

Legal Assistance in the Rural Setting—Present Operation and Prospectus for the Future

I. INTRODUCTION

In the early 1960's there developed a new feeling of social and economic responsibility toward this nation's disadvantaged persons. The federal government created an extensive system of funding and assistance, called the "War on Poverty," to meet this responsibility.¹ The "War" was conceived as and remains an amalgamation of socio-economic programs designed to elevate the educational, political, and economic status of the poor through training and self-help programs.²

This article discusses one aspect of the War on Poverty: the legal services made available to the rural poor. Leaders of the poverty program believe that legal assistance is not only a necessary prerequisite to an effective poverty program but is perhaps the most important weapon of the War on Poverty.³ The poor encounter a continuous barrage of legal crises, and remain the least equipped to meet them. Certain characteristics of the poverty syndrome such as retaliatory evictions, usurious loans, foreclosures and garnishments, substandard housing, invasions of privacy, and welfare program problems, are aspects of poverty in which solutions lie beyond self-help alone. It becomes, therefore, a significant part of any attack on poverty to

¹The Economic Opportunity Act of 1964 (42 U.S.C. § 2701 *et. seq.* (1964)) and its accompanying Office of Economic Opportunity is the command center of this domestic policy.

²Some of the more familiar programs are those such as VISTA, Job Corps, Youth Corps, and Head Start.

³See generally Shriver, *National Policy*, 41 CALIF. ST. B.J. 219 (1966).

provide effective legal assistance to gain entrance to the courts where these problems can be resolved.⁴

II. DEVELOPMENT OF LEGAL ASSISTANCE

Organized legal service programs were initially designed to serve only the poor persons in large urban centers.⁵ The small towns and rural areas had only the assistance of small volunteer legal groups provided by local bar associations. Large-scale efforts to give legal services were concentrated in the cities to make legal services available to a maximum number of indigents. Urban legal assistance, provided initially by private attorneys, was developed into assistance rendered by larger bar-sponsored volunteer committees and legal aid societies.⁶ The committee approach was characterized by a central referral office where eligibility for the service was determined and, once accepted, the client would be referred to a specific volunteer attorney.⁷ The local bar association generally was responsible for the entire administration of the program.⁸ The legal aid society approach was characterized by a separate association employing lawyers on a full-time basis to provide legal assistance.⁹ Primarily because of administrative problems, there occurred a shift from the bar committee approach to legal assistance rendered by full-time, compensated attorneys.¹⁰ Thus, as of late 1964, there were 246 legal aid societies and 136 bar committee organizations in the United States.¹¹

Legal assistance in recent years¹² is primarily provided by two sources: the Legal Services Program (LSP) of the Economic Opportunity Act and the National Legal Aid and Defender Association (NLADA). The NLADA, funded primarily by the Ford

⁴See *id.* at 220; see also Shriver, *Welcome Address*, NAT'L CONFERENCE ON LAW AND POVERTY, PROCEEDINGS IX (June 23—25, 1965) as to the need for a collateral attack on the problems of the poor.

⁵Robb, *Alternate Legal Assistance Plans*, 14 CATHOLIC LAWYER 127—28 (1968); *id.* at 127 n. 1.

⁶*Id.* at 128.

⁷*Id.*

⁸*Id.*

⁹*Id.*

¹⁰*Id.*

¹¹90 A.B.A. REP. 187 (1965).

¹²Legal assistance statistics 1960—66:

Foundation,¹³ established a program of "experimentation and demonstration including 'establishment of new defender services, improvement of existing ones in urban areas, assigned counsel demonstration projects, cooperative programs with law schools and ... special experiments related to the defender areas.'"¹⁴ A division of NLADA, now administered by the Association of American Law Schools, is the National Council of Legal Clinics.¹⁵ The Council is responsible for the creation of broad-based law school education, internships, and clerkships in criminal legal aid.

The other major source of legal assistance is the Legal Services Program of the OEO.¹⁶ The original purpose of this program was to "saturate the country with legal assistance programs."¹⁷ Through legislation and the assistance of the more established NLADA, the program today is the major source of legal aid in the United States.¹⁸

Legal services under OEO follow the pattern established by earlier legal assistance programs in focusing on the urban areas. As of 1967, there were OEO funded programs in 46 of the nation's 50 larg-

Year	CIVIL		CRIMINAL	
	No. of Offices	No. of new Cases Reported	No. of Offices	No. of new Cases Reported
1960	222	366,607	98	115,188
1961	231	382,674	110	141,719
1962	236	397,942	110	154,111
1963	240	422,569	115	167,891
1964	244	413,638	136	205,931
1965	247	426,407	162	244,845
1966	388	491,746	272	334,009

Allison, *Trends in Legal Services for the Poor*, 14 CATHOLIC LAWYER 112 (1968).

¹³Initial grants in 1963—65 totaled over six million dollars. Allison, *supra* note 12, at 113.

¹⁴Allison, *supra* note 12, at 113.

¹⁵The program is now called the Council on Education in Professional Responsibility.

¹⁶The Legal Services Program of the OEO was created through interpretation of the Economic Opportunity Act. Allison, *supra* note 12, at 117. It was not until 1966 when Congress amended the Act that legal services were actually mentioned and defined. 80 Stat. 1462 (1966). Barvick, *Legal Services to the Rural Poor*, 15 KAN. L. REV. 537 (1967).

¹⁷Allison, *supra* note 12, at 117.

¹⁸*Id.* at 118—26 (discussion of LSP's interaction with NLADA); Johnson, *The OEO Legal Services Program*, 14 CATHOLIC LAWYER 99 (1968) (financial statistics).

est cities.¹⁹ Only twenty percent of OEO Legal Services funds were being used in rural programs, even though rural areas contained approximately 40 percent of the poor in the United States.²⁰ The lag in rural services was corrected by 1967 amendments to the Economic Opportunity Act. The amendments direct more funds to rural areas and include special provisions for legal assistance to migrant and seasonal farmworkers and their families.²¹

III. INSTITUTING A LEGAL ASSISTANCE PROGRAM UNDER OEO

An OEO legal services program is created by interested local individuals submitting a proposed program for OEO funding and approval.²² Congress has established certain minimum requirements before federal funds can be used for local legal services programs. The most basic requirement is that the program must be developed under a "community action" model and coordinated with existing community activities. The "community action" approach required by OEO involves the activation and coordination of all local poverty services, both public and private, into a single local unit. Existing local poverty program agencies are required to participate in the planning of the program. It is believed by OEO that the most effective poverty assistance is achieved by operating all programs locally, responding to local needs, and having the entire community involved.²³ The coordination of proposed legal services programs with existing agencies does not mean control by the latter. The desired independence of the legal services program is clearly indicated in OEO's Guideline for Legal Services.²⁴ The main objective of the coordination is the ability to

¹⁹Robb, *supra* note 5, at 128—29; *see also* Joint Statement of the American Bar Association, the National Legal Aid and Defender Association and the National Bar Association before the House Committee on Education and Labor, July 17, 1967.

²⁰Robb, *supra* note 5, at 129.

²¹42 U.S.C. §§ 2781, 2861, 2862(b)(1) (Supp. IV 1965—1968); *see also* HOUSE COMM. ON EDUCATION AND LABOR, H.R. DOC. NO. 866, 90th Cong., 1st Sess. 21, 26—27 (1967).

²²Bamberger, Basic Principles, 41 CALIF. ST. B. J. 224, 225—26 (1966); *see generally* OEO, GUIDELINES FOR LEGAL SERVICES PROGRAMS; *see also* State Bar of California, *The ABC's of Legal Service Under OEO*, Aug. 23, 1965.

²³*See generally* Bamberger, *supra* note 22, at 225.

²⁴"Whether a legal service program is conducted under a community action agency or is independently funded, . . . there must be an assurance of the independence of professional legal judgments from policies of the local community action agency. . . . Independence is best assured by the creation of a separate policy-making board

refer clients to other community action agencies for other assistance services.

While the OEO insists that certain qualifications be met before federal funding under the Economic Opportunity Act will be granted, it does not insist on conformity to a strict national model.²⁵ Rather, it realizes that the desire for local orientation requires some degree of local variation. The OEO in qualifying a proposed program, looks to certain key factors in addition to the interaction and cooperation noted above. These factors are:

- (1) the scope of services to be rendered; (2) the financial standard by which individuals will be judged eligible for free service; (3) the participation in the program of "residents of the area and members of the groups served," at both working and policy making levels; (4) the preventative law or educational functions of the program; (5) the accessibility of the program to clients; and (6) the lawyer referral process.²⁶

The OEO also requires discrimination-free administration, recordkeeping and evaluation procedures, use of law schools and students, and that employment standards be set for staff attorneys.²⁷

OEO has established certain standards for evaluating the factors mentioned above. In order to qualify for OEO funding, the scope of the legal services program must be broad enough to cover a full range of civil legal problems, equivalent to the range of services available to a person able to pay a private attorney.²⁸ In the early stages of development, however, a program may focus on certain critical problems existing in the locale to be served.

In reviewing the financial standard by which individuals will be judged eligible for legal services, OEO requires an approach which will "assure on one hand that no one is denied service who cannot obtain it elsewhere, and on the other that one technically eligible is not provided free service when surrounding circumstances indicate he can afford a lawyer."²⁹ There is one absolute rule: services cannot be provided in fee-generating cases if a private lawyer can be retained, even though the client is otherwise eligible.³⁰

for the legal services program. The legal services program, while coordinated in a community action agency, should determine its own policy within the framework of the Economic Opportunity Act and the policy directives of the Office of Economic Opportunity." Bamberger, *supra* note 22, at 226.

²⁵Bamberger, *supra* note 22, at 227.

²⁶*Id.* at 228.

²⁷*Id.*

²⁸*Id.*

²⁹*Id.*

³⁰*Id.* at 228—29.

Section 202 of the Economic Opportunity Act requires that local citizens participate in the legal assistance program.³¹ While this section requires "maximum feasible participation between existing agencies and the proposed legal services program," OEO directors have not strictly enforced the standard. The directors believe, however, that the more involvement by local persons and persons to whom the service is directed, the more effective the program will be in alleviating the problems of the poor.³²

The preventative law and educational activities of the proposed legal services program are evaluated by OEO because legal services to the poor are to serve a greater role than providing legal assistance alone. If a legal services program is to be an integral part of the War on Poverty, it must do its share in educating the clientele it serves as to their rights and responsibilities.

The rationale for OEO's accessibility requirement appears self-evident. A legal services program must be reasonably accessible to the persons it serves if it is to have any meaningful utility at all. Accessibility means both convenience of location and visibility as a poverty service organization.

The existence of a lawyer referral procedure is an absolute necessity. Since a legal services program is prohibited from accepting fee-generating cases, a referral procedure is needed to transfer such cases to other attorneys in a fair and equitable manner. In addition, it is desirable to secure substitute legal assistance for those who contact the legal aid office but are unable to qualify financially for legal aid service.

IV. PRIMARY LEGAL AID MODELS

There are four basic methods of staffing a legal service program, any one of which qualify for OEO funding. These are, full-time staff attorneys, part-time staff attorneys, retained counsel, and "judicare"³³ attorneys. Regardless of the type of staff most legal services programs are administered as nonprofit corporations with locally selected governing boards. If full-time or part-time staff attorneys are used, the board hires the staff and establishes the policies for

³¹42 U.S.C. § 2782 (1964).

³²See generally Bamberger, *supra* note 22, at 229.

³³For a discussion of the judicare concept and its operation see text accompanying notes 115—36 *infra*.

the office.³⁴ If *judicare* is used, the local board's function usually is limited to reviewing the fees submitted by attorneys.

The merits of the various approaches to staffing have been vigorously argued and debated. The use of full-time staff attorneys perhaps is the most effective approach because of the considerable time demanded in establishing an efficient program. The demand is particularly critical in the case of rural poverty because the attorney must spend considerable time as a legislative analyst and an educator in the more specialized problems of the rural poor. The need for extensive research and specialization in the problems confronting the rural poor, as well as the desire for maximum accessibility of legal services to the poverty clientele, are other factors favoring the full-time attorney approach.³⁵

A part-time staff attorney program, to a certain extent, lacks the benefits of the full-time staff attorney program. Part-time attorneys, however, may be easier to recruit since they could continue their private practice. Although a part-time staff attorney program may be adequate in meeting the needs of the poor in areas with a small number of potential clients, in a populous community the demands of time and attention make it almost impossible for such a program to be effective.³⁶

In a retained counsel system, one or more attorneys are paid a retainer fee, adjusted according to work load, to represent all eligible clients. Such a system, however, has one major disadvantage. There exists potential competition by various attorneys for the retained position because the availability of the legal services, of necessity, must be advertised. Accordingly, some attorneys seek the position merely to attract attention to their personal practices. As true with any non-full-time program, there is a lack of sufficient time to fulfill the OEO legal services' goal.³⁷

Under a *judicare* approach the eligible client is given a legal services "credit card" entitling him to use the services of any private attorney. After completing the work, the attorney submits a bill to the local legal services program. Although this approach is favored by local bar groups since it keeps the legal service within the existing framework, it is considered a more expensive program and has the disadvantage of not having attorneys with a specialization in poverty law. *Judicare* may be particularly undesirable in remote rural areas where there are few practicing attorneys yet a relatively large poverty

³⁴Barvick, *supra* note 16, at 544—45.

³⁵*Id.* at 544—47.

³⁶*Id.* at 547—48.

³⁷*Id.* at 548—49.

population since it would be difficult for potential clients to gain access to those who staff the assistance program.

V. ANALYSIS AND EVALUATION OF LEGAL AID MODELS IN OPERATION

Several approaches to providing legal assistance will be examined. The primary model for analysis will be an integrated, full-time staff operation known as the California Rural Legal Assistance (CRLA). CRLA's considerable success in assisting farm laborers makes it an appropriate subject for analysis to evaluate the best means of meeting the legal needs of the rural poor.³⁸

A. *The Full-Time Staff Approach—CRLA*

1. *Organization and Administration*

The CRLA program is one of the largest OEO funded legal aid programs in the nation. CRLA is a nonprofit corporation with a central office in San Francisco and twelve branch offices located throughout the state.³⁹ The establishment of CRLA initially was opposed by the Board of Governors of the State Bar of California because of certain objections to the administration of the organization. After extensive negotiations between the two organizations the State Bar agreed in 1967 to support the CLRA in exchange for some revision in its administrative structure.⁴⁰ The original board of trustees was composed of 22 members, of whom eleven had to be attorneys, with a minimum of nine representing poverty groups.⁴¹ As a result of the negotiations, the board was expanded to 33 members

³⁸Blackwell, *Legal Services for Migrant Laborers*, NAT'L CONFERENCE ON LAW AND POVERTY, PROCEEDINGS 111 (June 23—25, 1965) (discussion of the particular challenge posed in providing legal services for migrant laborers and the farm worker in general).

³⁹Offices are located in El Centro, Los Angeles, Santa Maria, Salinas, Gilroy, Santa Rosa, Marysville, Madera, Modesto and McFarland.

⁴⁰*Report to the Office of Economic Opportunity and CRLA Board of Trustees on Operations of California Rural Legal Assistance, Jan. 1, 1967—Nov. 1, 1967, In Support of Application for Refunding* 42 [hereinafter cited as *1967 Report to OEO*].

⁴¹*Report to the Office of Economic Opportunity and CRLA Board of Trustees on Operations of California Rural Legal Assistance, May 24, 1966—Nov. 25, 1966, In Support of Application For Refunding* 9 [hereinafter cited as *1966 Report to OEO*].

(seventeen lawyers, and sixteen nonlawyers, with at least twelve of the nonlawyers representing poverty groups).⁴²

The board of trustees of the CRLA is granted the authority to control the operations of the corporation, but may not interfere with the attorney-client relationship.⁴³ Authority for the daily administration of CRLA is delegated by the board to the Executive Director whose responsibility is to hire the staff and to supervise expenditures of operational funds.⁴⁴

The internal administration of CRLA is similar to that of a large law firm. The branch office attorneys are left to deal with their clientele while the central office handles administrative details such as accounting, setting procedural guidelines, and large-scale purchasing of supplies.⁴⁵ The central office has instituted standard cost reporting methods and operating procedures,⁴⁶ leaving more time for the effective development of a legal assistance program. Local offices are run by a Directing Attorney who has responsibility for the administrative operation of the office, the financial record keeping and reporting, and the supervision of community workers attached to the office. The local Directing Attorney may hire persons with beginning salaries of \$8,000 per year or less; however, those with salaries over \$8,000 must be hired by the Executive Director. No employment is final, however, until authorized by a Central Personnel Committee.⁴⁷ A former Director of CRLA concluded: "A complicated federalism is thus established in which decision making is spread but not dissipated."⁴⁸

To provide for an effective allocation of resources, CRLA has established a central legal staff to aid the regional attorneys. The use of such a staff is not designed so that the regional attorneys only handle the more routine matters while the central office handles the work of major importance. Rather, the central office supplies the regional attorneys with materials and manpower.⁴⁹

Attorneys from the central legal staff often appear on behalf of a client from a regional office, in lieu of the regional attorney. The central staff also provides research assistance for regional attorneys in

⁴²1967 Report to OEO 45 n. 9.

⁴³1966 Report to OEO 10. Meetings of the Board have consisted primarily of review and discussion of major problems and policies facing the organization as a whole, as well as problems in the individual offices.

⁴⁴*Id.* at 11.

⁴⁵*Id.* at 12—13.

⁴⁶*Id.* at 13—14.

⁴⁷*Id.* at 16 (The committee is composed of the Director, Deputy Director, Chief of Community Relations, Administrator, and if the decision affects a regional office, the Directing Attorney).

⁴⁸*Id.* at 16.

⁴⁹*Id.* at 17—18.

preparing pleadings and memoranda of points and authorities. The staff often serves as a coordinating center for cases which transcend regional territories.⁵⁰ CRLA is attempting to expand its coordinating service to include all legal assistance programs in the State, in addition to the CRLA offices.⁵¹ Another function of the central legal staff is to organize and conduct attorney conferences and training programs. The main purpose of these conferences is to provide an opportunity to share information and experiences, voice grievances, make plans for comprehensive challenges of practices adversely affecting the rural poor, and to obtain detailed guidance in unfamiliar areas of the law.⁵² The central staff also performs "test case" research. Although CRLA generally feels that the "test case" concept has only limited value,⁵³ there are a few instances when litigation has large-scale social impact. The right case can produce a rallying point for both the attorneys and their constituents, and create a willingness in the poverty community as a whole to voice its grievances and to challenge the rules that harm it.⁵⁴ To a similar end, the central staff provides standard case materials for certain hypothetical situations that may lead to important litigation.⁵⁵ These "case packets" provide the local attorneys with pleadings, trial briefs, applicable motions for deposition and discovery, and careful analyses of relevant procedural and tactical issues so that swift and efficient service can be provided.⁵⁶

The final major function of the CRLA central legal staff is program development.⁵⁷ "Program development" is described by CRLA as primarily "recommendations for changes in the administrative process in the programs currently available to serve the poor and even

⁵⁰*Id.* at 54—56.

⁵¹*Id.* at 56.

⁵²*Id.* at 56—57.

⁵³"A great deal of debate has centered about the ability of legal services programs to litigate a substantial number of test cases. It is our view 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. Even where the problem is inequitable treatment, it is more usually the result of non-enforcement or maladministration than the legal rule itself. Those legal rules that should be challenged, by and large, seem to more appropriately require legislative revision." *Id.* at 57—58. Despite this attitude, test cases remain a significant part of CRLA's practice and a primary reason for its success and publicity.

⁵⁴See text accompanying notes 83—114, *infra*, for a discussion of several CRLA sponsored test cases.

⁵⁵1966 *Report to OEO* 59—60 (problem areas for which these packets have mainly been produced).

⁵⁶*Id.*

⁵⁷*Id.* at 61—64 (discussion of supportive program development in special problem areas).

in the structure of the service itself ... and the development of programs to carry out such changes.”⁵⁸ One such program created by the central staff is the Rural Housing Development Corporation “to provide technical assistance and seed money for nonprofit corporations and individuals leasing or building housing for the rural poor.”⁵⁹ Another such effort is a program for legal education of the rural poor. Although CRLA’s workload prevents it from directly operating these programs, it has supported community leaders in these endeavors.

CRLA also maintains an extensive program of interaction with the community, local bar associations, the State Bar of California, and other poverty programs. The Community Relations Department of CRLA conducts nonlegal community research to provide the staff attorneys with an understanding of the nature and scope of poverty problems in their particular region. The department “serves as the poor’s social, linguistic, and cultural translator,” providing information to CRLA attorneys and serving as a means of communication for the rural poor. Extensive research is conducted and reports and newsletters are published to provide a comprehensive understanding of the people and places CRLA represents.⁶⁰ Probably the most important function of the Community Relations Department is in its initial contact with potential clientele in areas where CRLA establishes a new office. This contact not only is to provide CRLA with an understanding of the problems of the poor in the area, but it also is to acquaint the local people with the services offered by CRLA.⁶¹ One of the most recurrent frustrations of legal assistance attorneys is the reluctance of the poor to approach and make use of the available services. This reluctance is not a result of lack of desire or lack of need; rather, it is part of a “poverty syndrome” in which there is almost a total inability to understand that the law can help the poor and is not a tool limited to the rich. The activities of the Community Relations Department do not cease once a local office is established. Continuous reports are made concerning specific problems in the community to provide local staff attorneys with an understanding of the socio-political environment in which they are working.⁶²

In addition to their specific duties, the Community Relations Department has helped to establish numerous subsidiary programs. For example, a citizens advisory committee was developed for the

⁵⁸*Id.* at 60—61.

⁵⁹*Id.* at 61—62.

⁶⁰*Id.* at 18—19.

⁶¹For a detailed discussion of the role of the community worker and his training, see *Id.* at 68—71.

⁶²*Id.* at 22.

CRLA McFarland office. The committee, composed of poor local residents, is a "sounding board" for complaints, a forum to raise questions of regional office policy, and a place where information about the community can be disseminated.⁶³

As a part of its community involvement objectives, CRLA has made concentrated efforts to work with the state and local bar associations.⁶⁴ In spite of early difficulty with the State Bar, CRLA has attempted to create informal alliances with local bar members to promote full use of the legal services available. Attempts at cooperation have yielded various results, ranging from vigorous approval in Santa Clara, to open opposition in Modesto.⁶⁵ The primary area of cooperation is that of client referral. Through agreements with the State Bar, the CRLA will refer a client to a local lawyer's reference panel approved by the State Bar if such client fails to qualify for CRLA assistance.⁶⁶ If no such panel exists, the client is shown an alphabetical list of local attorneys for his own choice.⁶⁷ CRLA believes that because of this referral program and the fact that CRLA attracts clients of all types, there has been a large increase in the number of people using local attorneys.

CRLA maintains a high quality legal staff despite difficulties in attracting legal talent to the geographic areas where it operates, and into a poverty law practice in general. Regional office staff attorneys typically come from a variety of prominent law schools, have very high academic standings, and are experienced in legal research.⁶⁸ The average age of CRLA staff attorneys is 30 years, and have been out of law school for an average of 4-1/2 years.⁶⁹ The staff attorney's pre-CRLA experience may include private practice, a court clerkship, or work in a district attorney's office.⁷⁰

Because CRLA attorneys generally come from an urban background, extensive training and orientation to the problems of the poor is required. The senior regional attorneys are given prime responsibility for training. Such training includes formal sessions on tactics and procedures as well as an introduction to the problems and personalities of the groups with whom they will deal.⁷¹ State-

⁶³*Id.* at 23.

⁶⁴*See generally id.* at 24—30.

⁶⁵*Id.* at 25—26.

⁶⁶*Id.* at 26. To be eligible for CRLA assistance, the client must not have annual income in excess of \$2,200, and \$500 for each dependent. *Id.*

⁶⁷1966 *Report to OEO* 26.

⁶⁸1967 *Report to OEO* 56.

⁶⁹*Id.* (these statistics apply through November 1967).

⁷⁰*Id.* at 56—57.

⁷¹*Id.* at 57—58.

wide training conferences are used regularly both to familiarize the new attorney with the operations of the program and to keep them informed of new developments in poverty law.⁷²

The training of community workers is nearly as extensive as that of the legal staff.⁷³ They attend statewide conferences on the techniques of effective community relations and, more importantly, are provided with extensive on-the-job training. Such training includes instruction in serving process papers, locating official records, witness interviewing techniques, evidentiary photography, and the responsibilities and ethics of the legal profession.⁷⁴

2. *The CRLA Practice*

During 1967 CRLA offices dealt with 11,341 problems involving approximately 25,000 persons.⁷⁵ The statistic is somewhat distorted in terms of projecting caseloads for the future since the first half of the year included a backlog of legal problems that generally exists when an office first locates in a new area. The second half statistics for 1967 present a more accurate picture of projected workloads. During the second half of the year CRLA attorneys dealt with 6,564 problems involving 13,120 persons.⁷⁶ The caseloads vary significantly between the regional offices due to differing populations and particular problems in each area. The types of cases handled during 1967 can be broken down into three broad categories. Almost one-third of the cases were related to consumer and employment problems, ranging from unlawful wage attachments to the unilateral entering of judgments without proper notice to the debtor. Another one-third of the cases dealt with problems relating to the actions of governmental agencies at local, state and federal levels. The remaining one-third were housing and domestic relations problems, plus a small number of criminal cases.⁷⁷ In addition to its own caseload, CRLA referred a significant number of clients to local attorneys. CRLA estimates that the cost per legal problem handled during 1967 was \$96.26 and the cost per person helped was \$38.50.⁷⁸ CRLA attributes these low costs to extremely low per-hour attorney costs.⁷⁹ However, it is highly unlikely that attorney costs can remain this low

⁷²*See id.* at 58.

⁷³*See id.* at 60—61.

⁷⁴*Id.* at 61.

⁷⁵*Id.* at 5 n. 1.

⁷⁶*Id.* at 5.

⁷⁷*Id.* at 6—7.

⁷⁸*Id.* at 7; *see also id.* at 7 n. 3 (method of computing these figures).

⁷⁹*Id.* at 8.

if CRLA attempts to fulfill all of its goals. CRLA estimates that for each one dollar expended, approximately \$100 was produced for the clients.⁸⁰ The high rate of return is a conservative estimate since it does not include the intangible benefits derived from such large class action cases as those against Medi-Cal and the United States Department of Labor.⁸¹

The above statistics become more meaningful in evaluating the work of CRLA when they are examined along with a sampling of the specific types of cases handled.⁸² The poor frequently become entangled in legal problems merely because of their total lack of awareness of the legal significance of their acts. The inability to understand results primarily from a minimal level of education and, in the case of the Mexican-American farmworker, the language barrier.⁸³ In a typical case, CRLA secured rescission and restitution for a Spanish-speaking client who was persuaded to execute a contract which he was unable to understand.⁸⁴ In another contract case, CRLA secured rescission and restitution where a salesman for a literary club persuaded a Spanish-speaking farmworker that the club was a basic English language course.⁸⁵ CRLA successfully appealed a decision of a referee in a disability insurance case, which held that inability to understand the English language is not a reasonable excuse for the late filing of a claim.⁸⁶ CRLA also has attacked government agency forms and requirements which place unfair emphasis on the ability to speak and read English.⁸⁷

Another major area of CRLA activity has been the custody, education, and welfare benefits of children. A CRLA attorney participated in a task force appointed by the State Board of Education to study the Education Code. The purpose of the study was to propose revisions of the code so that the educational opportunities for migrant and underprivileged children would be improved.⁸⁸ CRLA has instituted a law suit on behalf of certain children against their

⁸⁰*Id.*

⁸¹*Id.* at 8 n. 5.

⁸²An impressively comprehensive survey of legal issues confronting the indigent and farmworkers in particular has been compiled by the Director of CRLA and can be found in Lorenz, *The Application of Cost-Utility Analysis to the Practice of Law: A Special Case Study of the California Farmworkers*, 15 KAN. L. REV. 409, 423—51 (1967).

⁸³1967 Report to OEO 10—12. CRLA refers to these as cases dealing with “notice.”

⁸⁴*Id.* at 11.

⁸⁵*Id.*

⁸⁶*Id.*

⁸⁷*Id.* at 11—12.

⁸⁸*Id.* at 16—17.

local school district for its cancellation of school transportation in remote areas of the district.⁸⁹ To encourage school attendance, CRLA in Santa Rosa has attempted to persuade the local school board to provide a free lunch program for the underprivileged children.⁹⁰ CRLA Mexican-American community workers have been placed in local schools as advisors and counselors to Spanish-speaking students so that these youth are afforded the same attention as their Anglo counterparts.⁹¹ CRLA has also been active in the recent campaign to guarantee juveniles in juvenile court proceedings the right to procedural due process.⁹²

CRLA has actively sought improvement in the health conditions of the rural poor. CRLA's Modesto office brought to a successful conclusion a suit challenging the reduction in medical aid under the "Medi-Cal" program to a large number of California indigents.⁹³

⁸⁹*Id.* at 17.

⁹⁰*Id.* at 19—20.

⁹¹*See id.* at 18.

⁹²*Id.* at 19.

⁹³*Id.* at 20—21. Statutes enacted by the California State Legislature in November 1965, creating the California Medical Assistance Program, established built-in conformity with the Federal standards for such a program. Included were the provisos that services be at least at the level provided Public Assistance recipients during 1964—65, that the program be free from discrimination based upon economic disability, that priority be given to preventative services, and that the basic five (in and out-patient hospital care, nursing home care, laboratory services and physician's services) in any event be provided Public Assistance recipients.

Regulations promulgated by the Administrator of the Health and Welfare Agency pursuant to the statutory authority established a comprehensive program of medical assistance to recipients of Public Assistance and the medically indigent. The program was based upon the concept of mainstream medicine (free choice of physician and facility) and funds were channeled to hospitals and physicians through the Blue Cross and Blue Shield, as fiscal intermediaries. The scope of services ranged widely from office examination by physicians and dental care to providing artificial limbs and rented medical supplies. Services requiring prior authorizations were reviewed by local private consultants.

Immediately following the closing session of the Legislature, on August 6th and August 16th, the Administrator announced curtailments of the program due to the fiscal emergency. The deductions basically resulted in the elimination of services requiring prior authorization and restricted the program to the treatment of acute conditions and emergencies. The regulations were amended and the modifications were filed on August 25th to be effective September 1st. They reduced the scope and duration of medical services to a level below the 1964—65 level provided to recipients of Public Assistance, and excised many of the services in their entirety.

A temporary restraining order was obtained by the Modesto Office of California Rural Legal Assistance on August 28th, preventing the Health and Welfare Agency from implementing the not-yet-effective regulations. The order was upheld by Judge Perluss of the Sacramento County Superior Court on August 30th and a permanent injunction issued on September 6th declaring the regulations invalid and prohibiting their implementation.

CRLA aided isolated communities in three counties in securing access to adequate and pure water supplies.⁹⁴

CRLA has placed particular emphasis on employment problems. The Salinas office of CRLA successfully challenged the State Welfare Department's requirement that, in order to receive supplemental dependent benefits, the potential recipient must not be employed or his children must be illegitimate, regardless of the fact that his daily earnings per dependent were below minimum support levels.⁹⁵ CRLA argued that such regulations discouraged persons from working, thus violating federal and state law. Counties must now provide the difference between the worker's earnings and his minimum needs.⁹⁶ CRLA has attacked local welfare agencies for their failure to provide adequate work-training programs. In a suit in San Luis Obispo, CRLA sought an injunction against the county welfare department and the State Department of Social Welfare to prohibit them from operating work-training programs that do not prepare the welfare recipient for meaningful employment.⁹⁷ In one of the most controversial cases in CRLA's history, nine Salinas farmworkers, who allegedly were fired for their union activities, were awarded lifetime jobs at a minimum wage of \$4,500 per year.⁹⁸ The court held that an employer firing a worker for union activity is required not only to rehire the worker but may also be forced to pay punitive damages.⁹⁹ In another employment related case, the Modesto office, assisted by the Attorney General, brought to a successful conclusion a suit to enforce new minimum wage laws for women and children farmworkers.¹⁰⁰ The State Industrial Welfare Commission stalled in enforcing its newly adopted minimum wage requirements, requiring a court order to obtain compliance with the wage requirements.

Legal problems related to housing have been another area of significant CRLA activity. For example, CRLA has filed actions against employers who lured migrant workers and their families to

⁹⁴*Id.* at 21—22.

⁹⁵*Id.* at 22—23.

⁹⁶*Id.*

⁹⁷See reprint of article from The Fresno Bee, May 1, 1968, on the case of *Basserra v. Bond*, in A CRLA Casebook, Selected Clippings and Summaries of 1968 Cases.

⁹⁸The lifetime jobs agreement was a product of an out-of-court settlement.

⁹⁹See reprint of article from The Los Angeles Times, January 30, 1968, on the case of *Wetherton v. Martin Produce, Inc.*, in A CRLA Casebook, Selected Clippings and Summaries of 1968 Cases.

¹⁰⁰See reprint of article from The Modesto Bee, July 21, 1968, on the case of *Rivera v. State of California*, in A CRLA Casebook, Selected Clippings and Summaries of 1968 Cases.

California by promising them housing and then evicted them without just cause.¹⁰¹ In another action, CRLA filed a petition for certiorari with the United States Supreme Court challenging a housing authority's right to arbitrarily terminate a periodic tenancy. The authority has since changed its policy and has agreed that tenants can only be evicted when good cause exists.¹⁰² In Soledad, California, CRLA assisted various residents of a condemned city-owned housing project in their efforts to remain in city-operated housing by assisting them in convincing the city to build a replacement facility with a Farmers Home Administration grant-loan.¹⁰³

In the area of field conditions, CRLA is attempting to secure compliance with state health laws by arguing that farm work is unsuitable when field conditions do not comply with the Health and Safety Code and the Labor Code. Accordingly, welfare recipients or unemployed persons need not accept such work.¹⁰⁴ Although there are difficult problems in enforcing health and safety standards, the Department of Employment has conceded that although they cannot enforce these laws, they are prohibited from offering their labor referral service to a violating employer.¹⁰⁵

The majority of work in the area of domestic relations involves individual legal problems of divorce, child custody, and guardianship. In addition, however, CRLA has engaged in certain quasi-legal activities. For example, CRLA offices worked with state agencies in aiding an Imperial County mother in securing custody of her children who had been abandoned by their natural father some 500 miles from her residence.¹⁰⁶ Similar incidences of quasi-legal assistance to its clients constitute a significant part of CRLA's domestic relations activities.

CRLA has been extremely concerned with the operation and procedure of the justice courts in California. Because the jurisdiction of justice courts is limited to cases involving \$1,000, these courts are the most common forums in which CRLA clients appear. Although all new appointees to justice courts are now required to be members of the bar or to pass an extensive examination, incumbents, who gained office when such requirements were not in force,

¹⁰¹1967 Report to OEO 25.

¹⁰²*Id.*

¹⁰³*Id.* at 26.

¹⁰⁴See reprint of article from *The California Farmer*, May 18, 1968, on the case of *In re Lara*, *In re Munoz*, and related CRLA activities, in *A CRLA Casebook, Selected Clippings and Summaries of 1968 Cases*.

¹⁰⁵*Id.* A final determination of violation by an "appropriate" agency must be made before referral will be refused.

¹⁰⁶1967 Report to OEO 27.

are allowed to remain as judges. The potential adverse effects on litigants caused by such an untrained and informal judiciary has caused CRLA to police justice courts with greater diligence to insure and protect due process of law.¹⁰⁷

CRLA has also challenged certain practices of welfare departments. In Marysville, California, for example, the welfare department allegedly had a policy of refusing to accept or process applications for assistance to dependent children.¹⁰⁸ CRLA sponsored numerous successful administrative actions to correct this illegal attempt by the local department to reduce its costs. In another case CRLA challenged the withholding of welfare assistance to a client who was unable to engage in farm work due to a back injury. As a result of doctor's orders not to engage in farm work, he began training in another line of work. Welfare assistance was refused unless the client gave up the training course and sought work in agriculture. CRLA ultimately obtained a welfare department decision requiring that the necessary assistance be continued while the client continued his training.¹⁰⁹ CRLA has challenged the constitutionality of state regulations which deny federal aid to married women after separation from their husbands, even though such funds are needed to support the woman's children.¹¹⁰ The aid is denied for 90 days unless legal divorce proceedings are filed. CRLA contends that these regulations violate due process, equal protection, and abridge religious freedom, since often the failure to file for divorce is for religious reasons.¹¹¹

A final area of the law in which CRLA has been quite active is that of consumer fraud. In a series of cases, the mere involvement of CRLA attorneys convinced certain "home freezer plan" promoters not to attempt enforcement of fraudulently secured contracts which promised false amounts and quality of meats.¹¹² CRLA has also protected unwary consumers from itinerant salesmen who sell goods for prices in great excess of their fair market value.¹¹³ CRLA has worked in conjunction with the Consumer Fraud Division of the California Attorney General's office in attacking correspondence schools using fraudulent inducements, conditional sales contract

¹⁰⁷See generally *id.* at 29—30.

¹⁰⁸*Id.* at 31.

¹⁰⁹*Id.* at 31—32.

¹¹⁰*Id.* at 27; see also reprint of editorial from The Los Angeles Times, January 15, 1968, on the case of *Jenisch v. California* and the related case of *Damico v. California*, in A CRLA Casebook, Selected Clippings and Summaries of 1968 Cases.

¹¹¹1967 Report to OEO 27.

¹¹²*Id.* at 35.

¹¹³*Id.*

vendors who seek to collect deficiency judgments even though prohibited, and those who engage in deceptive packaging practices.¹¹⁴

Although CRLA is a large and dominant force in legal assistance in California, there are many other organizations providing legal services. The remainder of the legal services are provided by numerous city and county legal aid societies. These organizations may be partially OEO funded or wholly supported by the local bar. In certain instances neighboring counties share costs, administrative facilities, and advice. These legal aid societies generally receive little publicity due to their diversity in number and small size. They usually consist of only one or two full-time staff attorneys with minimum secretarial aid, and generally lack any type of supportive structure to allow them to get deeply involved with the indigent community. Due to the size and structure of these groups, their caseloads consist of the more day-to-day legal problems rather than extensive test case or class action litigation. The difficulty in obtaining community involvement has been a source of many problems to local legal aid societies. If the county is large and the population scattered, the legal aid office is often unable to establish the contact with the community that is necessary to effectively fulfill legal assistance goals. They generally lack the staff and funds to create any kind of community relations group such as CRLA's Community Relations Department and thus have restricted access to the population which they serve.

B. The "Judicare" Approach—Wisconsin Judicare

Besides the comprehensive program of CRLA and the local legal aid societies, the other major approach to legal assistance is the "judicare" system.¹¹⁵ Judicare is patterned after the English approach to legal assistance. The eligible client receives a legal assistance "credit card" entitling him to the services of an attorney of his choice from among a panel of judicare attorneys. After the legal service is performed, the attorney submits a bill to the judicare legal services program and fees are paid according to a pre-arranged schedule.¹¹⁶ The approach is highly favored by bar associations across the United States since it utilizes the services of existing private attorneys.¹¹⁷

¹¹⁴*Id.* at 35—36.

¹¹⁵See generally, Barvick *supra* note 16, at 549—51. For the reason for coining the phrase "judicare," see Preloznick, *Wisconsin Judicare*, 70 WEST VA. L. REV. 326, 327 (1968).

¹¹⁶Barvick, *supra* note 16, at 549.

¹¹⁷*Id.*

1. Organization and Administration

The largest OEO-funded judicare program in the United States today is the Wisconsin Judicare system. The Wisconsin system currently serves twenty-six rural counties of the state.¹¹⁸ It is operated under a board of directors consisting primarily of attorneys, people involved in community action agencies, and potential legal services clientele.¹¹⁹ The board's main function is the delineation of operational guidelines; however, it also attempts to collate reports from staff attorneys on the needs of the community being served.¹²⁰ In addition, the board handles any administrative problems that arise within the operation of the program. The working administrative staff consists of an attorney-director, an administrative assistant, two attorneys, a bookkeeper-accountant, a secretary, one or two part-time law students, and an attorney-deputy director to handle appellate and research matters.¹²¹

The client's eligibility for the Wisconsin judicare program is determined by either the local community action representative or the county welfare director according to specific criteria.¹²² Once the client is certified as being eligible for legal services, he is free to choose a lawyer from among approximately 420 attorneys in the program.¹²³ After an initial conference between the client and a Judicare attorney, the attorney must submit a notice of retainer¹²⁴ to the Judicare office where the client's eligibility is confirmed. The office will also determine whether the legal issue involved is a proper matter for Judicare.¹²⁵ Attorneys are usually paid \$16 per hour for office time and \$20 per hour for court time, although in certain cases a flat fee is paid.¹²⁶ Unless they have prior approval, Judicare attorneys may not receive more than \$300 per case, nor more than \$3,000 per year from the program.¹²⁷ If bills submitted are not in compliance with the established schedule, they are adjusted by the

¹¹⁸Coverage as of 1968; Robb, *supra* note 5, at 131.

¹¹⁹Preloznick, *supra* note 115, at 331.

¹²⁰*Id.*

¹²¹*Id.*

¹²²Robb, *supra* note 5, at 131; for specific eligibility schedule, see Preloznick, *supra* note 115, at 329 n.15.

¹²³This figure is based on operations as of February, 1968. Preloznick, *supra* note 115, at 329 n.18.

¹²⁴The notice of retainer is to state the nature of the problem, proposed recommendations for action, and an estimate of the fee.

¹²⁵Preloznick, *supra* note 115, at 329—30.

¹²⁶For the development of fees under Wisconsin Judicare, see *id.* at 330 and accompanying notes.

¹²⁷*Id.* at 330—31.

Judicare office, but the attorney may appeal any payment denied to the Judicare board.¹²⁸

2. Practice

The activities of Judicare in Wisconsin have been varied. In addition to the normal legal problems undertaken by legal assistance organizations, Judicare has established facilities to serve correctional institution inmates. The primary problem in serving inmates, of course, is their inability to leave the prison and visit the attorney. Under new procedures the inmate may contact a social worker attached to the prison who, in turn, contacts the Judicare program. The client may choose a Judicare staff attorney from his home county, or from the county where the legal problem will be resolved. The attorney chosen by the inmate visits the institution for his meetings with the client. Transportation for the client for court appearance is arranged through the Judicare office and the Division of Corrections. Bills for services are processed in the same manner as are regular Judicare cases.¹²⁹ Judicare also participates in a pre-release program as an aid in preparing inmates for returning to the community.¹³⁰

In other areas, Judicare has taken a substantial role in legislative reform,¹³¹ and has been instrumental in aiding juveniles, under the decision in *In re Gault*,¹³² in obtaining the services of non-Judicare counsel to procure writs of habeas corpus. Habeas corpus proceedings are specifically excluded from the allowable Judicare activities in correctional institutions.¹³³ Judicare has also been involved in aiding Indians in challenges relating to Public Law 280¹³⁴ as it affects their hunting, trapping and fishing rights. The thrust of the effort has been an attempt to prevent Wisconsin officials from enforcing local game laws which allegedly violate federal treaties.¹³⁵ In addition to specific case work, Judicare has maintained a respectable program of community education and other supportive activities.

¹²⁸*Id.* at 331.

¹²⁹*Id.* at 332—34.

¹³⁰*Id.* at 334.

¹³¹*Id.* at 334—36.

¹³²*In re Gault*, 387 U.S. 1 (1967). The activity here is primarily one of attempting to insure that the retroactive effect of *Gault* would be made available to indigent juveniles presently incarcerated.

¹³³Preloznick, *supra* note 115, at 337—39.

¹³⁴18 U.S.C. § 1162 (1953). Public Law 280 gives the state the right to exercise jurisdiction over criminal offenses on Indian lands.

¹³⁵*See* Preloznick, *supra* note 115, at 339—40.

Although Wisconsin's Judicare program has been active and varied, the cost of providing legal services to a geographical area with a population of about 500,000 persons has been approximately \$.50 per capita. It is estimated that this cost could be reduced to \$.30 per capita if the program were administered on a statewide basis,¹³⁶ instead of the limited number of counties in which it now operates.

VI. SUMMARY AND CONCLUSION

The models discussed above are by no means the only forms of legal assistance available to the poor. There are many variations that have been used throughout the United States, including a voluntary dedication of time by private attorneys.¹³⁷ These models, however, remain the approaches most often debated on the basis of their merits and effectiveness as an ideal legal assistance program.

The two primary models (full-time staff approach and "judicare") are most easily adaptable to large scale administration and thus are most often discussed by legal assistance commentators. One subject of debate has been the quality of legal service provided the poor. Advocates of the full-time staff attorney approach believe this method more effectively allows the attorney to become an expert in the laws affecting the poor, since he can give these matters his undivided attention.¹³⁸ It is urged that the special nature of the indigent client and his surrounding circumstances require special legal skills that can only be developed effectively in an atmosphere of concentrated emphasis on poverty law.¹³⁹ It is believed that poverty law comprises a substantive body of law in itself, requiring a full-time dedication.¹⁴⁰ If legal assistance should be an integral part of the overall attack on poverty, the quasi-legal and even non-legal activities that are needed to support such a program require time

¹³⁶*Id.* at 347; *see also id.* at 346—47 (basic statistics of Judicare activities).

¹³⁷For a view of some approaches used in the Southeast, one can trace the development of legal aid in North Carolina in Moize, *Legal Aid In North Carolina*, 70 WEST VA. L. REV. 301 (1968); Cauldill, *The Law, Lawyers and Appalachia*, 70 WEST VA. L. REV. 277, 279 (1968); *see also*, NAT'L CONFERENCE ON LAW AND POVERTY, PROCEEDINGS 89—110 (June 23—25, 1965).

¹³⁸*See* Robb, *supra* note 5, at 131—34.

¹³⁹*Id.*

¹⁴⁰*Id.* at 133.

and attention that an attorney with a conventional practice generally is unable to provide.¹⁴¹

A second argument favoring the full-time staff approach is that such a program is a better vehicle for changing the laws that work unfairly against the poor.¹⁴² The approach affords the opportunity to go beyond the case-by-case approach and facilitates class actions, test cases, and pressures for legislative reform. The full-time staff approach provides not only more time, as mentioned above, but also provides a more conducive atmosphere within which to carry on these activities.¹⁴³

It is frequently argued that the full-time staff attorney model is generally less expensive than "judicare."¹⁴⁴ There are several cost advantages inherent in the full-time staff approach. First, the full-time staff office can coordinate all research efforts to eliminate duplication of efforts by two or more attorneys. Second, the full-time poverty attorney will obviously become a specialist in problems common to the poor and thus be able to solve such problems in a shorter time. Finally, the full-time staff approach which operates, in effect, as a law firm, eliminates the necessity of establishing accounting procedures for the disbursement of fees in each particular case, as is required in a judicare program.¹⁴⁵

Because the full-time poverty lawyer usually establishes a certain rapport with his clients, it is argued that he can better gain the confidence of the poor in the community. Such confidence results in a greater number of indigents utilizing legal services. Moreover, since the full-time staff attorney is operating from an office which is clearly identified as serving the poor, indigent persons are more likely to discover the availability of the services.¹⁴⁶

Finally, proponents of the full-time staff attorney model argue that such a system has a more efficient organizational structure.

¹⁴¹*Id.* at 134; *see also* Barvick, *supra* note 16, at 549; note, however, that Mr. Preloznick, Director of Wisconsin Judicare, believes that such generalizations are unfounded to the extent they would rule out a judicare approach, Preloznick, *supra* note 115, at 346.

¹⁴²Robb, *supra* note 5, at 134; note, however, Justice Brennan's statements as to the dangers of leaving such work entirely to poverty lawyers, 54 A.B.A.J. 121—26 (1968).

¹⁴³Again, Mr. Preloznick disagrees, based on the Wisconsin experience in these areas. Preloznick, *supra* note 115, at 346.

¹⁴⁴Robb, *supra* note 5, at 135 n.45 (various comparative figures and an analysis of the cost debate); Barvick, *supra* note 16, at 549.

¹⁴⁵Robb, *supra* note 5, at 135 n.45.

¹⁴⁶Masotti and Corsi, *Legal Assistance for the Poor*, 44 J. URBAN L. 493, 494 (1967); Robb, *supra* note 5, at 136; *but see* Preloznick, *supra* note 115, at 346.

Under the staff attorney approach, qualified poverty lawyers are placed within or near the area they are to serve. Conversely, under a judicare plan which uses existing attorneys, there may be an extreme lack of attorneys in rural areas. When such conditions occur, it is argued that the judicare program cannot meet even the minimum levels of care deemed desirable.¹⁴⁷ Furthermore, the local attorneys may be so involved with the established business community that they will be unable to properly represent their indigent clients.¹⁴⁸

The proponents of judicare have taken a slightly different approach. They argue that under judicare, the poor are given the same choice of counsel as the affluent. Although this argument is persuasive on its face, it must be realized that the potential client is likely to be a somewhat unusual person. His probable unfamiliarity with the local legal establishment might offset the advantage of equal access since he may be unwilling to approach the general bar.¹⁴⁹

It is also argued that the participation of the general bar in a judicare program may cause it to more actively work for the success of legal services.¹⁵⁰ The active involvement of the bar through various supportive functions under full-time staff programs may yield similar results.¹⁵¹

Proponents of judicare contend that the ability to draw on the experience of the bar as a whole may result in better service to the indigent client.¹⁵² Only experience can really resolve this point. If, however, the proper goal of legal assistance is to relieve in some way the problems of the poor through poverty law, then a comprehensively organized, full-time staff approach must be deemed the superior method in this regard.

A fourth argument in favor of judicare is that it better preserves the lawyer-client relationship.¹⁵³ The argument has merit. Although experience under full-time staff programs has shown no significant interference with the lawyer-client relation, the organizational structure and operation of a program such as CRLA would appear susceptible to such interference.¹⁵⁴ It remains imperative that this potential problem be avoided.¹⁵⁵

¹⁴⁷Barvick, *supra* note 16, at 550.

¹⁴⁸*Id.*

¹⁴⁹*See generally* Robb, *supra* note 5, at 137.

¹⁵⁰*Id.*

¹⁵¹*Id.*

¹⁵²*Id.*

¹⁵³Robb, *supra* note 5, at 137.

¹⁵⁴*Id.* at 137—38.

¹⁵⁵*See generally id.* at 138 n.57 and 58.

A final argument favoring *judicare* is that it has more economic benefits for the bar. The argument is based largely on the theory that full-time staff programs take business away from the general bar. Statistics indicate a contrary result. The lawyer referral service operated by full-time staff offices generates new business for the general bar from those clients who are attracted to the program but who are ineligible for the services.¹⁵⁶ By limiting their practice to poverty cases, the staff offices relieve the general bar of the necessity of handling such unprofitable cases.¹⁵⁷ A second major premise, that the bar would prosper under a *judicare* program, fails to consider the recent experience of physicians under the Medicare program and the effect of being subject to Congressional supervision. The legislature may be unwilling to subsidize a substantial portion of the legal profession.¹⁵⁸

Arguments on behalf of both approaches to legal services are not *per se* mutually exclusive. They are significant in that they represent certain attitudes toward the proper approach to legal assistance. The basic split of opinion left unresolved is whether the role of legal services is merely to provide the day-to-day legal assistance to the poor as is provided to those who can afford it, or whether the role of legal services is to be that of a weapon in a general war on poverty. OEO, which is the prime governmental sponsor of legal assistance, clearly assumes the latter position. The motivation for and the source of legal services, however, must not come from OEO alone. If the OEO were to be rendered inoperative by Congress, the program would have to be supported by other sources and would perhaps end up at the exclusive mercy of the legal profession. This aspect of the problem, however, is academic at this point in time. In practice, it has been realized that a legal services program should play a more expansive role than merely providing legal advice and protection in the day-to-day events of a person's life. Perhaps this expanded role of legal services results from more than just the funding requirements of OEO. Perhaps it is realized that mere equal access to the legal system is itself a partial solution to the poverty syndrome, and, in addition, that legal services may be a primary force in eliminating the national anachronism of poverty amid plenty.

It appears an inevitable conclusion that a program with goals such as those enunciated by OEO best serves our society in general. In light of increased social consciousness in America today it must be realized that such a condition of extreme inequity cannot continue to exist forever.

¹⁵⁶*See generally id.* 138—40.

¹⁵⁷*Id.* at 139.

¹⁵⁸*See generally id.* at 139—40.

The general welfare of our society would be best preserved by dealing with its problems through the recognized and accepted channels for communication and airing and solving of grievances. An effective legal services program with comprehensive coverage would best serve to alleviate the problems of wide-scale poverty and inequity in a land of plenty and at the same time would carry out this process and achieve necessary change within the established means.

If it is assumed that the proper approach and role of legal aid is to serve the legal needs of the poor in an attempt to achieve equality and justice, we should not then become preoccupied with the selection of one model over another since the merits of each can be used to their most effective end. A three-way approach seems to be the most advantageous. The primary ingredient to an effective program is the use of full-time staff offices. The use of such offices, however, should be limited to areas where there is a large enough concentration of indigent clientele to support the operation of the program. It is obvious that these concentrations exist in urban areas. A full-time staff office would also be justified in areas of lesser total population as long as the size of the office reflects the indigent population. Coordination with other community service programs would be both desirable and efficient in that costs could be shared and the clientele would come to a single location able to serve many of their needs. Full-time staff offices, serving as the core of the program, are best able to provide the total client service necessary to deal with the legal aspects of poverty.

The second part of the program would consist of *judicare* attorneys in areas where the poverty population is dispersed, yet still within access to local practitioners, or where the poverty population is located in scattered pockets where resources are insufficient to support a full-time staff office. The program also should have attorneys "riding circuit"¹⁵⁹ in the extremely remote areas so that all potential clientele would at least have some access to legal service.

In addition to using attorneys admitted to practice, the program should also staff legal assistance offices with new graduates of law schools by means of programs similar to medical internship requirements. The poverty clientele would have the advantage of working with the youthful and socially conscious graduates as well as the guiding legal experience of senior attorneys. The use of an internship sys-

¹⁵⁹The "circuit rider" method makes use of traveling attorneys making calls on persons in remote areas to provide basic legal services. Such programs are currently in use in areas of the Southwest, particularly for service to isolated Indian populations.

tem would not only benefit neophyte attorneys, but also would provide an inexpensive source of legal talent.

Michael J. Duckor

