and competence of CRLA attorneys. But just before he was scheduled to appear, his superior telegraphed our counsel that it would be "inappropriate" for Linderman to testify since the Attorney General's office represents the State OEO. Telegram from Wiley Manuel to William McCabe (April 29, 1971).

Deputy Superintendent Jiro J. Enomoto of the Correctional Training Facility at Soledad had also expressed willingness to testify for CRLA concerning our attorneys' activities in Soledad Prison. Commission Hearings, *supra* note 1, at 853-54 (April 29, 1971). Then he informed us that on the advice of someone in the State Department of Corrections, he was unwilling to testify. *Id.* at 855-56. The Commission responded by issuing a statement asking the State Department of Corrections to make its officers, employees, and inmates "available to testify fully and freely" or the Commission would dismiss the State's charges relating to Soledad prison. George Murphy, *Muzzling Charge in CRLA Probe*, San Francisco Chronicle, April 30, 1971, at 5, col. 1. Enomoto eventually testified, Linderman never did.

264. George Murphy, *The CRLA Controversy is Argued at Two Levels*, San Francisco Chronicle, April 27, 1971, at 8, col. 2.

> I'm afraid [the Commission] came here with the idea that they could sit at a bench while everyone else did the work and brought a case before them and they could sit back and make judgment. . . . This was not what they were supposed to do. They were to go into the field and investigate California Rural Legal Assistance. If they're unwilling to do that, they ought to resign.[265]

The following day, April 28, Reagan released a letter to the Commissioners stating,

> I was assured by high-level representatives of the U.S. Department of Justice and the Federal OEO in late January 1971, that the role of the Commission would be to conduct a thorough and complete investigation into the activities of CRLA. . . . [That] there would not be an adversary proceeding,[266]

and that hearings "when appropriate" would be closed to the public.[267] And at a press conference on May 5 in Sacramento, Reagan released a letter to President Nixon complaining about Federal OEO's "hindrance" in the CRLA case and charging that Director Carlucci was acting against the best interests of California apparently "to curry favor with the 'poverty law establishment' and to appease certain ultra-liberal members of Congress."[268]

On May 14, the cycle of attack started all over again. Reagan released a confidential CRLA memo which he alleged was evidence of CRLA's "brazen" and "dishonorable" scheme to present false and misleading testimony to the Commission.[269] He called on Federal OEO to join in a State investigation of the matter. On May 18, the same day the Commission announced in Salinas that three of Uhler's charges were without merit,[270] the Governor held a news conference in Sacramento during which he characterized the Commission's proceedings as "fun and games" and expressed his confidence that President Nixon would

265. *Reagan Asks Resignation of Unit Investigating Poverty Lawyers,* New York Times, April 28, 1971, at 28, col. 4.

266. UPI Dispatch, *CRLA Probe Plans Hearings in Prison,* Appeal-Democrat (Marysville/Yuba City, Ca.), April 29, 1971, at 1, col. 6. Reagan's office would neither confirm nor deny that the "high level representatives" in the Justice Department included Attorney General Mitchell.

267. *Id.* The same day Reagan released his letter, the State Supreme Court decided in our clients' favor a case the Uhler Report labeled "harassment". Joel Tlumak, Court Upholds CRLA Against Reagan Charge, San Francisco Examiner, April 29, 1971, at 12, col. 1.

268. UPI Dispatch, *Reagan Takes His OEO Fight to Nixon,* The Washington Post, May 6, 1971, at A21, col. 2.

269. Tom Goff, *Reagan Calls on U.S. to Join State Probe of CRLA Memos,* Los Angeles Times, May 15, 1971, at I-1, col. 1.

270. UPI Dispatch, *Judge Finds no Merit, Three Anti-CRLA Charges Fold,* The Sacramento Bee, May 18, 1971, at A4, col. 5.

not be influenced by its findings.[271] The next day, in a public telegram to Carlucci, Reagan complained that the Commission "has imposed a virtual gag rule on non-CRLA witnesses."[272]

The following day, May 20, the Commission announced that allegations about CRLA attorneys being "improperly involved" with Angela Davis and the Soledad Brothers were "totally unfounded and without merit."[273] At a press conference the next day Uhler charged that it was "abundantly evident" that the Commissioners had been "primed" by federal OEO officials into a biased view of the charges against CRLA.[274] Finally, on May 24, Reagan tried to link CRLA with the fire bombing of an anti-CRLA witness's office in Salinas.[275]

V. THE SEVENTEEN MONTH GRANT

Shifting the Burden of Guilt

Reagan's bad press. For months prior to the Commission hearings the Reagan Administration had used the media to villify CRLA. But during April and May the onus shifted dramatically. Aside from news coverage of the Commission hearings which repeatedly headlined the baselessness of Reagan's charges, newspapers around the State were attacking him editorially. The newsclipping service to which we subscribe picked up thirty anti-Reagan editorials and political cartoons with headlines like "What is Reagan Trying to Hide?"[276] "When the Accuser Pleads 'No Contest',"[277] "Reagan Wants Own Rules,"[278] "U.S. Says 'Prove It' Reagan's Team Can't,"[279] and "Dear Guv: Get a Lawyer."[280] In addition, nationally syndicated columnists like Art

271. Tom Goff, *Reagan Hurls New Attack at CRLA Probe*, Los Angeles Times, May 19, 1971, at I-28, col. 3.

272. *Reagan Claims Gagged CRLA Probe Witness*, The Sacramento Bee, May 20, 1971, at A5, col. 1.

273. Philip Hager, *Probers Absolve CRLA of Link to Angela Davis, Call Charges of Prison Misconduct 'Totally Unfounded'*, The Los Angeles Times, May 21, 1971, at 3, col. 2.

274. Paul Houston, *OEO Leader Hits Federal Panel on 5 CRLA Decisions*, Los Angeles Times, May 22, 1971, at II-1, col. 6.

275. *New Reagan Move in CRLA Case*, San Francisco Chronicle, May 25, 1971, at 18, col. 6. Even after the police had arrested a suspect who had nothing to do with CRLA, Reagan told a Sacramento news conference he still wanted Attorney General Mitchell to order an FBI investigation. George Murphy, *Firebomb Suspect Arrested, Reagan Still for Probe*, San Francisco Chronicle, May 26, 1971, at 12, col.1.

276. Editorial, *What is Reagan Trying to Hide?*, El Cajon Daily Californian, April 13, 1971, at 6A, col. 1.

277. Editorial, *When the Accuser Pleads 'No Contest'*, Ventura Star-Free Press, May 4, 1971, § B, at 16, col. 1.

278. Editorial, *Reagan Wants Own Rules*, Stockton Record, May 5, 1971, at 4, col. 1.

279. Editorial, *U.S. Says 'Prove It,' Reagan's Team Can't*, San Luis Obispo Telegram Tribune, May 7, 1971, at 16, col. 1.

280. Editorial, *Dear Guv: Get a Lawyer*, Advance Register and Times (Tulare, Ca.), May 10, 1971, at 10, col. 1.

Buchwald,[281] Evans and Novak,[282] and Mary McGrory[283] were either poking fun or offering analysis highly critical of the Governor's position regarding CRLA.[284]

Exposing Uhler. Then the roof began to fall on Uhler's State OEO operation. A fifteen-man team of OEO officials, mostly from outside California, began an investigation in March.[285] We knew by early April that the evaluators' report was completed, and that the team's captain had been ordered to Washington to tone it down. On April 22, a copy of the report was sent to Uhler, and he was given until May 20 to reply. Ironically, the report was unintentionally "leaked" to the press by one of Uhler's own staff who lent a copy to a friend who reproduced it for a reporter on *The Sacramento Bee.*[286] On April 29 and 30, papers throughout the State carried headlines like "A Harsh Report on State OEO,"[287] and "Report Rips State Poverty Office."[288]

The report confirmed charges that Uhler's office was in gross non-compliance with the terms of its grant from OEO. Instead of offering technical assistance to poverty groups and other OEO-funded programs, the State OEO was "using the majority of its staff to perform investigative functions."[289] The evaluation team concluded that the State OEO was "philosophically opposed" to what other OEO programs were doing,[290] and it was "unlikely" it could fulfill its responsibilities under OEO guidelines so long as "present attitudes continue to exist."[291] The Report, which included staff resumes, also revealed for the first

281. Art. Buchwald, *Reagan Income Tax Proves You Just Can't Get Ahead,* Los Angeles Times, May 20, 1971, § II, at 7, col. 5.

282. Rowland Evans and Robert Novak, *Nixon, Reagan: Collision Seen,* The Washington Post, May 12, 1971, § A, at 17, col. 3.

283. Mary McGrory, *Reagan Pestered by Legal Gadflies,* Newark Star-Ledger (New Jersey), April 28, 1971, at 30, col. 2.

284. At the same time articles highly complimentary to CRLA were appearing in places like READERS DIGEST. Lester Velie, *The Angry Young Lawyers of OEO,* READERS DIGEST at 193 (May, 1971).

285. The inquiry was passed off as "routine" by federal OEO, but it received considerable news coverage as poverty programs around the State seized the opportunity to publicly charge that Uhler was using his OEO funds to harass, intimidate and destroy California poverty programs.

286. Uhler publicly accused "sources within the federal government" of leaking the report and called on federal OEO "to conduct a thorough investigation of this gross malfeasance and take appropriate disciplinary action," Maitland Zane, *A Harsh Report on State OEO,* San Francisco Chronicle, May 1, 1971, § I, at 1, col. 2.

287. *Id.*

288. UPI Dispatch, *Report Rips State Poverty Office,* Salinas Californian, April 30, 1971, at 17, col. 3.

289. Office of Economic Opportunity, CALIFORNIA STATE OFFICE OF ECONOMIC OPPORTUNITY EVALUATION REPORT (March 26, 1971), submitted to H. Rodger Betts, Regional Director, Region IX, OEO, by James L. Young, Deputy Regional Director, Region X, OEO, for the evaluation team, at 60.

290. *Id.*

291. *Id.* at 61.

time that Uhler had filled his professional staff positions not with the management and economic development experts his OEO grant called for but with former campaign workers for Governor Reagan, Senator Buckley, and Mayor Yorty.[292]

There had been rumblings in the Democratically controlled State Legislature as early as March about cutting Uhler's office out of the State budget. Disclosure of the federal evaluation gave the legislators just what they needed. Senate Majority Leader George R. Moscone (D., San Francisco)[293] and other Democrats publicly demanded that Uhler be "fired immediately".[294] And on May 3rd Uhler was called to defend his budget before a subcommittee of Assembly Ways and Means. His admission that he had, in fact, hired former FBI and CIA agents and workers from past Reagan and Yorty campaigns prompted Republican Committeeman William Bagley to comment, "It's like putting arsonists in charge of the fire department."[295] After several hours of angry discussion before an estimated 300 spectators, the Assemblymen voted 4-1 to strike all but $100 of the $69,889 appropriation Governor Reagan had requested for Uhler's operation—a measure making it impossible for the State OEO to receive nearly $1 million in matching funds from Federal OEO.[296]

The Washington Campaign

Our Political Perspective. On May 12, Evans and Novak devoted their column to analyzing the "dangerous collision course being traveled by President Nixon and Governor Reagan" over our refunding.[297] Far more was at stake than CRLA, they noted:

> Mr. Nixon cannot carry California in 1972 if Reagan is recalcitrant, and failure to carry California would mean failure to be elected. Consequently, the White House has tried everything to avoid a confrontation with Reagan.

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292. Richard Rodda, *Federal Study Claims Solon Campaign Workers Get California OEO Staff Positions,* The Fresno Bee, May 3, 1971, § A, at 13, col. 1. The 61-page report failed to criticize Uhler's office for anything they had done regarding CRLA even though we spent an afternoon—at our request—with the evaluators and provided them several hundred pages of evidence verifying our charges.

293. Senator George R. Moscone Press Release (May 3, 1971).

294. *OEO Director Resignation Sought by Senator Petris,* Fremont News-Register, May 4, 1971, at B2, col. 3.

295. Carl Ingram, *OEO Fund Axed: Uhler Castigated,* Los Angeles Daily Journal, May 5, 1971, at 1, col. 4.

296. AP Dispatch, *OEO Revision Ordered By Assembly Unit,* Oxnard Press Courier, May 4, 1971, at 1, col. 1. Governor Reagan, unable to get any more than $100 authorized by the Legislature, eventually allocated $69,789 for State OEO out of his own Executive Budget.

297. Evans and Novak Editorial, May 12, 1971, *supra* note 282.

Recounting that the White House ordered Carlucci, against his wishes, to compromise with Reagan in January, the columnists observed that Reagan was now "absolutely frantic" about the direction the Commission hearings had taken. They thought Nixon might still allow CRLA to be refunded, but concluded,

> Before that point is reached, however, the oval office will be steeped in the agony of decision making that contemplates the immense risks of 1972.

We agreed with this analysis. And our discomfort was intensified on May 27 when word spread through Washington that Carlucci was about to accept an Ambassadorship. Since January we had feared that when our refunding was finally decided Carlucci would no longer be Director of OEO. The White House would have "promoted" him away, and with him would go accountability for the public assurance that CRLA would be refunded if vindicated by the Commission. Within a few days we were satisfied that the Ambassadorship story was unfounded, but throughout June we operated on the assumption that Carlucci would have as little to do with our current refunding decision as he did in January.[298]

Our strategy. As in January, we hoped to show the White House that politically it would be more costly to permit our destruction than to refund us. While Reagan could exert pressure behind closed doors, the only mechanisms of political pressure at our disposal were, as always, grassroots support, expressions of concern from individuals influential with the White House, and public exposure of the facts.

As for grassroots support, we wanted it known in the White House that CRLA was one of the few federal programs designed to assist Chicanos and that Chicano groups, local, state, and national, were giving us tremendous backing. We hoped, in fact, that White House decision-makers would view CRLA as an integral part of the Chicano movement. Regarding White House "influentials", especially Republicans in Congress and prestigious members of the bar, we hoped to broaden our base among them by tying ourselves to the prestige of the Commission. Our approach was simply, "We want done whatever the Commission recommends." We would also point out, of course, how the Governor had attacked the Justices.

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298. In fact, Carlucci was in charge of our situation during May and June. We learned from an OEO official months later that Ehrlichman, for reasons our sources did not know, circulated a memo in mid-May informing those concerned with the CRLA matter they must deal with Carlucci. Vice-President Agnew immediately inquired if the President knew of this decision. He did.

To get the facts before the public, we wanted the Commission's Report publicized *prior* to White House decision making. It would be very hard for the White House to allow our destruction if a body as eminent as the Commission was publicly on record endorsing us.[299] But if the Commission's findings were treated like the January findings of OEO's Office of Inspection,[300] the Administration could use any public excuse to uphold Reagan's veto. Some way, therefore, we had to get the Commission's Report before the public.

The bar, Chicano and other organizations. In May, while the hearings were still in progress, we started gearing up for the June battle in Washington. CRLA supporters in Congress and those in the media who had followed our situation were provided information on the Commission hearings and apprised of our June refunding schedule. Leaders in various local, state, and national bar associations were also advised, as was the coalition of Chicano and other organizations that had long supported us. We also approached national officials of organizations like League of United Latin American Citizens, Mexican American Political Association, Community Service Organization, American GI Forum, NAACP, Common Cause, National Council of Churches, and National Council of Senior Citizens. Early contact was important because in addition to making public statements and contacting the President and their allies in Congress, these groups could use their publications to stimulate letter writing campaigns among their memberships.

The media campaign. In late May we mapped out twelve events that would occur during the last two weeks of June to focus public attention on the refunding decision and put pressure on the White House to release the Commission Report. We started the schedule on June 14 with a public demand to OEO for an unprecedented 17-month grant.[301] Three days later we released a letter we had received some time earlier but never made public from the U.S. Civil Service Commission clearing us of all charges referred for investigation.[302] Another

299. The Report had not been written yet, but we had been at the hearings and we believed the Commissioners were intelligent and honorable men. We expected, therefore, that the Report would vindicate us. If it did not, we had no chance of survival, anyway.

300. *See* note 229, *supra.*

301. We feared OEO might fund us only through 1971, and we would have to face another Reagan veto in five months. We learned months later that the Nixon Administration had decided in late May that if CRLA were refunded, it would definitely be for 17 months so the President would not be faced with another Reagan veto prior to the 1972 election.

302. Letter to Gene Livingston from Anthony L. Mondillo (May 10, 1971); *cf.* letter to Cruz Reynoso from George A. Koutras (June 11, 1971). We never heard directly what charges were sent to the Justice Department, *see* note 221,

"event" got little publicity at the time but probably had far more impact. It was a news conference in the Senate Office Building in Washington under the sponsorship of Senator Tunney wherein several Chicano leaders analyzed the 1972 Electoral College in terms of states—like California, Texas, and New Mexico—where Mexican American votes could decide the states' Presidential preferences. Though the analysis was not covered by wire services or the Washington press, it found its way to Robert Finch and provoked White House discussion.

We hoped to get editorials and articles in national publications like *Life, Look, Newsweek*, and *Time* as well as personal appearances on the Dick Cavett, "Today", and Johnny Carson shows.[303] We did not. We found it difficult, in fact, to get coverage even in the Washington newspapers. Several sympathetic columnists were on vacation, and news writers who were most acquainted with CRLA were covering the Administration's attempt to prevent the *New York Times* and *The Washington Post* from publishing the "Pentagon Papers".[304]

Republicans in Congress. Long before the Commission delivered its Report to Carlucci, we asked twenty-three Republican Senators to sign a letter to the President simply endorsing

> the recognized integrity and judgment of the Commissioners and the fairness of their inquiry . . . [and urging] that the Commission's findings and recommendations be made public and given the greatest possible weight.[305]

With this approach and with calls and telegrams coming from bar associations and other supporters in the Senators' districts, we believed a far larger number would cooperate than the five who did in January and February. But we were wrong. In fact, before we were ready to send the letter, we had just brought suit against OEO to make the Commission Report public, and two of our original five supporters understandably balked at signing a letter related to a matter in litigation. We therefore held the letter, lest it appear our Senate support had shrunk.

A strategy that did pay off regarding the Senate involved

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supra. But we learned from OEO contacts in early June that all charges referred were found to be groundless.

303. We were also attentive to who was appearing on such programs as "Face the Nation," "Meet the Press," and "Issues and Answers" so, when appropriate, we could brief receptive reporters on possible lines of questioning.

304. By June 21 our situation had yet to receive notice in the Washington and New York papers. That day a prominent reporter on the New York Times offered to get us "good space" for an in-depth story if we would give him an exclusive on a suit we planned to file against OEO to make the Commissioner's Report public. Given the situation, the offer was tempting, but we refused, not willing to jeopardize our relationships with other reporters.

305. Letter draft on file with CRLA.

Margaret Chase Smith of Maine. With the help of our friends in Maine, highly respectable constituents brought to Mrs. Smith's attention the public attacks that had been made on the State's former Supreme Court Chief Justice, Mr. Williamson, as he sat on the CRLA Commission. Mrs. Smith wrote to the President and to Carlucci on June 28 protesting the attacks, praising Williamson highly, and by implication endorsing the Commission's findings and recommendations.

We were considerably more successful in gaining support for the Commission's findings and recommendations among House Republicans. California Congressman Alphonso Bell and staff helped get seven Republican members of the House Committee on Education and Labor to sign a letter to the President expressing

> concern that attacks made upon both the Commission and Mr. Carlucci's office may endanger the fruitfulness of the Commission's efforts and the expenditure of up to $500,000 of public moneys that were needed to fund the review. . . . [and stating] that full credit should be given its [the Commission's] findings.[306]

Of most significance was the signature of Albert H. Quie of Minnesota, ranking minority member and co-author of the Quie-Green amendment of 1969.[307]

We had hoped that some Republican members of the California Congressional delegation in addition to Bell and Paul McCloskey—who because of his Spring challenge to the President's Vietnam policy was now anathema at the White House—would express similar sentiments to the President. But no one would risk offending Reagan. On June 24, however, the Congressional Black Caucus, hardly fearful of offending Reagan, released a telegram to the President urging that the Commission's findings be made public immediately, that CRLA be refunded, and concluded:

> Governor Ronald Reagan's actions are those of a tyrant. Both the poor migrant workers who benefit from CRLA and your administration's record are the objects of Governor Reagan's tyranny. The scope of his tyranny will depend on whether you, Mr. President, acquiesce or not.[308]

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306. Letter to President Nixon from Alphonzo Bell, California, Albert H. Quie, Minnesota, Marvin L. Esch, Michigan, William A. Steiger, Wisconsin, John Dellenbach, Oregon, Edwin v. Forsythe, New Jersey, and Edwin D. Eshleman, Pennsylvania (June 21, 1971). Ogden R. Reid, New York, another Republican Committee member, would have gladly signed the letter but believed his liberal reputation would frighten other signators off and not be influential with the President, anyway.

307. *See* note 120, *supra.*

308. Press Release, U.S. House of Representatives Congressional Black Cau-

We also got a pleasant break when Democratic Congressman Jerome Waldie of California published on June 28 a federal audit of Uhler's operation which had been conducted in March. It showed that Uhler had misspent $99,996 of Federal funds. The most revealing misappropriation was the $2,102 used to send telegrams in late October 1970 to OEO grantees, county supervisors, and others "for the purpose." said the audit report, "of enlisting support for Senator George Murphy in the November 3, 1970, election."[309]

Suit against OEO. At 11:00 a.m. on Friday, June 25, Commissioners Williamson, Lee and Currie personally delivered their 201-page Report[310] to Carlucci at OEO Headquarters in Washington. At 3:00 that afternoon our attorneys filed suit against Carlucci in Federal District Court to release the Report.[311] The suit[312] was brought under the Freedom of Information Act[313] and followed several days of unsuccessful written and verbal negotiations with the OEO General Counsel's office. Carlucci's position was that the Report would be released at the time he announced his decision regarding our refunding. But we believed we were legally entitled to it, and that immediate public disclosure would put significant pressure on the White House. The suit would probably take several days to win—if we won at all, but if nothing else, it would focus considerable public and Congressional attention on the Report.

All weekend we tried to get a copy of the Report. Senators Cranston and Tunney, of course, were demanding a copy as soon as Carlucci received it. So was Senator Gaylord Nelson, Chairman of the Labor and Public Welfare Committee, and several Republican members of the Committee. Reporters were using their own particular methods, for our suit had suddenly made the Report quite newsworthy.

One of our contacts within OEO reported seeing the Report Xeroxed but was not allowed close enough to read even a word. Within twenty-four hours of its delivery, however, we knew that

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cus June 24, 1971, with attached letter from Charles C. Diggs, Jr., Chairman, Congressional Black Caucus (for the Caucus) to President Richard M. Nixon, June 23, 1971.

309. Audit Division, Office of Economic Opportunity, Report No. 9-71-154, *Audit Report; State Office of Economic Opportunity, State of California, Sacramento, Co., Grant No. CG-0364, CG 9093* (March 17, 1971) (Submitted by Philip F. Megna, Regional Auditor, Region IX, to H. Rodger Betts, Regional Director, Region IX, San Francisco). For Waldie's comments and the text of the entire Report, see U.S., Congressional Record-House, 92nd Congress, 1st Session (June 28, 1971), H5964-66.

310. Commission Report, *supra* note 105.

311. Paul Delaney, *Coast Legal Aid Unit Sues to See Report to OEO*, New York Times, June 26, 1971, at C27, col. 4.

312. CRLA vs. OEO, USDC for D.C., No. 184, filed June 25, 1971.

313. 5 U.S.C. § 552.

it was highly favorable to CRLA. General Counsel Don Lowitz was quoted by one of our OEO sources as saying, "It sure doesn't leave much room for equivocation, does it?"

Negotiating and Publicizing the Grant

The New York Times affair. Tuesday, June 29, 1971, was a long day. During the afternoon, we were at the Federal Courthouse in Washington preparing to appeal our suit against OEO. About 2:30 we checked with a reporter on the *New York Times* and learned that while he had not secured a copy of the Report, he had made contact with a Commission staff member who said enough to warrant a big story starting with the evening edition. The story would be highly favorable to CRLA and indicate the Commission's contempt for the charges Reagan had made against us.

About 3:30 that afternoon, OEO staff sent by Fred Speaker, newly appointed Director of the Office of Legal Services, asked us to come to Speaker's office immediately. It was "an emergency." Back at OEO headquarters we were told by Speaker that 1) the *New York Times* had a complete copy of the Commission Report and would publish it starting with the evening edition; 2) Carlucci was in the St. Francis Hotel in San Francisco trying to work out a deal with Reagan's staff whereby CRLA could be refunded; and 3) a "Uhler Report No. 2" condemning the Commission and citing many new charges against CRLA was then on its way to Washington.[314] The significance of all this, we were told, was that Carlucci had counted on negotiating with Reagan for our refunding until about July 6—by which time he expected CRLA to win its suit. But if the *New York Times* published the Commission Report, it would be impossible to keep Reagan from attacking the Commission, citing new charges against CRLA, and shifting the whole matter out of Carlucci's hands and into those of John Mitchell—who would deal with CRLA much less charitably.

After the quick briefing by Speaker, we were put in telephonic communication with Carlucci in San Francisco. In light of the situation. he said, could we call off the *Times* article so he would have more time to work things out with Reagan? We said such a call off was not in our power, and hardly in our interest. That meant, Carlucci said, that he, Reagan, and CRLA had to agree on the terms of our refunding within the next few hours so he could distribute an already prepared 23-page press release

314. We had known for some days that Uhler had prepared such a report, but our sources within OEO told us that at Carlucci's request, Meese had ordered Uhler to suppress it.

announcing our refunding and the condition attached to it. Carlucci believed his press release, which—along with our refunding—announced a $2.5 million grant to the Governor to test legal services delivery systems, would preempt whatever the *Times* was planning to run.[315] That would prevent a press war with Reagan and Mitchell's taking control. But the *Times* would delay printing its current story for no more than two hours.

Carlucci hung up, and Speaker presented us with 23 special conditions which Carlucci proposed to attach to our grant—8 had been on previous CRLA grants. The 15 new ones would completely debilitate the program. They would, for instance, 1) impose unconstitutional restraints on our employees;[316] 2) require us to provide special justification for taking cases which "inflame the community feelings against the program;" and 3) prevent us from publicly defending ourselves from political attack—specifically, we would be prohibited from issuing any public statements on the Commission Report or the Reagan Administration for the indefinite future. In exchange for accepting these conditions, OEO would refund us for 5 months with an evaluation at the end of that time to determine whether we should be refunded for an additional 12 months. The evaluation was to be conducted by the Governor's office and federal OEO.

It was 6:20 p.m., same day. The *Times* evening edition would go to press in 45 minutes and be on the street at 10:30. Carlucci was back on the phone asking to use CRLA's name to delay printing one more edition, and we refused. We said the proposed conditions were unacceptable,[317] but we would nego-

315. The grant to Reagan was not a surprise. We knew from Legal Services and Justice Department contacts in early June that Casper Weinberger, Deputy Director of the Office of Management and Budget, had committed to Carlucci enough funds to solve "the California problem", and that Carlucci had assigned four aides to make recommendations as to how a confrontation with Reagan could be avoided. Given Reagan's and Uhler's favorable statements about setting up a judicare program, and given the belief on the part of key Carlucci advisors that there was "a ground swell of support" for judicare in California, the only alternative seriously considered was offering Reagan some form of grant to experiment with judicare. When Carlucci made an unreported trip to meet with Reagan in Sacramento on June 21, he explained that it was going to be impossible for him to ignore the findings of the Commission but alluded to the possibility of making some kind of judicare grant to the State. Reagan showed definite interest, and Carlucci returned to Washington hopeful that if the Governor was offered a grant and some way to save face publicly, CRLA could be refunded without Reagan attacking OEO. Throughout the month we believed it was extremely naive to think any formula could be devised to avoid a confrontation with Reagan if CRLA was refunded. And we feared that as long as the White House refused to accept the inevitability of a confrontation, there was far more chance of CRLA being compromised right out of existence.

316. "CRLA will take steps to effectively prohibit off-duty activity by CRLA personnel during normal working hours when the activity is of such a nature that it could not be pursued under the CRLA grant." The original special conditions proposed by Carlucci are on file with CRLA.

317. Our perspective was that our negotiations would effectively set guide-

titate them on two conditions: first, that we be given copies of the Commission Report immediately, and second, that we be guaranteed a 17-month grant. "Sorry you're taking that attitude," Carlucci said, "I can't negotiate the 5-month grant thing. This is the best deal CRLA can get."

Simply holding our position for an hour, however, elicited Carlucci's concession. We were given copies of the Report and promised a 17-month grant. (Fifteen minutes later OEO officials in Washington learned that the *Times* did not have a copy of the Commission Report.) We asked for a half-hour to study the Report before continuing with negotiations.

The Commission Report. The Commissioners were unbelievably firm in commending CRLA and condemning the Reagan Administration. Their report not only cleared us entirely of Reagan's charges, including those regarding labor union ties,[318] criminal representation, solicitation, improper participation in demonstrations, prison disruptions,[319] and the confidential memo.[320] It also held CRLA up as a model law firm. The Commissioners praised our legal staff as "legal craftsmen of the first order . . . thorough, intelligent young men dedicated to vindicating the rights of their clients."[321] They applauded our litigation record as "outstanding,"[322] especially our work on cases they termed "class actions," "law reform," "impact cases," and "suits against the government."[323] The Commission concluded,

> The commission finds that CRLA has been discharging its duty to provide legal assistace to the poor under the man-

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lines for legal services programs all over the country. Every condition we accepted would almost certainly be imposed on every other program with the rationale that "CRLA accepted it, why can't you?"

318. *Infra* note 329. For the Commission's findings re charges of labor union ties, criminal representation, solicitation, and improper participation in demonstrations.

319. "The Commission specifically finds that any charges of impropriety with respect to activities within the prisons are completely baseless. . . . After hearing Commission finds that role of CRLA at Soledad has not been destructive but, on the contrary, proper and constructive." Commission Report, *supra* note 105, at 82, and Appendix A, at 2.

320. "A copy of the confidential memorandum from CRLA attorney Robert Johnstone to Martin Glick, CRLA Director on Litigation, which had been publicly released, was admitted into evidence in El Centro. Because of inferences of misconduct which were drawn 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's organization of any wrongdoing." *Id.* at 84; *see also* note 269, *supra.*

321. Commission Report, *supra* note 105, at 73.

322. "CRLA's record of litigation is outstanding. Of the court cases decided in 1969-1970, CRLA clients received favorable judgments 84% of the time. Of the administrative decisions rendered, CRLA clients received favorable rulings 88% of the time." *Id.* at 34.

323. *Id.* at 30-45. The Commission noted, however, that "this discussion of impact litigation should not obscure the fact that the overwhelming bulk of CRLA's work is handling routine problems of the poor, known in the parlance of the legal services attorneys as 'service' cases." *Id.* at 34.

> date and policies of the Economic Opportunity Act of 1964 in a highly competent, efficient and exemplary manner.[324]

Regarding the Governor's charges, the Justices were not just critical. They were contemptful and accusatory:

> 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. . . . [Furthermore] the Commission expressly finds that in many instances the California Evaluation 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 California Evaluation, the Commission finds that these charges were totally irresponsible and without foundation.[325]

OEO clearly had very little room to maneuver unless they suppressed the Report entirely or completely misrepresented it to the public. The former option was now closed. We never imagined how successfully they would employ the latter.

Negotiating press statements. It was our public response to Carlucci's press release—when and what it would be—that became the focal point of negotiations through the rest of Tuesday night. Carlucci talked alternately with Ed Meese in Sacramento, then with our staff in Washington and San Francisco trying to hold his deal together. Time and time again he impressed upon us that the "deal" he was arranging was extremely fragile and any public statement on our part that was embarrassing to the Governor would kill it. About 9:00 E.S.T. we were given a copy of the two-sentence release Carlucci had negotiated with Meese as the Governor's only response to Carlucci's 23-page statement:

> I am delighted that Mr. Carlucci has chosen California to develop a model legal services program for the poor that may set a nation-wide pattern. I am also hopeful this imposition of stricter controls on CRLA will improve its service.[326]

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324. *Id.* at 88. "The Commission has been most favorably impressed by the internal controls adopted by CRLA to insure that the highest 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." *Id.* at 72.

325. *Id.* at 83-84.

326. *U.S. Announces It Will Fund CRLA, Overrules Reagan,* Los Angeles

Then Carlucci demanded our agreement to make no public response at all. That, he said, was a condition of holding Reagan "in". We said we would not initiate a statement at this time, but we had to be free to respond to Carlucci, Reagan, or anyone else if what they said did not square with the Commission's findings. Carlucci said our exaggerated concern with our public relations would ruin everything.

By 1:30 E.S.T. the next morning, the grounds of disagreement had shifted considerably. Carlucci had already agreed to release the Commission Report at 9:00 a.m., West Coast time, June 30, but now he was saying that if Reagan was not allowed a "clear news jump" he would pull out. Carlucci was therefore going to delay releasing the Report until 1:30 p.m. West Coast time, and he wanted CRLA's pledge to do the same. That would allow Carlucci's release to be the sole statement on the matter through one complete cycle of West Coast papers. Though he argued the point until 5:00 a.m., we maintained that we would release the Report at 9:00 a.m., West Coast time.

News coverage. On Wednesday morning, June 30, most newspapers, radio and TV stations throughout the country carried an Associated Press story out of Washington which reported our refunding in terms of Carlucci's 23-page press release. That turned out to be a *very* inaccurate story. We had assumed the release would be slanted to save face for Reagan, but we did not foresee the lengths Carlucci would go to. Using the same techniques of misrepresentation Uhler did in his report—quoting out of context, innuendo, etc.—Carlucci completely inverted the Commission's findings. For instance, the Commission found CRLA performing in a "highly competent, efficient and exemplary manner,"[327] and Reagan's charges "totally irresponsible and without foundation."[328] The press release, by contrast, represented CRLA as guilty of numerous wrong doings necessitating "the imposition of stringent controls on [its] future operations,"[329] while Reagan was portrayed as the

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Times, June 30, 1971, at 19, col. 1. Reagan's actual statement released later that night included an additional sentence: "All of us who are committed to the concept of providing adequate legal services to those who cannot afford them considers this a major step forward."

327. Commission Report, *supra* note 105, at 84.

328. *Id.*

329. Statement by Frank Carlucci, Director, Office of Economic Opportunity on The Commission Report on the California Rural Legal Assistance, at 23 (June 30, 1971). [hereinafter referred to as Carlucci Press Release]. In fact, there were no conditions agreed to at the time Carlucci released his statement late June 29, and two days later he backed down from every one he originally proposed. Regarding specific charges, too, Carlucci twisted the Commission's findings of innocent into indictments and alluded to strict new grant conditions which would curb the abuses. Regarding union representation, for instance, the press release cites the Commission as saying "as a matter of

hero of the legal services movement, committed "to improve the

policy, CRLA, a federally funded agency, should '. . . not intervene in labor-management disputes.'" *Id.* at 13. Carlucci then proceeds with innuendos to restate Reagan's charges that CRLA has violated this principle in numerous ways so that OEO must impose strict new conditions to its grant. *Id.* at 13-15. *In fact,* Carlucci completely changed the meaning of the Commission's language by taking the quote out of context. The full quote is

> The special grant conditions [re Union representation] are intended to implement a policy that CRLA, as a federally funded agency, should not intervene in labor management disputes. . . . This Commission, however, does not consider the merits of the policy embodied in the grant condition but only whether or not the terms of that grant condition have been obeyed by CRLA. Commission Report, *supra* note 105, at 64.

Regarding CRLA's compliance therewith, the Commission concluded, "The facts found do not support the allegation of any improper CRLA tie with any labor organization." *Id.* at 83. Regarding the purported *new* grant conditions, no new restrictions regarding Union representation were added to CRLA's grant. The conditions listed in the press release had been part of CRLA's grant for over three years, and, according to the Commission, CRLA had complied with all of them.

As for criminal representation, Carlucci's release included more than two pages of innuendos confirming Reagan's charges that CRLA had violated the terms of its grant regarding criminal representation and would now be subjected to strict new conditions. Carlucci Press Release, *supra* note 329, at 15-17. *In fact,* the Commission concluded that the "allegations of improper CRLA representation of persons accused of crimes likewise proved to be unfounded." Commission Report, *supra* note 105, at 83. The Commission found, in fact, that CRLA internal policy was more restrictive than its grant conditions.

> In most instances, CRLA attorneys had obtained waivers [from OEO] of the guideline prohibitions even in instances where not required to do so by OEO guidelines. . . . Additionally, although there appeared to be no statutory or OEO prohibition against CRLA attorneys handling criminal cases on their "own time," this practice was also forbidden without specific permission. *Id.* at 54-55.

No new restrictions regarding criminal representation were imposed on CRLA's grant. The conditions listed in the press release had been attached to CRLA's grants for three years, and the Commission found CRLA to be in compliance with all of them.

Concerning solicitation, Carlucci used innuendo to parrot Reagan's charges that CRLA attorneys are "ideological ambulance chasers:"

> It is one thing for a lawyer to pursue a particular cause in furtherance of the rights of an individual client and quite another for him to seek out clients to serve merely as instruments to advance the attorney's own philosophical or political objectives. Carlucci Press Release, *supra* note 329, at 4.

In fact, the Commission concluded flatly, ". . . the charges of solicitation contained in the Uhler Report are without foundation." Commission Report, *supra* note 105, at 57. The Commission said, furthermore,

> . . . legal service attorneys may ethically inform eligible clients that legal assistance is available from legal services organizations without charge. Of course, an attorney in private practice may not compete with his brethren at the bar for a fee generating case by urging that potential clients visit him. Since legal services organizations cannot charge fees, and ordinarily do not handle fee generating cases, the same limitations do not apply to such attorneys. *Id.* at 56.

Regarding the propriety of suits against the government, Carlucci quoted the Commission Report out of context to imply that the Commission endorsed Governor Reagan's reservations about suits against the government and that CRLA had acted irresponsibly in this regard:

> 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 Press Release, *supra* note 329, at 4.

In fact, the aforementioned quote is immediately followed in the Commission Report with these sentences:

> *However,* it would be unrealistic to expect the legal services attorney

legal services program and expand its impact."[330]

At 9:00 a.m. P.S.T., June 30, we were hand delivering copies of the Commission Report to papers on the West Coast while we distributed copies to the East Coast media at a Washington news briefing. Afternoon editions on the West Coast therefore carried the Commission's real opinions of Reagan's charges and our performance.[331] And by Thursday night, June 30, a new Associated Press story was on the wire, filled with actual quotes from the Commission Report.[332]

The Governor's response. Except for the two sentence release we were shown late Tuesday night, Governor Reagan was not available for comment. But on Wednesday afternoon, June 30, Edwin Meese conducted a news conference on the Governor's behalf and tried to explain what had happened. He denied that the Governor's veto had been overridden.

> And besides . . . Reagan never said he wanted to eliminate CRLA, he simply wanted its grant conditioned so as to change the program's direction.[333]

That, the Governor believed, had now been accomplished, and CRLA had been given "kind of a second chance."[334] Regarding the Commission Report, Meese said he had not read it, but that its findings were "quite immaterial," anyway.[335]

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to justify the initiations of every suit by showing a clear-cut legal victory. Such a standard would inevitably have a chilling effect on the creativity of advocates for the poor and would run counter to the core concept of OEO. In this report, we will indicate a number of cases which will indicate CRLA has acted responsibly in this regard. (Emphasis added) Commission Report, *supra* note 105, at 37.

As for participation in demonstrations, Carlucci devoted three pages to implying that Reagan was right, that CRLA employees had improperly participated in public demonstrations and must therefore be subjected to new guidelines prohibiting such behavior in the future. Carlucci Press Release, *supra* note 329, at 18-21. *In fact,* the Commission found Reagan's charges of improper participation in demonstrations to be baseless. Commission Report, *supra* note 105, at Appendix A-3. And the restrictions OEO purported to impose were nothing more than a paraphrasing of an internal CRLA regulation which was adopted over a year earlier, a regulation which the Commissioners specifically complimented and with which they found CRLA personnel to be in compliance. *Id.* at 46.

330. Commission Report, *supra* note 105, at 7.

331. Lee Fremstad, *Panel Rejects Attack on CRLA,* The Sacramento Bee, June 30, 1971, at B1, col. 3 (stock fin. ed.).

332. Leif Erickson, AP Dispatch, *Judicial Panel Says Reagan's CRLA Charges are Unfounded,* Riverside Press, July 1, 1971, § A, at 11, col. 1. On July 1, when we tried to get news coverage of how Carlucci had so fraudulently misrepresented the Commission Report and misstated conditions in our grant, we found that so far as the media was concerned the CRLA refunding story was over. Our contacts in the press told us they simply could not get space for an analysis of a fraudulent government press release. That was too common an occurrence to be newsworthy.

333. Lee Fremstad, The Sacramento Bee, *supra* note 331.

334. Robert Fairbanks, *Governor's Aide Denies Ruling is Reagan Defeat,* Los Angeles Times, July 1, 1971, § I, at 3, col. 6.

335. *Id.*

Congressional and editorial comments. On Wednesday morning, June 30, Senator Cranston was furious—first with us for accepting what appeared to be an unworkable grant,[336] then with Carlucci whose press release had so misled the Senator.[337] Cranston published the Commission Report and Carlucci's press release side-by-side in the *Congressional Record*, and commented bitterly regarding the $2.5 million grant going to the "discredited State OEO."[338] Senator Tunney emphasized the Commission's exposure of Reagan's "political motives" and criticized the $2.5 million grant.[339] And in Sacramento, Democratic leaders in the Legislature called again for Uhler's resignation.[340] Congressman Gubser, on the other hand, applauded the Judicare experiment,[341] and Congressman Mathias stated misleadingly,

> This puts CRLA on notice that it must provide legal counsel to the rural poor and follow OEO guidelines or funds for the final 12 months of the program will not be released.[342]

A few editorialists portrayed the refunding decision from Reagan's perspective, either by condemning OEO for turning its "back on CRLA offenses of the past,"[343] or by emphasizing that the "22 new conditions" on our grant would hopefully hold CRLA in check until "a legal aid program less subject to abuse and controversy emerged from the announced judicare experiment."[344] Most papers, however, were sufficiently informed to see through the charade. Many, including the *Los Angeles Times*,[345] the *Fresno, Sacramento,* and *Modesto Bees*,[346] and the

336. Carlucci's release had indicated that, in addition to "22 new grant conditions," funds were being released to CRLA only "through the end of 1971," and if we were found at that time to have adhered to our grant conditions, "funds for 1972 will be released." Carlucci Press Release, *supra* note 329, at 9. That, of course, was Carlucci's original proposal which he finally agreed to change to 17-month funding. Cranston called Carlucci on June 30, and was assured that the implications of his press release were for "cosmetic reasons" only, and that OEO would release funds for a full 17 months.

337. Cranston was not the only one we had to reassure. Numerous individuals and organizations that had worked hard for our refunding had to be informed that Carlucci's release was not true, that we had not sold out CRLA's principles in order to get the grant.

338. U.S., Congressional Record-Senate, 92nd Congress, 1st Session (July 1, 1971), E6878.

339. UPI Dispatch, *Tunney Calls CRLA Charges Try to 'Stomp' Poor,* Imperial Valley Press (El Centro, Ca.), July 1, 1971, at 14, col. 5.

340. *CRLA Accord Called Victory for the Poor*, San Francisco Chronicle, July 1, 1971, § 1, at 1, col. 1.

341. *Mathias Backs OEO Guidelines for CRLA,* The Fresno Bee, July 5, 1971, at A4, col. 1 (valley ed.). See also notes 35, 214, *supra.*

342. *Id. See also* notes 33, 214, *supra.*

343. Editorial, *Aid for the Contumacious,* Santa Ana Register, July 2, 1971, at A4, col. 4.

344. Editorial, *Aiding Legal Policy,* San Diego Union, July 3, 1971, at B6, col. 2.

345. Editorial, *Reagan's Dispute with CRLA*, Los Angeles Times, July 1, 1971, § II, at 6, col. 1.

346. Editorial, *Nixon Rejects Reagan CRLA Challenge,* The Fresno Bee,

Santa Barbara News Press,[347] echoed the *Ventura Star Free Press*'s editorial headline, "Reagan vs. CRLA: The Great Cop Out,"[348] which cited the Commission's praise for CRLA, its condemnation of the Reagan Administration, and interpreted the $2.5 million judicare experiment as much too costly "a face saving formula for the Governor." The editorial comment we appreciated most, however, appeared in the Ripon Society's nationally distributed *Ripon Forum*:

> The latest joke going around the Office of Economic Opportunity asks "What can you buy for $2.5 million?" The answer, of course, is "The California Republican Delegation."[349]

Negotiating grant conditions. While most of the aforementioned editorializing was going on, there was still no agreed grant. But at 9:00 a.m., July 1st, negotiations were renewed with Carlucci at the St. Francis Hotel in San Francisco.[350] We entered his room believing we were far from agreement on the conditions and the only chance we had of coming out with a liveable solution was to be firm. We therefore informed Carlucci that since we had been completely finessed in the press by his 23-page statement, there were only two directions our relationship with him could go: we could sit down and agree to putting unrestrictive, strictly cosmetic, conditions on our grant, or CRLA would attack Reagan and Uhler all over the country and make as much as we could of the fraudulency of Carlucci's press release.

By 4:00 that afternoon we had negotiated conditions which in no way altered CRLA practices. In fact, all the "new" conditions were reduced to statements of CRLA's already established policies and procedures.[351] Carlucci signed the grant and hand carried it to Sacramento. At 11:00 p.m. July 1, Edwin Meese signed his approval on behalf of the Governor. Thus, a grant that had been publicly announced throughout the country two days earlier was finally a reality.

July 1, 1971, 14A, col. 1, § A, at 12, col. 1; also in The Sacramento Bee, July 1, 1971, at A6, col. 1; and The Modesto Bee, July 1, 1971, at A10, col. 1.

347. Editorial, *CRLA—'A Useful Service'*, Santa Barbara News Press, July 2, 1971, at C14, col. 1.

348. Editorial, *Reagan vs. CRLA: The Great Cop-Out*, Ventura Star Free Press, July 2, 1971, § B, at 16, col. 1 (home ed.).

349. RIPON FORUM, Vol. VII, No. 8, at 1 (July 15, 1971). The Ripon Society is a Republican organization of professional men and women with national headquarters in Cambridge, Massachusetts.

350. Fred Speaker, whom we found supportive of our concerns, was flown to San Francisco at our request to be with Carlucci during final negotiations. See note 314, *supra*.

351. We were told later that Carlucci believed throughout the negotiations he could not push us very far on grant conditions because we had private funding commitments lined up and were ready at all times to reject the OEO grant.

VI. A SUMMARY AND CONDLUDING POINT

The familiar saying that we are a society of laws not men is hardly the whole truth. For laws are enacted, interpreted, and enforced by men. Legal rights are a function of economic, political and legal representation.

For years and years Chicano and other farmworkers had no representation while their large corporate employers had plenty —in the State Legislature and Congress, the Governor's mansion, and before the courts. And these facts shaped the laws of agricultural employment: Agribusiness became accustomed to legal *rights* called the bracero program (subsidized labor supply), federal and state water projects (subsidized irrigation), the Agricultural Extension Service (subsidized research and technical assistance—e.g., harvest machine development), and the national Soil Bank (subsidized non-use of land). Each cost the taxpayers billions, and each cost farmworkers jobs, wages, and dignity. On the other hand, farmworkers were the only Americans that Congress specifically *excluded* from the statutory right to a minimum wage, collective bargaining, and unemployment insurance.

The *enforced* law of agricultural employment was even more telling. When the California Legislature enacted housing (labor camp) codes, wage standards, and field condition statutes that could benefit farmworkers, such enactments were rarely enforced and violators never punished. In short, the law and order of California's agricultural valleys was *agribusiness's* "law and order."

When CRLA arrived, this "law and order" was disturbed.[352] Farmworkers suddenly had some representation. CRLA's representation did not result so much in legislative enactments or the development of "new law" for farmworkers in the courts. CRLA's primary impact was *enforcement* of the statutes and administrative regulations that agribusiness and its spokesmen in public office were accustomed to ignoring with impunity. We challenged growers who ignored State requirements to provide toilets and drinking water for farmworkers in the fields. We frustrated Governor Reagan's unlawful attempt to deny State medical benefits to farmworkers and other poor people.[353] And we restrained officials of the U.S. Department of Labor from importing braceros in violation of the Department's own regulations.[354] In short, CRLA was a genuinely *conservative* force regarding the written laws and administrative regulations of the

352. It was disturbed even more by Cesar Chavez's organizing!
353. *See* note 19, *supra.*
354. *See* note 21, *supra.*

State and Federal Governments. But it was a genuinely *revolutionary* force in relation to agribusiness's law and order.

So the big growers, their Senator, and their Governor tried to change the statutory law to terminate CRLA's activities.[355] They failed and tried again.[356] And failed again. Then the Governor, in late 1970, resorted to tactics reminiscent of Joseph Goebbel's theory that if the lies government tells are sufficiently outrageous and widely spread, the people will be inclined to believe, and the government's enemies, though innocent, can be destroyed in the name of justice.

In the end, the Governor did not destroy CRLA, wholly or in part.[357] Unlike the farmworkers and other poor people whose legal rights he was accustomed to abridging without protest or public notice, CRLA was too widely known and had too much credibility among members of an influential profession. Our public recognition and credibility translated into political support that finally the White House itself was unwilling to contest, and the Governor's mission failed.

CRLA's survival is the subject of this article, but not its point. Our program's experience raises the question of how many other poor people's efforts to challenge the illegal "laws and orders" of various economic interests are destroyed by unscrupulous politicians whose campaigns are financed by those interests and whose offices provide unlimited access to the public media. Too often, unfortunately, the public confuses the integrity of a public office for the scruples of its holder. And too often the public mistakes a politician's defense of "law and order" for a defense of real statutes, ordinances, and court rulings.

CRLA survived an entirely unjustified assault on its existence. And perhaps we will survive the next one as well as the last. But other poor people's efforts, just as law abiding, will also be attacked as "radical"[358] and "revolutionary;"[359] and they will not have the established public credibility and political support that CRLA has. Many of them will not survive.

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355. *See* note 29, *supra.*
356. *See* note 131, *supra.*
357. Despite our fears, not one member of the staff left the organization due to the adversity imposed by the Reagan and Nixon Administrations, and a number who had previously planned to take other jobs made arrangements to stay with CRLA until the crisis was over. Of course, Reagan did succeed for over seven months in diverting our energies and skills from defending poor people's rights to defending CRLA against his accusations.
358. *See* note 183, *supra.*
359. *See* note 184, *supra.*