

California State Archives
State Government Oral History Program

Oral History Interview

with

ARTHUR L. ALARCON

Governor's Executive Secretary, 1962 - 1964
Governor's Clemency, Pardons and Extradition
Secretary, 1961 - 1962

April 4, 12, 19, May 3, and June 9, 29, 1988
Los Angeles, California

By Carlos Vasquez
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None.

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PREFACE

On September 25, 1985, Governor George Deukmejian signed into law A.B. 2104 (Chapter 965 of the Statutes of 1985). This legislation established, under the administration of the California State Archives, a State Government Oral History Program "to provide through the use of oral history a continuing documentation of state policy development as reflected in California's legislative and executive history."

The following interview is one of a series of oral histories undertaken for inclusion in the state program. These interviews offer insights into the actual workings of both the legislative and executive processes and policy mechanisms. They also offer an increased understanding of the men and women who create legislation and implement state policy. Further, they provide an overview of issue development in California state government and of how both the legislative and executive branches of government deal with issues and problems facing the state.

Interviewees are chosen primarily on the basis of their contributions to and influence on the policy process of the state of California. They include members of the legislative and executive branches of the state government as well as legislative staff, advocates, members of the media, and other people who played significant roles in specific issue areas of major and continuing importance to California.

By authorizing the California State Archives to work cooperatively with oral history units at California colleges and universities to conduct interviews, this program is structured to take advantage of the resources and expertise in oral history available through California's several institutionally based programs.

Participating as cooperating institutions in the State Government Oral History Program are:

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The establishment of the California State Archives State Government Oral History Program marks one of the most significant commitments made by any state toward the preservation and documentation of its governmental history. It supplements the often fragmentary historical written record by adding an organized primary source, enriching the historical information available on given topics and allowing for more thorough historical analysis. As such, the program, through the preservation and publication of interviews such as the one which follows, will be of lasting value to current and future generations of scholars, citizens, and leaders.

John F. Burns
State Archivist

July 27, 1988

This interview is printed on acid-free paper.

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INTERVIEW HISTORY

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Interview Time and Place:

April 4, 1988
Alarcón's office in Los Angeles, California
Session of one and one-half hours

April 12, 1988
Alarcón's office in Los Angeles, California
Session of one and one-half hours

April 19, 1988
Alarcón's office in Los Angeles, California
Session of one and one-half hours

May 3, 1988
Alarcón's office in Los Angeles, California
Session of two hours

June 9, 1988
Alarcón's office in Los Angeles, California
Session of one and one-half hours

June 29, 1988
Alarcón's office in Los Angeles, California
Session of one and one-half hours

Editing

Vásquez checked the verbatim manuscript of the interview against the original tape recordings, edited for punctuation, paragraphing, and spellings, and verified proper names. Insertions by the editor are bracketed. The interviewer also prepared the introductory materials.

Alarcón reviewed a copy of the edited transcript and returned the transcript to the UCLA Oral History Program with only minor corrections.

Papers

No private papers were available for the interviewer to consult in preparing for this interview.

Tapes and Interview Records

The original tape recordings of the interview are in the university archives at UCLA along with the records relating to the interview. Master tapes are preserved at the California State Archives.

BIOGRAPHICAL SUMMARY

Arthur L. Alarcón was born on August 14, 1925, in Los Angeles, California. He served in the United States Army during World War II, and was decorated for leading troops in combat. He earned his B.A. in political science in 1949 and his law degree in 1951, both from the University of Southern California. He married Sandra D. Paterson and has three children: Jan Marie, Gregory, and Lance.

Alarcón was a deputy district attorney in Los Angeles County from 1952 until 1961. In that post he prosecuted hundreds of major felony cases. Although Alarcón was a Republican, Democratic Governor Edmund G. "Pat" Brown, Sr., appointed him clemency, pardons, and extradition secretary in 1961. In 1962, Governor Brown promoted Alarcón to the position of executive secretary. He left the governor's office in March 1964 and briefly served as chairman of the parole board before becoming a judge in the Los Angeles County Superior Courts in July. In 1978, Alarcón was appointed to the Second Appellate District of the California Court of Appeal by Governor Edmund G. "Jerry" Brown, Jr. In 1979, President James E. Carter named Alarcón to the Ninth Circuit of the United States Court of Appeals. He has since served in that post.

This interview focuses on Alarcón's service in the Pat Brown administration and its relations with the state legislature, but matters pertinent to the criminal justice system in California are also discussed.

Alarcón is the past president of the California State Bar Select Committee on Criminal Justice and of the Los Angeles Bar Association Committee on Criminal Justice. He was a founding member and past chairman of the Mexican-American Scholarship Foundation Assisting Careers in Law (MAS FACIL). He has also served on the board of directors of the Coro Foundation, the Los Angeles Boys and Girls Clubs, and the Performing Arts Council of the Los Angeles Music Center.

Alarcón has authored numerous articles and books including *Criminal Law* (1965), *Criminal Procedure* (1974), and *Criminal Evidence* (1978), all with Charles W. Fricke.

I. LIFE HISTORY

[Session 1, April 4, 1988]

[Begin Tape 1, Side A]

Family History

VASQUEZ: Could you tell me something about your personal family background?

ALARCON: Surely. I was born on August 14, 1925, here in Los Angeles, California. I was born on Temple Street. I mention that because we're sitting in a building on Temple Street. I was baptized in the Plaza [de Los Angeles] church [Our Lady Queen of Angels], which is right off Temple Street. My first job after law school was in [Los Angeles] City Hall as a law clerk on Temple Street. And when I became a judge, I started in the Hall of Justice on Temple Street and then moved across the street into the Criminal Courts Building, also on Temple Street. Years later, when I was appointed to the United States Court of Appeals, I came back to Temple Street. So I haven't gone

very far in life. [Laughter] My father was born in a town that's now a ghost town in the mountains of Chihuahua [Mexico].

VASQUEZ: Do you remember the name?

ALARCON: It's called Carrizal. Carrizal was a small village which was populated by cattle ranchers. My ancestors settled in Carrizal sometime in the seventeenth century, maybe even earlier. They owned cattle-grazing lands. But their home was in this small village in the high mountains of Chihuahua.

VASQUEZ: What was your father's name?

ALARCON: My father's name was Lorenzo Márquez Alarcón.

VASQUEZ: And your mother's?

ALARCON: My mother was Margaret Sais. My mother's family came from Santa Fe, New Mexico. They met here in Los Angeles. They were introduced by one of my uncles, one of her brothers. She was only about eighteen when they met, and he was about twenty-four.

My mother's family arrived in New Mexico with the first colony that settled in New Mexico, in Santa Fe. My uncle who introduced my parents was Andrés Sais, and he has a son named Andrés

Sais. According to my uncle, he was the fourteenth Andrés Sais, his son is the fifteenth Andrés Sais, and he tells me that there has been an unbroken line of Andrés Saises back to the first colony. One thing I plan to do, hopefully this year, is go to Santa Fe and talk to the bishop or the archbishop and see if I can get access to the baptismal records. I'm going to get them and present them as a surprise to the Sais part of my family, if I can substantiate what he's told me.

VASQUEZ: What was your home upbringing like?

ALARCON: Well, my parents separated and divorced when I was six months old. They agreed that my father should take custody. So because he could not take care of me, he worked it out with my paternal grandmother [Leonor Ramirez] to take care of me in El Paso, Texas.

So I left Los Angeles when I was six months old and stayed with my grandmother until I was four and a half years old, when my father remarried. I grew up in a household where my grandparents spoke only Spanish. I never heard my grandmother speak English. I learned later in

life that she understood it perfectly, because while I was in the service and went to see her, one of my uncles said, "Let's go over to [Ciudad] Juárez [Mexico]. There's a terrific bar I'd like to take you to." My grandmother responded in Spanish, "You will not go to any bar in Juárez with your uncle." [Laughter]

VASQUEZ: [Laughter]

Growing Up in Los Angeles

ALARCON: My father remarried, and I came back to Los Angeles to live. By the way, [it was] on a street called Court Street, which is two blocks from Temple Street. I feel it is rather prophetic that the first home away from Temple was Court Street. [Laughter] Court Street is still there. It's a few blocks from the Music Center [of Los Angeles County]. Anyway, when I came to Los Angeles I was four and a half. I did not speak English. I went to school here in the downtown area. In fact, the school is still standing.

VASQUEZ: What's the name of the school?

ALARCON: I can't think of the name of it. It's over near Chinatown. It's right off Chinatown close to

Sunset [Boulevard] and Broadway [Avenue]. I was there for just a couple of months in kindergarten because my father moved a number of times during my first three or four years back in Los Angeles. When I arrived in kindergarten, I didn't speak a word of English. According to my stepmother, I returned home that day at noon, and my first English words were, "I want my lunch."

VASQUEZ: [Laughter]

Formal Education

ALARCON: I grew up in the downtown area for about a year, then my parents moved to East Los Angeles on Malibar Street, and I went to Malibar Street [Elementary] School for about a year. My parents bought a little store which was right off the school property and sold candy. My father was a baker, but in his off hours he ran the candy store, and my stepmother was there when he could not be.

We moved from Malibar to an area that is now part of Watts, near Slauson [Avenue] and Alameda [Street]. I went to a school called Holmes Avenue School. We lived there for about three years, then we moved to another part of what is

now called Watts or South Central Los Angeles, near Slauson and Avalon [Boulevard], on a street called Towne Avenue.

We stayed on the same street renting for a while, and then we bought a house down the street. I was there in that house from the fourth grade until I was in law school. I went to the public schools in the South Central area: [Thomas A.] Edison Junior High School and [John C.] Fremont High School. I went to Sixty-sixth Street School, which is an elementary school, and I was transferred to Sixty-eighth Street School because I qualified for a special program, an experiment that the Los Angeles Unified School [District] system was conducting at the time called the Opportunity Program.

VASQUEZ: Was this for gifted children?

ALARCON: Well, the Opportunity Program was a very interesting program, because they called it an exceptional children's program, and they were using the word exceptional in the broadest sense. There was an opportunity-B part and an opportunity-A part. I found out in later years that children who were above a certain test score

were in one of the programs, children below a certain test score were in the other. But the teaching concept was exactly the same. They put the fourth, fifth, and sixth grades in one room with one teacher. They had only twenty-four students total. They had twelve students for each year. It was run like a one-room schoolhouse with a tremendously gifted teacher. The children were allowed to progress at whatever speed they wanted to and could progress intellectually. Some of the fourth graders were doing sixth-grade mathematics, some of the sixth graders were doing fourth-grade English but eighth-grade [work] in some other [subjects].

VASQUEZ: Was the student body primarily minority students? Or was it mixed?

ALARCON: I was the only minority almost my whole time in public school. When I was at Sixty-eighth Street School, I was the only Hispanic. When I was in junior high school, I was the only Hispanic.

VASQUEZ: What years would these be?

ALARCON: I went to elementary school from about '31 until '37; junior high school, '37 to '40; high school, '40 to '43. In high school, there were perhaps

five [Hispanics] in the [entire] Fremont school student body.

VASQUEZ: The rest of the student population was what?

ALARCON: Primarily Middle European--Polish, German, Italian--factory workers that came over from the factories in Middle Europe to work in factories here.

VASQUEZ: In your home, was there a religious upbringing?

ALARCON: Yes. I didn't go to Catholic school, but I went to Catholic church every Sunday. And I went on my own. My parents did not attend as often as I did. I used to sell newspapers on Sunday morning, park my bicycle outside the church, go in and go to mass, then go home and have breakfast.

Political Influences at Home

VASQUEZ: In your home, who had the most influence on you in your public thinking or social awareness?

ALARCON: My father. My father was a remarkable man. He had only one year of formal education in a town called Villa Ahumada, Chihuahua. He went to a Catholic school there for one year, and then he was needed to work on the ranch and never went back to school. But he had a tremendously rich vocabulary. My guess is [he had] a very high

IQ. He had a very profound interest in politics, and in international affairs.

VASQUEZ: What kinds of politics did he have?

ALARCON: Well, giving you a political science answer, he would be on the far left. At family gatherings, which we had six or seven times a year while he was alive, any excuse where family and extended family, up to thirty people, would come in. . . . I never quite understood how they were fed because I only saw one chicken go into the pot. There must have been a lot of potatoes. In any event, he would stand up at family gatherings and say, "I don't know where I went wrong, my son is a Republican. But I still love and forgive him."

Why Alarcón Became a Republican

VASQUEZ: [Laughter] How early did you become a Republican?

ALARCON: I became a Republican at UCLA when I was a political science major. I found out that at that time, particularly, congressional committees were chaired by Southern Democrats. Both in the [United States] House [of Representatives] and in the [United States] Senate, the legislation that I was interested in--human rights and civil

rights--was not getting out of those committees because the committees were run by people who were, in my view, anti-civil rights and anti-human rights.

VASQUEZ: The Democrats?

ALARCON: The Democrats. All Democrats. And at that time, no opposition.

VASQUEZ: But that's a little later. I think we're getting a little bit ahead of the story. Let's go back a little bit and pick it up. You went to high school at . . .

ALARCON: Fremont.

Enlisting in the Army and Duty in World War II

VASQUEZ: At Fremont. And did you go into service then? Tell me about that.

ALARCON: I enlisted when I was seventeen [years old], and I went into the service when I was eighteen and a month. I went into a special program after taking a test in high school. They had a test they gave nationwide, and those individuals who passed the test, scored over 125 on this test. . . . It was [called] the Army General Classification Test. There were two. One was for the navy, called the V-12 program, and one was for the

army, which was the A-12 or ASTP [Army Specialist Training Program] program.

Because I am nearsighted and color-blind, I elected to go--my only choice was to go--into the army. The plan was that we were to take a very short basic training and then go to college in an accelerated program that would get us a bachelor's degree in something like between two and three years. Then we would go to officer's school and would come out as lieutenants and be prepared, according to the army's plan, to become the military government at the end of the war in Europe and Japan.

The concept was that there needed to be a group of people who would be well educated and still available for the military instead of having everyone go off immediately into the war. After I had been in the program about twelve weeks--in fact, when we went through our graduation ceremony--the United States infantry suffered tremendous casualties in North Africa. Overnight, I was getting on a train to go to Pomona College, where I would be only thirty miles away from my little black book full of

young ladies.

VASQUEZ: [Laughter]

ALARCON: They cancelled the program and put us all in the infantry. So I ended up being in the infantry in World War II.

VASQUEZ: Where did you serve?

ALARCON: I served in Europe. I was in four major battles. I was awarded four battle stars. When you get a battle star in the infantry, you have participated in a major campaign. I was in four of them. I went into the service as a private and went overseas as a private first class. But on the battle field I was promoted from private first class to staff sergeant and then became an acting first sergeant. When I left the military, I was an acting first sergeant.

VASQUEZ: What were your experiences in the service in dealing with soldiers from other parts of the United States since you had lived around Temple Street so long?

ALARCON: Terrifying. Well, it was fascinating to me. Most of the people in my infantry unit were from Pennsylvania. The unit was [from the] Pennsylvania National Guard that was activated

for World War II. The people I met were Italian and Polish Pennsylvanians, railroad workers and coal miners.

VASQUEZ: Had you grown up around those [ethnic] groups here in Los Angeles?

ALARCON: I had grown up in Los Angeles around Italians and Polish workmen who had left the coal mines and the railroad to come to a better climate and better opportunities. So while I had grown up and played sports with their counterparts here, the people I met in the army were tougher and rougher, and I learned words in the infantry that I had never heard of before.

I also learned that they were very warm people with strong feelings of family, very patriotic individuals. I also got to meet a lot of people from New York: the Bronx, Brooklyn, Long Island. In my program there was a very high percentage of young men from that area.

We had a strange infantry division, because half of them were blue-collar workers and the other half were people who [had] scored highly on the army intelligence test and, but for the war, would have gone on to college. Instead of going

to college, they were shoulder to shoulder with other privates from the coalfields and the railroads.

Prejudice in the Armed Forces

VASQUEZ: What did that tell you about American pluralism?

ALARCON: It didn't tell me a great deal in that, again, while I was in the infantry I was the only Hispanic in my company. These people were anti-black, anti-Jewish. Most of them were Catholics, so they were anti-many-things: anti-Seventh-Day-Adventists, anti-Jehovah's-Witness. There were many racial and ethnic stories and jokes that they told, not with the least conscious intent to injure or demean, but that was a part of their culture and upbringing. It told me that Italians and Polish people had been able to achieve a status where they didn't see a difference between themselves [and the majority]. These people had stepped over the line and were no longer the victims of bigotry themselves, but they, in turn, were now picking on other groups.

It didn't bother me, personally, because they accepted me. They never talked about my ethnic background, I guess because I was the only

one. I wasn't a threat or there weren't enough of us to cause them any concern. I ended up being the top noncommissioned officer in my company, and I got along beautifully with them. So I experienced no personal problem. I didn't see any "melting pot" kind of attitude. I still saw lines being drawn for the more recent arrivals. People who came in the twentieth century were still looked down upon by those who [had] arrived in the second half of the nineteenth century, the Irish, the Polish, the Europeans.

VASQUEZ: Did that shock you coming from California?

ALARCON: No.

VASQUEZ: Had you experienced any kind of discrimination?

ALARCON: I personally had not experienced discrimination because I grew up being the only person who was different. In fact, when I was in high school, several times I heard gossip that I was the son of an ambassador from some Hispanic country. They couldn't figure out where I fit in, and because I was lucky enough to be an A student, they tried to explain me by transporting me out of the United States and bringing me back as the

son of somebody from another country. I think I can only remember two slurs in my first twenty years directed at me personally. I know that's not the experience of most Hispanics my age.

Anti-Hispanic Discrimination in Los Angeles

VASQUEZ: And that was here in Los Angeles?

ALARCON: Yeah. Oh, sure. But part of the fact that I didn't experience it are two reasons. I don't believe that I am Indian looking. My observation has been that the darker you are and the more different, the more non-European you look, the more you are subjected to bigotry. The taller you are, the lighter-eyed you are, the more European you look, the less you are subjected to that.

Although my father was born in the mountains of Chihuahua, he had blue eyes. My aunts are blondes. So they treated us differently because we were not that foreign to them. But that was an accident. It certainly wasn't [a lack of prejudice] on their part. [Laughter] They would have discriminated if we looked different.

Ethnic Consciousness in the Alarcón Household

VASQUEZ: Were you encouraged in your home to hew to the Mexican culture or to practice Mexican folkways?

ALARCON: Well, first of all, in our home my parents spoke only Spanish to each other.

VASQUEZ: How about you? Would they speak English to you?

ALARCON: They spoke English to me. My father was very concerned about my not having an accent. He tried very hard to speak English correctly so that I would hear English correctly spoken. He never spoke Spanish to me.

My parents would go into the bedroom and whisper in Spanish. I used to get a kick out of them because I could hear them and understood them, because I didn't speak English till I was five. I understood every word they were saying. But they were more comfortable [with Spanish]. It wasn't, I don't believe, confidences that they were sharing, it was just that they were comfortable [speaking] in Spanish more so than in English.

VASQUEZ: So while you were in school, in your early years, say, before the university years, were you conscious of your ethnic background?

ALARCON: Well, I lived a kind of schizophrenic life. My home life was totally Hispanic, starting with frijoles [beans] at breakfast and on through making maize [corn dough] to make the tortillas and the tamales and spreading the masa [dough] on the leaves. So my home life was culturally very Mexican. But my school life was European.

I don't believe I speak with an accent, but that's attributable to learning English at school from people who didn't speak with an accent. Part of it was my father's deliberate planning. He felt he had an accent, and it embarrassed him all of his life. He tried very hard to shed himself of it and was pretty valiant about it. But some of the words he would pronounce in a Spanish way.

I still have trouble with the word fanatic because my father always said fánatic. It always sounded so good to me [Laughter] that I have to think whenever I see the word fanatic to say it the proper way, or the English way, rather than the way my father spoke. My father understood words very well that he read, but there was nobody at the bakery who talked about fanatics,

so when he would speak to me, he was speaking from a vocabulary that was a written vocabulary rather than a spoken vocabulary.

VASQUEZ: You went all through high school and into the service and you never had any real problems or any real experiences that were attributable to your [ethnic] background?

ALARCON: No. In fact, I had the reverse experience, and part of it may have been uniqueness. I was class president in the ninth grade, I was class president in the tenth grade, the eleventh grade, and the twelfth grade. I was graduation speaker in junior high school, I was graduation speaker in high school. I was valedictorian in both schools. I was very active in school life. I won every election I ran for. So I was never aware, personally, of the sting of prejudice or bigotry.

Personally, I had a lot of relatives who lived in East L.A., and every weekend--I told you about my schizophrenic life--I would go to East L.A. and I'd stay with them on vacations. I saw how they lived and the differences [between areas of Los Angeles] in terms of services given by the city.

VASQUEZ: For example?

ALARCON: Well, you can go over there right now. The streets are not paved as well. The lighting is not as good. The police services are not as good. They have been, and continue to be, a neglected part of Los Angeles.

VASQUEZ: Did you have any experiences in the plunges [public swimming pools]? Did you ever go to the plunge?

ALARCON: I never did in East L.A. When I went to them, I lived in the Fremont [High School] area. I used to go to a school called Jacob [A.] Riis [Junior High School] that had a very clean swimming pool, so I did not experience that. They didn't have playground swimming pools where I lived, so we had to go to this junior high school.

Attending UCLA

VASQUEZ: What year did you get out of the service?

ALARCON: January 1946.

VASQUEZ: You went to UCLA then?

ALARCON: I went to UCLA in March.

VASQUEZ: Your major there was political science?

ALARCON: Well, I started off as an education major because my family did not have the means to send me to professional school, to graduate school. My plan

when I started UCLA was to get a teaching credential and teach Spanish and French in high school, then go to law school at night.

I continued with that plan, but I decided to be a double major, so I ended up being a political science and education major. Near the middle of my third year at UCLA, I suddenly decided I didn't want to continue my plan and struggle to work in the daytime and go to law school at night and spread that out for years. I decided to continue starving, but to hock everything and go to day law school.

So at the end of my third year at UCLA, I was able to get into a special program that USC [University of Southern California] had at the time where you could come in after three years of very high grades--and I was an A student at UCLA--and they would permit you to enroll in the law school. If you made it through the first year, they would then give you a degree in what they called "pre-law." At the end of my first year at the USC law school, I graduated from the undergraduate school with a degree that I find a little questionable. But I have a B.A. in pre-

law. Then I went to two more years of law school and got my bachelor of laws.

VASQUEZ: Were you influenced at all by any of the professors you had either at UCLA or USC?

ALARCON: Well, not really. Both undergraduate schools were so huge that it was very hard to get close to any of the teachers. There was a teacher at USC that I had great admiration for, and I took as many of his courses as I could, but I never really got personally acquainted with him.

Initial Interest in Politics

VASQUEZ: When did you become interested in politics?

ALARCON: Well, first of all, I was always interested in politics. From the sixth grade. I became heavily involved with school politics, ran for office starting in the ninth grade, and won every year for the next four years. After I got out of law school, I went to [work in] the D.A.'s [district attorney's] office.

II. SERVICE AS DEPUTY DISTRICT ATTORNEY

Working in the Los Angeles District Attorney's
Office and Staying out of Politics

VASQUEZ: As what?

ALARCON: In 1952 I started in the D.A.'s office. At the time it was believed that public employees could not be engaged in politics. So I was not able to be active in politics.

VASQUEZ: Who was the district attorney at that time?

ALARCON: S. Ernest Roll was his name. During the time I was in the D.A.'s office, for almost nine years, I had nothing to do with party politics. I very much wanted to be involved because--I mentioned earlier that I became a Republican at UCLA because of disillusionment--I discovered before I turned eligible to vote that if I became a Democrat and voted for a Democrat for Congress, I would perpetuate as chairman of a committee a Southern Democrat who was opposed to everything I believed in.

VASQUEZ: Was there any one particular congressman?

ALARCON: Oh, there were many.

VASQUEZ: That you remember?

ALARCON: Sure, a congressman named [Congressman John E.]

Rankin from, I think, Mississippi; another from Mississippi named [Senator] Theodore [G.] Claude Bilbo; a senator named [Senator Herman E.] Talmadge from Georgia, and on and on. There were twenty-two senators who were heads of committees and many congressmen who chaired all of the key committees at the time. They were all Southerners, all Democrats.

VASQUEZ: So you followed some of these committees pretty closely around particular issues?

ALARCON: Oh, sure.

VASQUEZ: What were the issues that were of the most concern to you?

ALARCON: The issue of most concern to me was civil rights and the way that the blacks were being treated. The denial of the vote to blacks was the key issue that concerned me as a high school student and a political science student at UCLA. Also, the absence of any Hispanics in any part of public life in California.

VASQUEZ: You were aware of that?

ALARCON: Sure. The only one was [Edward R.] Ed Roybal. That was when I came out of the service. He was on the [Los Angeles] City Council, then he went

to Congress, and for many, many years, that was it.

When he went to Congress as a part of our American process of government, when you're a young congressman, you're not very effective. It takes many, many years before any of your bills get passed and you become an effective voice. So when he left the city council and went to Congress, he really lost rather than gained for us, as far as I was concerned. Of course, since then, he has been very effective. But there was a long time when he wasn't, not through his fault.

Childhood Goal to Become a Jurist

So I was aware of that as a political science major. But I could not be in partisan politics. I became a prosecutor in the D.A.'s office. And I had the goal [since] sometime in junior high school to be a judge. I felt the best way, the best route for me to get there would be to make a good record for myself as a trial lawyer. From that, I would come to the attention of the governor and be appointed. Which is what happened.

Coming to the Attention of the Governor

VASQUEZ: How did you come to the attention of [Governor Edmund G.] Pat Brown [Sr.]?

ALARCON: Well, in a very unusual way. My boss at the D.A.'s office, S. Ernest Roll, had an unusual idea when he became D.A. He was a career prosecutor and was appointed district attorney. He decided to try an experiment. In the traditional D.A.'s office, you worked your way up one year as a rookie handling minor preliminary hearings, the second year handling complaints, the third year handling minor jury trials, the fourth year handling middling jury trials, and maybe the fifth year being given cases of more complexity. He decided to recruit ten people himself, personally, from the law schools, that he believed within a year he could train to be outstanding trial lawyers, able to handle anything in the office. I was one of the ten that he picked for that program. Because I had been a law clerk for a judge, he picked me not only to do trial work but to do special research projects for him.

VASQUEZ: What kinds of projects did you work on?

ALARCON: Well, the most important project was how I came to the attention of Pat Brown. After I had been in the office about three years, the California Supreme Court adopted the exclusionary rule in California and said that judges could exclude from criminal trials evidence obtained without a search warrant. Since this was a new concept in California, but one that the federal government had had in its court system for about fifty years, Mr. Roll asked me to research the federal law and to draft a monograph or pamphlet or desk book for the use of the trial lawyers in the D.A.'s office when handling the various kinds of procedural and courtroom problems that would come up. He told me to do it in six weeks.

So in six weeks I produced a 125-page book on the subject of search and seizure.¹ Within a few days of the printing, then Attorney General Pat Brown heard about what had been done here in Los Angeles and invited Mr. Roll and me to a meeting of the fifty-eight district attorneys [in

¹. An internal report for the Los Angeles District Attorney's office.

California]. I was the agenda. My book was distributed . . .

Serving on the Governor's Special Study Commission
on Narcotics

VASQUEZ: How old were you then?

ALARCON: About thirty-one. I went with Mr. Roll, I discussed the booklet and talked the D.A.'s through it. Shortly thereafter, I spoke to the state bar convention on the same subject.

A little more than three years later, the then governor, Pat Brown, ran into heavy criticism about the narcotics problem. Which, by the way, is cyclical, because right now Governor [George S. Deukmejian] and President [Ronald W. Reagan] are running into criticism about the narcotics problem. We had the same kind of pressures in about 1959, 1960. So the governor called me in 1960 and asked me if I would head a study for a year on the narcotics problem in California and produce a report making recommendations on how we could treat the crime and, also, the addiction, that is, the symptoms, the causes, and the punishment. He appointed a five-member advisory committee.

VASQUEZ: What was it called?

ALARCON: It was called the Governor's Special Study Commission on Narcotics. I was the director, and there were five commissioners who were unpaid advisers to me.

VASQUEZ: Do you remember any of their names?

ALARCON: Well, the chairman was Harry [M.] Kimball, who had been former agent in charge of the FBI [Federal Bureau of Investigation] in San Francisco. A municipal judge named Walter [S.] Binns, and a lawyer from Beverly Hills named Robert Neeb. The head of the Bureau of Narcotics Enforcement in California, a man named John [E.] Storer, and a fifth man whose name I can't remember [A. E. Jansen]. Anyway, I worked on that for a year, turned in a report to the governor at the end of the year, and went back to the D.A.'s office.

VASQUEZ: You took a leave of absence from the D.A.'s office to do this?

ALARCON: Yes, exactly. I took a leave for one year from the D.A.'s office. I had a little difficulty getting the leave, because when the governor first called, I was in Mexico.

I took my father back to Carrizal. He hadn't been there since he was a little boy. And while we were up on a high mountain looking at the ruins of his birthplace. . . . Which, by the way, had to have been built in the seventeenth century because the property has a chapel on it and the bell was cast in 1703. It had been sent for from Spain sometime prior to 1703. They had a chapel and needed a bell. That chapel and bell are now a historical monument up there.

III. APPOINTMENT TO THE GOVERNOR'S STAFF

Becoming Clemency, Pardons, and Extradition Secretary

Anyway, while I was there, the governor called, and my then boss, a man named William [B.] McKesson, told the governor that he would not give me a leave because he didn't think it was in my best interest. When I returned, there was a message that I should call a lawyer named Grant Cooper. Grant Cooper told me that the governor wanted me to do this job but that Mr. McKesson had indicated it was not in my best interest.

So I called Mr. McKesson and asked him if he had received a call from the governor. He said he had. I said I would really have appreciated it if we had discussed [Laughter] what was in my best interest before he said it was not. He said, "Well, do you want to do it?" And I said, "I want to be a judge someday, and there's no better way to come to the attention of the governor than to do a special task that he has asked that I do." McKesson then said, "Well, fine, you can have your leave." At the end of the year I went back, and three months later I got a call from the governor who told me that his legal adviser, Cecil [F.] Poole, was going to become the United States attorney in San Francisco and that he [Brown] needed a legal adviser.

VASQUEZ: What year would this be?

ALARCON: This was in 1961.

VASQUEZ: So you accepted?

ALARCON: Well, I did. But the way this came about, I think, may give you a feel for Pat Brown and our relationship.

[End Tape 1, Side A]

[Begin Tape 1, Side B]

ALARCON: The day Pat Brown called me to talk about going to work for him, I was in San Pedro celebrating with the [governor's narcotics study] commissioners. Because we had a \$50,000 budget and we came in \$16,000 under budget, we decided to have a party to celebrate the fact that we were turning back to the taxpayers \$16,000, and the publication of our report, which was well received by the press and the legislature. One of our commissioners, Judge Binns, who was on the municipal court stationed in San Pedro, had arranged for us to have lunch at a cannery that was owned by a man who had a fishing fleet and was famous in San Pedro for making lunches for people who worked in the cannery and the fishermen. He cooked, himself, and was reputed to be the best cook of that kind of food in southern California.

VASQUEZ: Do you remember his name?

ALARCON: I don't remember his name. I remember he was from [the island of] Ischia [Italy], because we heard a lot about Ischia at lunch. They said it was better than Capri [Italy]. Apparently, they

were rival islands.

Anyway, we went to the cannery and went upstairs [where] there were long tables on sawhorses [covered] with butcher paper. We had a marvelous fish soup and a great salad. There were two tumblers, looked to be eight-ounce tumblers, in front of each plate. There were many Italian women running up and down with pitchers of what they called "the white" or "the red," and my glass never got more than an inch below the full level.

I lost track, and so did my colleagues, of what was happening. The fishermen were downing the wine, and after an hour of eating heavily, they raced back to work. We realized, although we were only two blocks from the meeting hall where we were having our last meeting, that we could not drive our cars. [Laughter] So we left our cars by the cannery and walked back to the savings and loan.

We sat down and were all giggling from the effects of the wine and the great food when the secretary came in and said, "The governor's on the telephone. Are you Mr. Alarcón?" I laughed

and they laughed because of the giddiness that we were in. I said, "She says the governor's on the telephone." The woman said, "I'm serious. The governor's on the phone." I said, "Is the secretary on?" And she said, "No, he's on the phone." So I said, "Can you plug it in here?" So they plugged it in so the rest of the fellows could hear my end of the conversation. He [the governor] got on, and I said, "Hi, Governor. We just had a party, and we've had lots of wine. I'm here with your commissioners. What can I do for you?" He said, "Arthur, I want you to take Cecil Poole's place and become my legal adviser." I said, "No thank you, Governor." And he said, "What?" I said, "No thank you."

VASQUEZ: Wasn't he also his [clemency] secretary?

ALARCON: Yes. He was the legal adviser, that is, the clemency, pardons, and extradition secretary. But the shorthand name we worked out was legal adviser, that's right.

Anyway, the governor said, "Don't say 'no' to the governor on the telephone." I said to him, "I can't afford to fly to Sacramento and say 'no' to you." And he said, "I'll send you the

tickets." I said, "Well, okay, you send me the tickets and I'll fly up and we'll talk." The tickets came by mail that night, and in a couple of days I flew to Sacramento. The governor had a ceremonial office, and then he had a private, den-like office in the back. He took me back there and sat on the couch with me and said, "Now, why are you saying you don't want to be my clemency, pardons, and extraditions secretary?"

VASQUEZ: [Laughter]

A Republican in the Service of a Democratic Governor

ALARCON: I said, "Because, number one, you're a Democrat and I am a Republican. Number two, you are opposed to capital punishment and I am not. And number three, I am very happy where I am. I like being a trial lawyer. It's a wonderful career. I'm not sure that it would be good for you or me to work here when we disagree on major policy questions."

He said, "Okay. Let's go down the line. I don't care that you're a Republican; you have a reputation for integrity. What I see this job as is a lawyer who advises me and, at the same time,

has the interests of the people in mind. So you go ahead and protect the interests of the people with your Republican philosophy and give me the best of your legal training and thinking. I'll be happy. I will make proper decisions if you give me good advice."

And he said, "As far as capital punishment is concerned, I'm sorry you feel the way you do, but what I need is a case-by-case analysis of whether or not I should exercise clemency for people on death row. From what I know about you and what I've learned about you, I think you would give me an honest opinion about whether or not I should exercise my clemency powers in individual cases. That's why I want you here. I don't care about your personal feeling, although I hope I can influence it before you leave."

[Laughter] And he said, "As far as your career is concerned, I recognize that you're trying interesting cases." I had tried a series of well-publicized cases of which he was aware.

VASQUEZ: Criminal cases?

ALARCON: Yes. All criminal, because I was in the D.A.'s office. Including a case involving a man [who

was] convicted [although] the body was never found, hasn't been found until today, a case called the [L. Ewing] Scott case, which was a leading case in the country.¹ In the homicide field there are only a handful [of cases] in the world where there's been a conviction without a body. I participated in such a prosecution successfully.

So he [the governor] said, "I know that you're doing exciting work. I was a D.A. in San Francisco, and I was a prosecutor. I know how exciting it is for you, but remember this: There's only one legal adviser, one clemency, pardons, and extradition secretary to a governor at a time. So you will have that unique experience that you can always say to people, 'I was the legal adviser to a governor.'" And that kind of swept me over.

VASQUEZ: Did it?

ALARCON: [Laughter] So I said yes and went to work for him.

1. People v. Scott, 176 Cal. 2d. 458; 1 Cal. Reprtr. 600.

VASQUEZ: How long were you in that position?

ALARCON: I started in that position on August 1, 1961, and stayed in that position for eleven months, at which time we had a similar conversation.

I was in South Shore at Lake Tahoe giving a speech to a law enforcement group and got a message that I should break away as soon as I could to call the governor. So I called the governor and said, "What's happened?" Among my responsibilities were the department of corrections, death row, the police, and so forth, so being interrupted in the middle of a speech I thought might indicate that there was some crisis.

He said to me, "My executive secretary, Charles [A.] O'Brien, is going back to work for the attorney general. I would like you to be my executive secretary." I said, "Governor, I don't think that's a good choice." And he said, "Don't tell me how to make choices. You've worked here for eleven months, and I think you're an excellent choice."

I said, "No, I don't think I'm a good choice because--and I hate to remind you of this--I'm a

Republican, you are a Democrat. There are things that you stand for publicly that I have questions about--particularly capital punishment. You should have as your executive assistant someone who shares your political philosophy, who can be your spokesman if you're not here, who knows exactly how you think and feel about things." The kind of role, by the way, that [Edwin] Ed Meese [III] played for [the then] governor and now president, Reagan. "I don't think that I can do that for you."

He said, "That's not the role I want you to play for me. What I envision you doing for me is being the administrator [who] runs this office and is my liaison with department heads, particularly now that I'm about to enter into a campaign against Richard [M.] Nixon. I need a very steady hand here, and all I want you to do is exercise your best judgment as to what you think is in the best interest of the people of the state of California. If you do that, then I will look good. I will never ask you to sacrifice any of the things you believe in, and you don't have to worry about trying to change my views."

So, again, I was bowled over by that statement and accepted. I became executive secretary, executive assistant, in July of '62. I stayed in that position until about March of '64.

Memorable Cases as Brown's Legal Adviser

VASQUEZ: Before we get into that, what are some of the cases or legal problems that stand out in your mind in the year that you were the legal adviser?

ALARCON: Well, the most memorable cases were the death row cases. I think I had somewhere around twenty plus or minus executions that occurred during the time I was in the governor's office. Among the first that I had anything to do with was the execution of Elizabeth Ann Duncan and two Hispanics, one named Luis Moya and one named Augustine Baldonado. The three of them were executed on the same day. That's happened twice, at least in this century, in California. I was there in Sacramento advising the governor when it occurred.

VASQUEZ: Is this the Ventura [County] Case?¹

ALARCON: Yes.

1. People v. Duncan, 53 Cal. 2d. 803 (1960).

VASQUEZ: Where, I think, she [Duncan] hired the two to kill her . . . ?

ALARCON: She hired two men to kill her daughter-in-law, her pregnant daughter-in-law. That case came up about three weeks after I arrived in Sacramento. I had to advise the governor, prepare a report for him, and assist him at the [clemency] hearing that he held. He used to personally conduct all clemency hearings for people on death row. Earl Warren, when he was governor, did not do so, nor did [Governor] Goodwin [J.] Knight. But Pat Brown felt these people deserved to have their representatives talk to the governor personally in a public hearing. So that case stands out.

There was a case which illustrates the way Governor Pat Brown thinks and, also, his relationship with me. After I had been in the office about ten days getting acquainted with the files, I found that I had four executions scheduled in the first three weeks of being there. One of them involved a man named Veron Atchley.¹ I quickly looked at that file and found that the

1. People v. Atchley, 53 Cal. 2d. 160 (1959).

governor, acting upon the advice of Cecil Poole, had already indicated publicly that he would not intervene in the execution of this man. I put the file aside after having read it quickly and, seeing that the governor had already acted, concentrated on the Duncan and Moya-Baldonado case.

Around the tenth of August, I got on the governor's calendar and came in with the Duncan case and the Atchley case under my arm, talked to him about the Duncan case, and told him what arrangements I had made and the people I had invited to come to the clemency hearing. Everything was all set, they were all going to be there.

Then I said, "And then you're aware that two days after that, there is the Atchley matter." And he said, "What do you think of the Atchley case? What do you think I should do?" I said, "Well, Governor, you've already made up your mind on that case, you've already issued a public announcement that you're not going to intervene." And he said, "Answer my question." So I said, "Well, Governor, I am a former

prosecutor from Los Angeles. I would never have asked a jury to convict that man of first-degree murder, let alone ask that they impose the death penalty." And he asked, "Why?"

I said, "Because Atchley was convicted of killing his wife. He was estranged from her. They had been separated for a number of months. He was very much in love with her, but jealous, very jealous of her. He believed that she was having affairs with men, and he decided the night that she was killed that she was going out with a particular man. So he got very, very drunk, drank all evening. [He] bought a gun at the bar, went to her house, was lying in wait next to the garage until three o'clock in the morning. His intention was to kill the man he was sure was going to take his wife to bed. When she got out of the car, she was alone. Notwithstanding the fact that she was alone and there was no man with her, he put six bullets into her. He killed her."

So I said, "On those facts, with the alcohol and the confusion in his mind, the doubt, whether she was having affairs, and jealousy, it's a

clear heat of passion or, at least, a case where there are many, many factors which would not make it first degree."

And after I had finished, he said, "You know, that's not good enough." I said, "I beg your pardon?" And he said, "I'm not persuaded by that. That's not enough for me to interfere with what a judge and a jury have done."

So I thought to myself, "I can't believe what's happening here. He is well known throughout the world for being opposed to capital punishment. I am not opposed to capital punishment. I have given him my impression of what would happen in Los Angeles and have indicated to him, although indirectly, that if I were governor I would never permit this man to die because it was disproportionate."

I said to him, "You know, my belief of the governor's duty in the exercise of his clemency power is that he must try to equalize justice in the state of California and not permit local passions in one county to lead someone to be executed while in another part of the state that would not occur."

VASQUEZ: What county was that trial tried in?

ALARCON: Butte County.

VASQUEZ: Do you think that had a lot to do with the conviction?

ALARCON: Well, there was a reason for that. I think there were strong reasons for the death penalty in that case which had nothing to do with what I've just said about the heat of passion and so on.

Atchley had two brothers. They had been hell-raisers, heavy drinkers, in and out of minor problems, including barroom brawls, since they were young teens. One of his brothers was in prison for murder at the time that the homicide occurred, and a second brother had just been killed by his wife after she had taken years of wife beating. She finally decided that she couldn't endure this any more, so she killed him.

They were a notorious family in the county. They were considered to be outcasts, total outcasts in that county. So I said, "That kind of local animus, I think, showed itself in an improper death penalty." He said, "Not good enough. You're going to have to do better than that." Now, I'm satisfied that he knew me better

than I knew myself and was baiting me into coming back with a stronger case so he could do what I was recommending.

I went back to my office seething at this bizarre confrontation between the man who was in favor of abolition of the death penalty and someone who was not in favor of abolition. We had reversed roles. So I sat down, pulled the file, and reread the file carefully. After about a day of going over every piece of paper in the prison file, which was about four inches thick, I found something that I had overlooked previously. A social worker, in taking a history from Atchley about his life similar to this conversation . . . [Laughter]

VASQUEZ: [Laughter]

ALARCON: He asked him, "Have you ever been injured?" And Atchley said, "Well, about four years ago. Some four and a half years before the homicide, I was outside a bar and a fellow came up and gave me a lick on the head"--Atchley's words--"with a baseball bat. I was unconscious for two days."

I stopped reading and said, "Wait a minute." My work in the D.A.'s office dealing with assault

cases, and also being a young father at the time, I was aware of the problem of concussions, the possibility of brain damage from concussion.

I ran across the hall to the governor and said, "I have a report that indicates that Atchley suffered such a severe blow to his head that he was unconscious for two days. I don't know what that means, but I'd like to have your permission to have him moved to the Langley Porter Clinic in San Francisco and have a full examination, including an electroencephalograph." The governor said, "Write it up and I'll sign it."

We issued an order to the Department of Corrections to take him over to Langley Porter, and they examined him. Sure enough, we got a report, and now I'm working against the clock. He was supposed to die in twelve days. Around the seventeenth, or about five days before the execution date, I got a report from Langley Porter. Although it was stated in arcane medical language, the gist of it was that he had had a massive blow and massive damage to the part of his brain that controlled his emotions. Any

emotional provocation, however slight, might cause a response which was totally inappropriate. Which, translated, meant that faced with any belief, for example, of jealousy, he could react violently rather than rationally.

I contacted the psychiatrist and said, "Could you put this in layman's language for me?" He sent me a report saying basically what I've just said. I said, "Would you come to the clemency hearing?" He said, "Yes." So we had a clemency hearing for Atchley. The D.A. came, and the defense lawyer and I presented the psychiatric evidence. Both the D.A. and the defense lawyer were stunned.

VASQUEZ: Who was the D.A. at the time?

ALARCON: I can't tell you who the D.A. was. But the D.A. later said to me and to the press that had he known about Atchley's medical condition, he would not have asked for the death penalty. The defense lawyer did not inquire into his mental condition before trial, which is kind of frightening.

Since then, I've taught criminal procedure over the years, and one of the first things I

tell defense lawyers is, "Find out about your client. Find out if they've had any injury or any disease which might have affected their judgment and their ability to exercise judgment."

So, anyway, the defense lawyer had no idea that he had been injured. He never ordered a psychiatric evaluation nor an electroencephalograph. The upshot of it is that the governor commuted. The case got national attention because of the use of an electroencephalograph to demonstrate that an individual could not control his behavior and that that was a factor that could have been but was not considered in litigation, but that the governor did consider. The D.A. indicated that he felt it was a solution to the case.

Governor Brown and the Death Penalty

VASQUEZ: So you ended up arguing against the death penalty in this case.

ALARCON: Well, [Laughter] yes. Because it was inappropriate. It was an inappropriate case for the death penalty.

VASQUEZ: You were saying that there were a number of areas in Brown's political program or Brown's political

philosophy that you had special problems with or had discrepancies with. Apart from the death penalty, what would some of those be?

ALARCON: Well, I think my biggest concern was that his relationships with law enforcement had deteriorated. A lot of it was tied in with the impression I had as a prosecutor that he was weak in terms of punishment. I believed that there was a need for punishment as a deterrent. It appeared to me that he was for weakening rather than strengthening our laws that protect us from violence.

That impression was not as accurate, I found out after working with him, as I would have liked it to have been. I found out that the private man was very concerned about violence and very concerned about whether he was giving proper leadership in terms of facing the problems of violence.

He personally doesn't think the death penalty is proper, but other forms of punishment, I found out, did not trouble him as much. Although he was concerned that we didn't have any evidence to say that if you kept a first-degree

robber in prison ten years rather than eight years, he [the robber] was less likely to be violent and return. He kept pointing that out to us, and, of course, it's true. There is not a great deal of hard evidence that more punishment will change an individual's personality and behavior.

VASQUEZ: Create a deterrence?

ALARCON: Change it, yes.

VASQUEZ: In what other areas did you disagree with the governor? Economics?

ALARCON: I was concerned that he was not as troubled about balancing the budget as I felt I was. I later learned that he--when I got there and studied more closely what his views were--was very concerned about balancing the budget.

I got a call one day from my father who had heard the governor speak over the radio, and he said, "Tell the governor to stop talking about balancing the budget. Democrats aren't supposed to do that." [Laughter] "They should be concerned about taking care of the sick and the poor and not worrying about balancing the budget." So I found out, again, that our

differences were not as much as I had perceived them to be from reading newspaper editorials and columnists' writings.

Opposing the Governor on Boxing

VASQUEZ: Was there any particular issue while you were in the governor's office that you were opposed to or on different sides of?

ALARCON: No. I really can't say that, not at all. The things that he was working on, expanding the University of California, the water program, those were things that I was very much in favor of.

He is--or at least was when he was governor--opposed to boxing. I happen to have done some amateur boxing, and I was not initially as opposed to boxing. In fact, when I boxed I found it exciting and interesting. But I was not a slugger; I was a boxer. Then I weighed around 150 [pounds] and was very fast and effective as a boxer. So I never boxed on the heavyweight level and never got into the ring with a slugger, someone who could damage my brain. I really didn't have as much understanding as I do today about what boxing can do.

So when he made a public statement that boxing should be abolished, I and other members of his staff felt that it was an area that he should not get involved in. It was not dangerous, and the people who did it, like the people who play football and people who race cars, knew in advance that there were chances they would be hurt. As I worked with him and as I thought about and listened to his concerns and thought about what he said, I ended up coming around to the view that I would be very happy if boxing were abolished today. Since I worked for the governor as a mental health court and criminal court judge, I have seen many people who showed the effects of having been boxers for a number of years and whose brains have been damaged terribly by the injuries they suffered in the ring.

Again, that's another area where, at first, I perceived that I didn't agree with him and then, as I thought about it more, I could see [differently]. One thing that was deceptive for me about Pat Brown was that there were things that he seemed to say rashly, such as that boxing

ought to be abolished. He would not follow up with a studied analysis of why boxing should be abolished and bring in an expert who would demonstrate what happens to the brain, the concept of contrecoup, where if you hit the brain in the forehead, your brain is forced to the back of the head but then bounces forward again. The blow coming back is as damaging if not more damaging than the blow going the other way. So because he would say these things, then go on to the next subject, I sometimes felt that there was nothing behind that statement except a political one-liner or a knee-jerk reaction. But when I would study the field and look at what was available out there, I realized there was more depth to the man than showed publicly.

VASQUEZ: Other members of his staff have referred to him as a "gut politician." Would you agree with that assessment?

ALARCON: Yes. I think that's what I'm trying to say. He had an instinct for the right side of some issues and also a perception of what people out there felt. Now, [that was] not true in boxing. [Laughter] And we explained to him that [at] six

o'clock in bars, there are lots of voters watching boxing. [Laughter]

VASQUEZ: [Laughter]

ALARCON: We told him to wait until after the election campaign if he really insisted on taking on boxing. This wasn't a good time. After we gave him that speech, he agreed with us that it was politically unwise.

VASQUEZ: You say "us." Who else on the staff [thought this]?

ALARCON: Well, the press secretary, Jack [F.] Burby, and [Lucien] Lou Haas, the assistant press secretary. Although Lou was kind of our conscience from the left. He would say, "Governor, you just say whatever you want." [Laughter] But even Lou cautioned that it was not appropriate when he was facing what we thought was a very difficult battle against Nixon.

Alarcón's Political Value to Governor Brown

VASQUEZ: Before we go on to that campaign, [as clemency secretary] you followed Cecil Poole, a black man.

ALARCON: Yes.

VASQUEZ: And you were probably one of the first Mexican-

Americans, if not the first, to hold that position.

ALARCON: Yes. I think maybe the only one.

VASQUEZ: Was that a role that you understood had to be recognized and used to promote the administration as one which involved all of the people of California?

ALARCON: No. I can't speak about Cecil as well as I can speak about myself. My ethnic background, I would say, had if not nothing, then almost nothing to do with my appointment. The reason that I was appointed by Pat Brown is the reason I gave you. I had gained a reputation statewide for the work I had done in the exclusionary rule area.

Secondly, I was very popular, or I had the respect--perhaps a better way to put it--of police chiefs and sheriffs in southern California and the state of California. Part of it [was] from the work I was doing in search and seizure and the many talks I had given on it. Part of it [was] because I was coeditor of three criminal law books that were used by police and sheriffs in their training, books like Fricke and Alarcón:

Criminal Law,¹ Criminal Procedure,² and Criminal Evidence.³ And part of it was due to the very well publicized cases that I was working on where I worked very closely with all branches of law enforcement and was fortunate that they liked my work and liked me personally.

VASQUEZ: In addition to your expertise, do you think that was your political value [to the governor]?

ALARCON: Yes, I think that he needed someone who was liked and respected by the police. Now, Cecil Poole, now my colleague on the United States Court of Appeals, is very outspoken. He'd be the first to tell you that.

He was very protective of Pat Brown. If someone criticized Pat Brown, it was like criticizing his father and mother. And he would take them on, anyone. He had at various gatherings in a heated discussion told off the

1. Fricke, Charles W. and Arthur L. Alarcón. California Criminal Law. Los Angeles: Legal Book Corporation, 1965.

2. Fricke, Charles W. and Arthur L. Alarcón. California Criminal Procedure. Los Angeles: Legal Book Corporation, 1974.

3. Fricke, Charles W. and Arthur L. Alarcón. California Criminal Evidence. Los Angeles: Legal Book Corporation, 1978.

police chief and the sheriff of Los Angeles County about their criticism of the governor's actions in commuting people or his attitudes about the death penalty.

There was a contentiousness and abrasiveness that had developed [with Cecil Poole]. It really had nothing to do with Pat Brown as a person, it had to do with his ideas and his representative with law enforcement who had gotten into public disputes with some law enforcement officials in defending the governor. I think part of the reason that I was selected was that I was perceived to be not as abrasive and was perceived to be someone who could quietly restore the natural affinity that law enforcement had with [the governor]. He had been the attorney general. He loves to talk about the fact that his father-in-law was a police captain for the San Francisco Police Department. He used to start every speech before law enforcement groups expressing this pride, that he was related by marriage to a police captain. I think part of the reason I was selected was that he felt I could help him there.

Distinguishing Between an Administrative and
Political Role in the Administration

VASQUEZ: Being a Republican, you went into an administration that was full of Democrats and Democrats who were feeling their oats [because] for only the second time in this century, California had a Democratic governor. Never had there been so much influence held by Democrats in the legislature and other branches of state government. Did you find any resentment or resistance to your efforts there?

ALARCON: No. First of all, let's define my efforts there. What I was trying to do was to carry out what he asked me to carry out. I was not there with a political agenda. I worked on law enforcement matters. Aside from law enforcement matters, I did not have a program that I felt should be accomplished by the Pat Brown administration in the next four years, eight years, or twelve years.

My conception of my responsibility was very narrowly defined, and that was to run the governor's office and to help the governor supervise department heads in a way that all of us carried

out our mission to the public. That was to enact laws which addressed problems in the proper way and make sure that the proper legislation [reflected] what the governor wanted. I conceived my role as administrative and procedural rather than as a person who was pushing ideas.

VASQUEZ: Advocating?

ALARCON: Yes.

VASQUEZ: Yet it was a very advocating type of administration. Very reformist-minded. Change-minded. You must not have been too antagonistic to some of those ideas of change. Even though you were a technician in the administration, you were helping that administration be successful.

ALARCON: No. I can tell you that I must not have been opposed. . . . Because I am a little taken aback at that description. I did not perceive it to be a reformist administration. Although I. . . . Well, I didn't. If you call the water program, the . . .

VASQUEZ: The master plan of education? The reorganizing of the state government?

ALARCON: Yeah, I don't think of those as great social

reforms. I think of them more. . . . Well, that's because I favored them, and that's the point you're making. I think of those as proper roles of government, to try in the administrative field to figure out a way to carry out the mission of government more effectively.

If it could be done more effectively by having superagencies rather than department heads, I would have been for it. I was not that enchanted with the result, by the way, of having agency heads over the departments. But I thought it was worthy from a political science standpoint, I thought it would be worth trying. You have to do that in government. You try something, if it doesn't work, you should get rid of it. Although it's not that easy in government to get rid of things that you start.

Alarcón's Views on the Role of Government

VASQUEZ: So then you continued to be a Republican who believed in a strong and active role for government?

ALARCON: Yes, but in a limited way. I do not believe in government interference in my business or private affairs. I believe in less rather than more

taxation, in encouraging private enterprise rather than discouraging private enterprise. So to the extent that the tax is raised one penny, I bleed a bit. When those things had to go on to take care of some of the welfare programs that were going on. . . . Which, incidentally, were not all Pat Brown's ideas.

[End Tape 1, Side B]

[Begin Tape 2, Side A]

VASQUEZ: So the goals of the Brown administration squared with your notions of the role of government in society?

ALARCON: Yes. Among the concerns that I have always had, since, at least, UCLA, is a great concern that money not be used by a higher level of government to force a lower level of government to give up its sovereignty. For example, I do not think that the school budget should be dependent upon doing whatever it is that people in Sacramento want to achieve in order that local schools can get enough teachers and enough classrooms to do the job that they are supposed to do. One of the concerns that a person with my philosophy would have is to watch very carefully to see that a

program initiated in Sacramento will not cause a local agency to lose its autonomy, to lose its sovereignty. Every program that I was observing that had been enacted or for which legislation was being proposed worried me that this might occur. Now, I don't see the master plan of education as violating that. I see that master plan for education as a very sensible, conservative way to approach government.

VASQUEZ: Why is that?

ALARCON: Well, rather than having things just evolve, it is necessary to sit down and look ahead and say, "What is the San Diego area going to need by the year 2010 in terms of universities, community colleges, or other state-supported, tax-supported institutions?" I think it is only wise planning to work out a plan to achieve [a goal], figuring out first what you want. What do you see for San Diego? What can the state do to help that region of California? Then, to work out incremental plans to get to that point by 2010 seems to me just to be good, sound, conservative planning, not a wild-eyed-liberal interference with people's lives, that kind of thing. Social

welfare is a good example to me of where government can interfere with people's lives.

VASQUEZ: How so?

ALARCON: Well, having people knock on your door to make sure that you're not living with a man and, if you're living with a man, then the aid to the child may be affected. I think that is a distasteful role for government, I think that there are better ways to do that.

One better way to have done that was proposed by President Nixon at the instance of a former law school classmate of mine, [Robert H.] Bob Finch, who said, "Instead of having hundreds of thousands of people on the federal payroll who are snooping to make sure that welfare recipients are not cheating, why not have a negative income tax? Why not have everybody declare what their income is and figure out what it requires for a person to live? If they're below the line, then send them a check." I think [that] would be far more [Laughter] sensible than this incredible, bureaucratic mess we have created and are perpetuating even today. That's the kind of political philosophy that I have, small p.

[End Tape 2, Side A]

IV. MORE ON ALARCON'S FAMILY

[Session 2, April 12, 1988]

[Begin Tape 3, Side A]

Alarcón's Family

VASQUEZ: Judge Alarcón, the last time that we spoke, we went over some of your life history but didn't discuss your family life. You're married, is that correct? What is your wife's name?

ALARCON: My wife's name is Sandra Daneen Marts [Paterson]. She is a computer engineer. She works in a think tank for Citibank Corporation. She has a master's degree in computer sciences.

I have three children. I have a daughter, who is in her early thirties. She has a master's degree in education. She is a specialist on teaching signing for teachers of the deaf. At the present time she is on leave because she's getting a master's degree next month in clinical psychology.

VASQUEZ: What's her name?

ALARCON: Her name is Jan Marie [Alarcón]. Jan will be getting her Ph.D. in about two years. She plans to work with the emotional and mental problems of the disabled, primarily the deaf, but also other

disabled people. She has been employed in Santa Cruz County at the [Cabrillo] Community College there, running the developmentally disabled department.

VASQUEZ: She's the oldest?

ALARCON: She is the oldest. My next child is Gregory [W. Alarcón], who became an assistant United States attorney about two weeks ago. Prior to that he was for several years a deputy district attorney in Los Angeles County. Prior to that he was a deputy attorney general for the state of California. He is a graduate of Loyola University School of Law and, prior to that, from UCLA.

My third child [Lance Alarcón] is a sixteen-year-old who has just begun his last two years of high school at Exeter, part of the Phillip's Schools in New Hampshire. He will be graduating a year from June.

VASQUEZ: When did you get married?

ALARCON: This is my third marriage. I was married in 1979 to Sandra. Prior to that, I was married to Lynn Graf, and prior to that I was married to Frances McKenna, who is deceased.

VASQUEZ: Has family life interfered at all with your legal or political career?

ALARCON: No. Actually, I made some early choices--because family life and children are important to me--not to run for partisan political office. There were times in my youth when I was tempted to run for district attorney. But because of my own confidence, I decided if I ran for district attorney, then I'd want to run for attorney general, and if I ran for attorney general, I'd want to run for governor, and if I ran for governor, I'd want to run for senator. I looked about and saw family lives of district attorneys, attorney generals, governors, and even presidents, and I decided I wanted more privacy and more opportunity for a family life than a political office would give me. So I made a conscious choice. The country has lost a senator, perhaps a president, because I chose not to run for partisan political office.
[Laughter]

VASQUEZ: And has the judicial branch given you more family life?

ALARCON: The judicial branch is ideal for family life because the hours are more consistent with

paternal duties. I've been able to help my children with their homework and read to them, tuck them into bed, teach them baseball, golf, swimming, and things like that, where my friends who are in partisan politics missed those years.

VASQUEZ: Do you feel you made the right choice?

ALARCON: I'm very pleased with the choice I've made.

More on Alarcón's Legal and Political Ambitions

VASQUEZ: Which takes me to something that you alluded to last time we talked but weren't very specific [about], and I wanted to ask you directly. What made you want to be an attorney? In fact, I think you knew you wanted to be a judge at a very early age. Why?

ALARCON: Well, I think I mentioned that my father had talked to me from early childhood about a legal career, or at least a law school education being best for a young man, giving me opportunities in business, government, or in the legal field. As I think about it now, it was probably his notion that that was the way I should go. It was probably based on the fact that he was from Mexico, and in European and Latin countries you go to school and do graduate work in medicine,

engineering, or law. From there you go into other fields. I think he felt a classical education such as law would be ideal for me. As I thought about that in later years, it sounded very good to me. I was interested in government and politics. I always have been. I have gone to every political convention since I was a little boy by myself. I remember conventions involving [Franklin D.] Roosevelt when I was six or seven years old, and every time something was held during my childhood in Los Angeles, I was there, Republican or Democrat, because I was fascinated.

VASQUEZ: [You went] by yourself?

ALARCON: By myself.

VASQUEZ: As a young man? As a teenager?

ALARCON: Yeah, sure. They used to give away political buttons, and I used to collect them.

VASQUEZ: Would you try to get into the conventions?

ALARCON: I got in, I did get inside.

VASQUEZ: How did you do that?

ALARCON: There was no charge and, for a child, they didn't much care. So I was able to get onto the convention floor and wander around.

VASQUEZ: You had no problems with credentials, evidently.

[Laughter]

ALARCON: In the earlier days, they were held in hotels. They were not of a sports-arena or a convention-center magnitude. A lot of them were held here in the Biltmore Hotel.

VASQUEZ: Which do you remember being the first one you ever attended?

ALARCON: Well, I attended political rallies for Roosevelt as a six-year-old [boy], and every four years thereafter, two or three times for Roosevelt because he was president four times. When I returned from the service, I attended everything that was held in Los Angeles whether it was for the primary or the few presidential conventions we've had here. I attended them all.

Although I knew no one there, I was just curious. It was fun having the badges. I would get the buttons or badges for my friends. We'd all wear Roosevelt or [Wendell L.] Willkie [buttons], or sometimes Roosevelt and Willkie, although they were opponents. I engaged my father in many discussions before I was ten about politics and government in the United States.

Forming a Political Philosophy

VASQUEZ: You told me last time we spoke that if you had to put a label on your father's political bent, you would call it far left.

ALARCON: Yes.

VASQUEZ: Do you think any of that leftist thinking entered into your philosophy or your thinking about government and public life?

ALARCON: I don't think so.

VASQUEZ: If not, why not?

ALARCON: I don't think it did because many of the ideas that he had I felt were not workable. You have to remember the times. He was a baker in the early thirties when organizing a union in Los Angeles was very dangerous. Twice he ended up in the hospital because he was picketing. He ended up being beaten up on one occasion by what they used to call "goons" or "strikebreakers" hired, he said, by the [International Brotherhood of] Teamsters union to come in and scare away the union organizers.

VASQUEZ: What union was he with?

ALARCON: With the Bakery and Confectionery Workers [International] Union [of America], Local 37. I

think it was Local 37. I also went to union meetings as a child and listened to the exchange.

VASQUEZ: What were your impressions of that, do you remember? They had buttons.

ALARCON: Yes. [Laughter] Sure. I was very impressed with the ability of the people with no education, like my father, to stand on their feet and challenge ideas and to criticize the lack of fair process in meetings, their lack of fear to stand on their feet and speak their mind. My father, for example, was very taken with some of Karl Marx's ideas and in the early stages of communism in Russia. He had great sympathy for what they were trying to accomplish.

VASQUEZ: What kinds of things did he especially find sympathetic to his way of thinking?

ALARCON: He was interested in what was then called agrarian reform, which was breaking up estates and turning over the land to the farmers. Even collectivism, he felt, was a proper way to distribute wealth. I was kind of amused. I heard one of my colleagues giving a speech the other day in which he talked about "distributive justice" as being a goal of the nineties. It

sounded very much like some of my father's ideas in the early thirties.

I used to debate him on collectivism and communism. I told him I didn't think that [under collectivism and communism] you would be able to get from workers their best efforts, notwithstanding the Marxist idea, "To each according to their needs, and from each according to their ability." I told him that without an incentive of some sort, communist economic theories wouldn't work. My father didn't live to see it, but we're seeing even in China now their version of communism where there are incentives. And in Russia they are tolerating some private enterprise in competition with the state. We used to debate that.

I will say, though, that he made me sensitive to the ideas of people who came from poverty, and I hope that I am still sensitive to that. In trying to criticize the approach that he came up with to solve the problems of the poor or the problems of discrimination, it certainly made me try to come up with a rational way to solve those problems. Not necessarily the way of

the far left, but he certainly sensitized me to the existence of those problems.

VASQUEZ: How did he feel about that same process in Mexico? Didn't he come from a family that owned land?

ALARCON: He came from a family that had large landholdings. He was very distressed about what some of the presidents of the late twenties and early thirties were doing in expropriating land, the oil business, and other large industries. It wasn't totally consistent with his far left ideas, but he was very concerned at the approach that they took. Although when it was a United States company that was the victim of the expropriation, he was less disturbed. [Laughter]

VASQUEZ: Did he have deep feelings of Mexican nationalism?

ALARCON: Not really. It's hard for me to explain what his feelings were, but they were not really nationalistic in the sense of the Mexican government. He was not a superpatriot for Mexico as a political entity. But his homeland, his mountains, his sierras were something he always wanted to return to until the last few years of his life.

He did not become an American citizen until

just before he died in his early sixties, because he always had the hope that he would go back to Chihuahua. In fact, after the rest of us went to bed, he used to study things like Popular Mechanics because he was trying to learn all he could about electrifying his own ranch, independently, through gasoline-powered engines. He studied and made drawings of pumps and ways of providing water for this ranch that he hoped to own someday if he ever went back.

He didn't go back because he decided that it would interfere with our education and our opportunity. So he delayed and delayed and delayed to the point where his health didn't permit him to go back. That's when he decided that he could make the commitment to this country. Just before he died he became an American citizen. But it was not that he loved the Mexican government; it's that he loved his homeland. He had an emotional need to go back to that.

It's funny, because one day a few years ago, I was flying in an airplane when I said to myself, "You know, when I retire what I'd like to do is to live in open country with lots of land,

lots of trees, perhaps a stream or river cutting through the land." And then I thought, "Well, you know, a good place for that would be. . . ." And then I said, "Chihuahua, where my grandfather came from." [Laughter] Back to what he had. So there may be something genetic . . .

VASQUEZ: Does your family still own land?

ALARCON: I do have cousins who own small portions of what land we owned.

VASQUEZ: Was this land specifically taken as a result of the agrarian reform?

ALARCON: In the [Mexican] Revolution, yes.

VASQUEZ: During the revolution, or after? In the time of [President Plutarco Elías] Calles or in the time of [President Lázaro] Cárdenas [del Río]?

ALARCON: Cárdenas. Yeah, he [my grandfather] did not like Cárdenas. The family land was taken, and because my father was the oldest son, under primogeniture he was asked by the family to carry on the fight. The last time I talked to him about it, just before his death, there had been about thirty years of litigation. Much of the land was consumed by legal fees to try to fight the taking of the land. Whatever is left he gave to his

cousins, and they are there producing cotton, tobacco, and tomatoes.

VASQUEZ: I think you knew [Henry] Hank López?

ALARCON: Sure.

VASQUEZ: Did you ever read his essay, "Back to Bachimba"?¹

ALARCON: No. I heard him talk about it and recite portions of it from memory to me.

VASQUEZ: I think you'd find it really moving.

ALARCON: Well, we talked about that, and it's interesting, because we may have been related. He is a López, and a lot of my cousins are Lópezes. He loved my Fermin López story, because one of his relatives, either his father or his uncle, was very close to [Francisco] Pancho Villa, and may well have been [one of Villa's men] watering their horses downstream [Laughter] when my relative, Fermin López, almost killed Pancho Villa.

VASQUEZ: Why don't you repeat your Fermin López story, which I think you told me earlier off tape?

ALARCON: In 1963, just before he passed away, I took my father back to the village where he was born.

1. López, Enrique Hank. "Back to Bachimba," Horizon, Vol. 9, No. 1 (Winter) 1967, pp. 80-83.

That village is Carrizal and is now a national monument. I had heard many stories from him about his family and his childhood, some of which I discounted because I wasn't sure from my knowledge of Latin American history that it could have happened that way.

One of the stories he told me was that Pancho Villa came to the area where my father's family owned a large ranch and took all the cattle and the horses and all the grain and all the food that had been stored. They depleted the whole area and took over some of the property for Pancho Villa. One of my ancestors, named Fermín López, was one of the victims of this stealing of everything from the land.

He saw Pancho Villa watering his horse outside the ranch house, so he went to the mantle, got his rifle, placed it against the window, and was about to fire a shot that would have killed Pancho Villa when his wife, a great-great-aunt of mine, saw it and ran across the room, threw her body against him, and knocked the gun out of his hand. Had she not done that, Pancho Villa would have died a little earlier

than he did, and it would have been at the hands of one of my relatives who probably also would have been killed. And he may have been killed by Hank López's father and brother. [Laughter]

VASQUEZ: That's a great story.

Tracing Alarcón's Mexican Roots

ALARCON: There's another, if I can tell you another quick story about that. One of the things my father had told me about this village was that he was born in a huge house that was surrounded by a wall about a city block in size, and there was a chapel on the property. He left there when he was six years old, so I had always thought that the story was exaggerated through the eyes of a child.

I was anxious to see what this [house] looked like when he and I traveled up to this village. When we drove into the square, sure enough, there were the ruins of a great house which had a wall around it. In the back there was still standing a chapel, which is still used by the Indians who live in the hills around this village. I went in the chapel, and there were candles, votive candles lighted there, and over

the chapel was a bell that was cast in 1703.

One of my father's cousins is the caretaker for the government there. He told me that that bell had been taken by a cousin to Villa Ahumada [Chihuahua] a few years ago, and they arrested him [Laughter] because he had stolen something from a national monument. They restored it, and he told me that the bell had been cast in Spain and sent over for this chapel in 1703. So the family was there a long time.

Part of my father's remembrances was that there were twenty-five little rooms for the slaves. I stopped him when he first told me that story. I was going to UCLA, and one of my minors was Latin American Studies. I said, "Wait a minute, there were no slaves in Mexico. In fact, I know that the Mexican government gave amnesty to black slaves who came across the border just prior to and during the Civil War. In fact, there are villages in Mexico that were all black."

VASQUEZ: Slavery was formally abolished in 1829.

ALARCON: So I said to my father, "No slaves." And he said, "Yes, we had slaves." And I said, "What

kind of slaves did you have?" He said, "Well, it wasn't while I was there, but before I was born they had Apache Indian slaves." He told me about the wars that occurred between the villagers and the Apaches [who] would come down from Apache country, wait for the crops, then come in and steal. Sure enough, there were twenty-five little rooms outside these ruins on the family property.

About six years ago, after I became a member of the United States Court of Appeals, I had a case called Babbitt Ford vs. Navaho Nation. I think that's the title, something like that.¹ The issue in that case was--I think it was the Navaho--whether the Navaho nation has the right to enforce its civil laws against non-Indians.

What happened was that the Babbitt Ford Company sold a pickup truck to a Navaho who took it home and then didn't make any payments. So the Babbitt Ford people sent the repo man to the Navaho nation and tried to take the pickup truck,

¹. Babbitt Ford v. Navaho Nation, 710 F2d. 587 (9th Circuit, 1983).

at which time they were arrested by Navaho policemen and thrown in jail. When they were able to phone for lawyers, they found out that they had committed a crime because you can't under Navaho law repossess a vehicle without the consent of the owner or the tribal council.

The lawsuit was a federal action trying to get an injunction to stop the tribal court from pursuing its action against these two non-Indians. In deciding that question, we had to look at the treaty executed between the United States and the Navaho nation. That treaty was signed sometime in the 1860s, right after the Civil War, with General [William T.] Sherman serving as the representative of the United States a few years after he marched through Georgia.

In reading that treaty, I got to the end where General Sherman said to the great Indian chiefs who were gathered there, "Do any of you have any message you would like me to take to the great white father?" I was surprised that that was the term that they really used to refer to our president. One of the great Apache chiefs

stood up and said, "Yes. I want you to tell the great white father that we need his assistance because the Mexicans are taking our young men and making slaves of them." [Laughter] I thought to myself as I read that, "Well, my father was correct."

VASQUEZ: That's on the border.

ALARCON: Yeah.

VASQUEZ: This happened not only with the Apache and the Navaho, but with the Papagos and the Yaquis?

ALARCON: Sure.

VASQUEZ: So you had a rich cultural upbringing in your home, it seems, at least in discussions with your father.

ALARCON: Yes.

VASQUEZ: That background seems to have been very much present in his thinking and, consequently, he gave it to you, is that right?

ALARCON: Yes.

V. ALARCON'S DUTIES AS CLEMENCY SECRETARY

More on Duties as Brown's Clemency Secretary

VASQUEZ: I wanted to get in more detail into your role as clemency secretary in the Brown administration.

Tell me something of the duties that you had and what kind of organization those duties had in that office.

ALARCON: Most of the work entailed requests from other states for extradition of fugitives who had taken asylum in the state of California. We had a number of those requests that would come in daily. My responsibility was to look them over to see that they were in proper form, that they met all the requirements of the state of California, and to see that the documentation from the demanding state was correct. These are the technical terms: the "demanding state" is the state from where the fugitive escaped, the "asylum state" is the state where the fugitive goes to.

I would spend seven or eight hours a day going over those requests for extradition. Most of them were fairly routine, most of them were uncontested. A number of them were contested. Some of them would involve the kind of request that you see occasionally where someone who had been a model citizen of Orange County for thirty years and was now president of the Toastmasters

Club and a fine businessman as a twenty-year-old had stolen a car in Illinois. And through some fluke, such as an application for a license or something, law enforcement had discovered that he was wanted by the state of Illinois. So we would get requests to the governor to deny extradition.

The Governor's Power over Extradition

Occasionally, the governor would do that as part of his power as governor. He has the power to deny extradition.

VASQUEZ: Is this a discretionary power or a statutory power?

ALARCON: Yes. Exactly. Well, it's constitutional, actually.

VASQUEZ: But it is discretionary.

ALARCON: It is discretionary and unreviewable. So the governor can deny an extradition on that kind of ground--compassionate grounds. The same thing happens if we ask for someone from Illinois.

Political Considerations in Extradition Cases

VASQUEZ: How about political grounds? Was there ever a case or instance where political considerations . . . ?

ALARCON: Not during the time that Pat Brown was governor.

More recently, during [Governor Edmund G.] Jerry Brown's [Jr.] term, there were two or three on political grounds, but I don't recall any requests that there should not be an extradition.

VASQUEZ: But did anyone ever intercede with Governor Brown who was involved either in partisan politics or state politics on behalf of somebody on extradition?

ALARCON: Oh, oh, oh yes.

VASQUEZ: How would that work?

ALARCON: That was an interesting part of my job. As I conceived my role. . . . And I should explain to you that there is nothing in the statutes that says what an extradition secretary must do, what a clemency secretary should do, or what a pardons secretary should do. Because these are all constitutional powers of the governor. They are discretionary. They can be exercised conservatively or liberally, capriciously, and there's no review. The supreme court of California can do nothing to control the governor in his exercise of that power. So because of that discretionary aspect, occasionally I would get requests by friends of the governor. On two occasions, a

relative of the governor who is a lawyer and . . .

VASQUEZ: What was his name, do you remember?

ALARCON: I would rather not tell you his name.

VASQUEZ: Okay.

ALARCON: But he was a lawyer, a relative who made requests that I felt were improper. They wanted to talk to the governor because they felt somebody should not be extradited or someone should be released from prison earlier than he would otherwise be but for this connection. I did not put those calls through. I would tell these people that if they really were a friend of the governor, they would not make such a request, that it was improper to use their friendship in that fashion, and it would be improper for the governor to do so because of friendship. And, in fact, it might be an impeachable offense if he were to act on the basis of favor or friendship and discriminate against other people who didn't have that connection.

VASQUEZ: How would Governor Brown react to that when you would tell him?

ALARCON: I did not tell him about most of these requests. I conceived it to be my responsibility

to shield him from such contacts, to shield him from his own friends, and in one case or twice from one relative.

VASQUEZ: And from the knowledge that they were asking for these things?

ALARCON: Yes. I could not protect him from a direct call or the relative that I shielded him from. It was interesting, because he [the relative] came to me and said, "I want you to do this, and I know that the governor would want you to do this." I said, "I'm not going to do this, and I don't think the governor would want me to do this. But, in any event, I am not going to put it through because it's wrong." My guess is that there was a time when this close relative complained over a dinner table. But I never got the request, and it never happened. So I am satisfied that if there was a complaint about my refusal to do it and my refusal to tell the governor of the request, that the governor backed me up.

VASQUEZ: Did he acknowledge your actions?

ALARCON: No, he never spoke to me about it. Of course, the other alternative could be that my saying it was improper might have convinced an individual

who, not knowing the rules, may not have realized that you can't do that. He may have felt that it was one of the perks of office [for the governor] to reward his friends or their friends.

VASQUEZ: Was there ever a case in which intercession or some kind of involvement in either an extradition matter or a pardon matter involved national figures? Political figures?

ALARCON: I don't recall any involving a national figure. During the time I was there, I cannot recall any approach from any political figure. I'm sure you're aware of the problem in a state like Missouri where the governor, I think, lost his office because of pardons and his pardons secretary was involved in releasing people. We never got that kind of request from any political figure. I didn't get that kind of request on a nonofficial basis from a legislator. I would get letters from legislators saying, "One of my constituents has said that her son is being held improperly. Would you look into it?" We'd look into it. We'd write back to the legislator and say, "Here are the facts. Thank you for bringing this to our attention." We wouldn't hear about

it again.

VASQUEZ: They were all pretty much minor matters? Did you ever get a major matter or a contentious matter involving a legislator?

ALARCON: Yes, oh, surely. We would get letters from legislators saying that the prison system was discriminating against a particular group and the community was very concerned about what was going on there. "Would the governor"--this would be addressed to the governor--"investigate this?" He would turn it over to me, I would order an investigation, then report back to the governor, who would report back to the legislator as to the facts.

VASQUEZ: Given the nature of the composition of the legislature at that time, that would have been the black community, right?

ALARCON: Yes. Yes.

VASQUEZ: And the particular black assemblyman that comes to mind is Augustus [F.] Hawkins.

ALARCON: No, as a matter of fact, I can recall such requests coming from a number of legislators, most of whom were not black themselves.

VASQUEZ: The only two black assemblymen were Hawkins and

[William B.] Rumford, right?

ALARCON: That's right. I don't recall any requests from Hawkins. I did have some requests from Rumford. I'm not specific now as to this area, but there were concerns that he would express to the governor.

Usually what goes on in government is somebody will write to an assemblyman or a state senator and say, "The police are brutalizing blacks." Or, "The prison system is unfair to blacks. Will you do something about it?" The senator will write to the governor and say, "Here is the complaint that I have received. Would you please investigate and let me know if there's any truth to this?" And that's how it would come to our official attention. Those requests, I thought, were clearly proper requests, and it was our duty to make sure that sort of thing was not occurring. Fortunately, there were only a few cases where there was some substance to the complaint, and we were able to take disciplinary action or correct the matter or remove the individual.

Alarcón's Duties and Corrections Institutions

- VASQUEZ: What was your relationship with the corrections institutions and the leaders of those?
- ALARCON: Well, I was the liaison between the governor and the Department of Corrections and the Department of Justice as a part of my duties. I had daily contact with the Department of Corrections--and the parole boards, as well--and with the Department of Justice. Since the Department of Corrections is within the executive branch and under the governor as a constitutional officer, and the Department of Justice is under a different constitutional officer, I got involved in many of the policy decisions relating to the Department of Corrections and the parole board.
- VASQUEZ: Did you have the power to override the head of Corrections if that was necessary?
- ALARCON: No.
- VASQUEZ: Was it ever necessary?
- ALARCON: What we did was we would say to the director of Corrections, "We have concerns in these areas. Present a plan to the governor that will take care of these concerns." Then we would reject proposals or accept proposals. The real power we

had was removal of the person who had been selected to be the director.

VASQUEZ: Was that a civil service position? Or was it an appointment?

ALARCON: It was a political appointment.

VASQUEZ: Why was it difficult?

ALARCON: Instead of having to veto a proposal, we would fire the individual.

VASQUEZ: [Laughter]

ALARCON: And the fear of being fired made them very concerned to carry out policy.

VASQUEZ: Now, the policy in terms of Corrections would be initiated from where?

ALARCON: Well . . .

VASQUEZ: In most cases.

ALARCON: In most cases, the overall policy came from the governor: prisons were to be run on a basis that did not discriminate against any group, everyone was to be treated fairly, humanely, and so forth.

VASQUEZ: But there must have been somebody in charge of developing and drafting that kind of policy, not the governor himself.

ALARCON: That became the duty of the director, who was the political appointee of the governor to implement

that kind of a policy.

VASQUEZ: And as liaison, you would go . . .

ALARCON: I would go to the prison or to the Department of Corrections and say, "Okay, what's going on to break down the discrimination between guards and prisoners, if it exists? What are you doing about conflicts between groups?" And then they would take me through and say, "We've done this. We've put so-and-so in charge of the sensitivity program." So I would be the one who would actually walk through and touch and feel what was going on.

[End Tape 3, Side A]

[Begin Tape 3, Side B]

Changing Personnel to Change Policy

VASQUEZ: Did you ever have to remove someone in order to change policy?

ALARCON: Well, the governor did remove the director of Corrections while I was there.

VASQUEZ: Who was he?

ALARCON: I can't recall.

VASQUEZ: There were several.

ALARCON: I may think of it as we're talking. I know that [at the time] Richard [A.] McGee was the [Youth and Adult Corrections] Agency head, so it might

have been after I became the executive assistant. It was the person who succeeded McGee as the director of Corrections I'm thinking of [Walter Dunbar]. It resulted from a clash between the two men.

VASQUEZ: The governor and him?

ALARCON: No. Between Richard McGee and [Walter Dunbar]. When the agency concept came into being, when the governor came up with that, that put an individual between the director of Corrections and the governor.

VASQUEZ: Which before had been a direct line.

ALARCON: A direct line through someone like me. In the case of Corrections, it was the governor who'd say to me, "Be there for me. Be the eyes and the ears. Let them call you if they have problems. Help them with their budget problems." But when the agency concept came in, then Corrections and, I guess, the parole boards came under Richard McGee, for example. And there was a clash between McGee and the director [of Corrections].

VASQUEZ: Do you remember what the issue was?

ALARCON: No, I can't recall the issue. But it was fascinating to me as a student of government to

see how it was played out, because I felt the director was correct. I told the governor that the director was correct. The governor told the agency head that I felt the director was correct.

The agency head said, "Fine. I will resign unless you remove him or set aside his order." At which time the governor set aside the director's decision and kept the agency head. The reason he kept the agency head is that he had an incredible reputation at that time in the corrections field [throughout] the United States. And the agency head knew this.

VASQUEZ: [Laughter]

ALARCON: So he had a better hand than I had. [Laughter]

VASQUEZ: How did the governor reconcile that decision with you? Did he ever mention it?

ALARCON: Well, he told me that he was sorry, that he felt that there was a lot of merit to the position I was taking, but that this man was too valuable to sacrifice over this issue and that the other man was less valuable.

VASQUEZ: Any other instances you can think of which demonstrate how the power fulcrum worked under the agency system?

ALARCON: I think I've illustrated the only time where there was a clash. I did not personally think it was a good idea. I thought it was a layer that was unnecessary.

VASQUEZ: The agency overseeing Corrections?

ALARCON: Yes. I preferred what we had had before, and the concept was continued. I haven't followed it to see [where it went after I left.]

VASQUEZ: Wasn't the idea to consolidate and thereby cut costs of government with the agency plan?

ALARCON: Well, I think that was probably one idea. It seemed to me that the real motivation was to get greater control in the hands of people that would execute what the governor wanted, both politically and philosophically.

VASQUEZ: Was it an effort to bypass or mitigate what people call the stodginess of the civil servant?

ALARCON: I don't think so. I think the idea of it was that it would be more efficient in supervising, but primarily to make sure that the philosophy, the policy was carried out. I think what was intended was that these [agency] people would meet with the governor and come up with a policy that they would then make sure was carried out.

The Effects of the Agency Plan on Corrections

VASQUEZ: How successful, would you assess, was the agency plan, or how unsuccessful, in the area of Corrections?

ALARCON: Well, I was not impressed with the way it worked with Corrections. I felt that it would be as if John Wooden became the coach ex officio of the [UCLA] Bruin basketball team and sat on the bench while any one of his successors tried to coach the team. And that he would have the power to say, "No, don't send him in. No, don't have a man-to-man defense at this time. Use a zone. Use a fast break. Don't use a fast break." And that's what happened in the corrections field, at least in my observation. You had the immediate past director second-guessing the new director and really crippling his ability to go his own way and do things with a free hand, unencumbered by the predecessor saying, "That's not the way it's done. It's done the old way."

VASQUEZ: So neither efficiency nor consistency was served.

ALARCON: Right. I just felt it was an extra layer of supervision that was unnecessary. In fact, it may well have inhibited the blossoming of new

ideas, new and better ways to do things. Experimentation was curtailed because the immediate past director would stop an attempt to change something that he had put into effect. He would not tolerate, as an implied criticism, a change that was proposed. So it made the director a sycophant. I was not pleased with it. I saw it operate from a greater distance in other areas, and I was not impressed with that either.

VASQUEZ: What other areas?

The Agency Plan in Mental Hygiene

ALARCON: Well, the agency [Health and Welfare Agency] which included the Department of Mental Hygiene. I was not impressed that it worked there either.

VASQUEZ: What was the breakdown there?

ALARCON: Well, for example, we had some scandals in terms of patient treatment in the Fairview [Hospital], which I think was in Orange County. Those criticisms came to my attention through the media and through legislators. So I called the agency head and said, "What is going on there?"

VASQUEZ: Who was that agency head?

ALARCON: His name was Winslow Christian. I was not

satisfied that his ability to know what was going on, to prevent problems such as this from occurring, to take corrective action, was any better than having a competent director of Mental Hygiene. I didn't feel that he was able or got sufficiently involved in understanding what the problems were. The problems involved the budget, classification, and bringing in people who were not suited for that kind of care, because that's all of the money he had.

VASQUEZ: So what was your role in rectifying the problem?

ALARCON: Well, to be specific, I became a fireman. I would come in, like you bring a pitcher in in the ninth inning, when something would flare up that needed immediate attention. I would push the agency head aside and go to the institution myself, look around, and either agree or disagree with the report and try to substantiate if the report was correct. [I determined if] we had to do something now or if the report was false and things weren't as bad as reported.

VASQUEZ: What did that do to your relationship with the agency head?

ALARCON: Well . . .

VASQUEZ: Did they see it as an intrusion or did they see it as assistance?

ALARCON: I guess they did [see it as assistance]. I had very good relations with Winslow Christian, so I think he was grateful for my ability to ferret out the problems like that. I tried to work with him. I would say, "I'm going down there to take a look at it, because it's the governor who's being criticized. Do you want to go along?" Sometimes they would, sometimes they wouldn't. But I would do it anyway.

Protecting the Governor or Protecting the Public?

VASQUEZ: So in addition to the constitution, in that position both you and your predecessor it seems very much had the responsibility to protect the governor.

ALARCON: Yes.

VASQUEZ: Politically as well as legally.

ALARCON: Well, I would say this; my own particular view would be that in making sure the public was protected, in making sure that what we did or what the governor did met the needs of the public, he would look good. And that had to have a good political fallout for him. But I was not

concerning myself with [whether it] made him look like a good Democratic governor of the state of California. I was concerned with whether he was an effective governor for the people of the state of California.

That was the philosophy I tried to instill in the staff I supervised in the governor's office. If we did a good job helping carry out his program, that would give him a place in history. If we did a bad job in carrying it out, then he would be an ineffective governor and he would have a poor place in history. It also meant, of course, that from a political standpoint, he would be considered a great Democrat or a poor Democrat. But that was not a specific concern of mine.

VASQUEZ: That didn't concern you?

ALARCON: No, because the conditions that the governor and I established when I went to work for him were that I would try to help him make decisions that were good for all of the people of California. And then he said, "If we do that, then it will help me politically. But you don't have to worry about that." I said, "Fine."

VASQUEZ: [Laughter] Governor Brown was a lawman for many years. He was a district attorney. He was the attorney general. In fact, he was a very popular attorney general. He was the only leading Democrat in state politics for a long time as attorney general, yet he got a lot of resistance and a lot of criticism from the law enforcement establishment in California when he was governor. Why do you think that was?

Criticism of Governor Brown on Capital Punishment

ALARCON: I think most of the criticism that was directed at the governor was due to his position on capital punishment. I think the timing for him was very bad in terms of his relationship with law enforcement. During his years in office, one of the first cases he had to deal with was a case involving the killing of a law enforcement officer, I think his first name was Loren, his last name was [Loren C.] Roosevelt.¹

A man killed this highway patrolman who had walked to the car to issue a traffic ticket. That incident occurred in the late forties or

1. People v. Walker, 33 Cal. 2d. 250 (1948).

early fifties, and the case bounced around in the appellate courts and had come before the previous governor. But it came back before Pat Brown when he became governor in terms of whether the man should die.

The name of the defendant was [Erwin W.] Walker, and the name of the victim, the officer, was Roosevelt. The defendant had been known as "Machine Gun" Walker because he had been, I believe, a war hero, and that's where the "Machine Gun" part came into the picture. When Walker went to death row, it was discovered that he was mentally ill, and that had stopped his execution under a prior governor.

VASQUEZ: Would that be [Governor Earl] Warren or [Governor Goodwin J.] Knight?

ALARCON: I think it was Knight. When it came time to consider whether he should be executed because his sanity had been restored, Pat Brown decided that not only had he been restored to sanity, but that his mental health had also changed, that the killing may well have been brought about by some type of combat syndrome. So the governor decided he should commute Walker to life without a

possibility of parole. This created a great furor among California law enforcement.

First, they knew he was against capital punishment, and now he had exercised, they felt, his anti-capital-punishment philosophy in a case involving a cop killer. The police, understandably--since they are out there on the streets day and night having to protect us from these people and are targets of bullets from gunmen--were very concerned about how the clemency power was exercised when it came to a cop killer. So that set the governor in a very unfortunate position.

Cecil Poole's Political Style

VASQUEZ: This was not under your tenure but under your predecessor's tenure?

ALARCON: Yes. Under Cecil Poole.

VASQUEZ: Did that have a splash-over to his [Brown's] political personage?

ALARCON: Well, following the Walker case, there were other cases, including the [Caryl] Chessman case.¹ The Chessman case became a cause célèbre in the law enforcement field because they felt that he

1. People v. Chessman, 238 P. 2d. 1001 (Cal. 1951).

should be executed, that the system was breaking down because there had been ten or eleven years of delays in the court system. Part of the court system delay had nothing to do with the governor, but they felt his weak response to firm punishment, swift punishment, execution for people who commit a capital offense, was being frustrated under his leadership, that he was leading the state and the courts to a weak attitude about punishment.

Cecil Poole is a very outspoken person and a very forthright person. When Cecil Poole would appear at a law enforcement meeting and hear attacks on the governor, he would stand up and respond in kind. And if they were screaming and yelling about the governor, he would set them right in the same type of language. I think I indicated to you that when I got to Sacramento some of the people in law enforcement were so angry at him that behind his back they used to call him "Cesspool."

VASQUEZ: Cecil Poole, when he worked in the district attorney's office, was not known as a supporter of weak or lenient law enforcement. He was

considered a hard-liner.

ALARCON: Yes. Not only was he considered a hard-liner, he was a very tough, able prosecutor, and was as U.S. attorney.

I had an unusual incident that occurred. While I was clemency and pardons secretary shortly after Cecil Poole left, we got a call from the San Francisco Police Department. They told us that a man had been arrested for some charge, and while he was being questioned about that charge he confessed to having committed a murder. He said an innocent man was in prison for that.

So when it was brought to my attention--that was part of my responsibility, to conduct investigations to see if we should exercise pardon power--I found out in looking at the file that the man had pleaded guilty to manslaughter because Cecil Poole, as prosecutor, had told his lawyer, "Well, if you want to go to a trial in this case, we'll go to trial. This may be a death penalty case, but it certainly is a first-degree murder case. Since your man has admitted responsibility, I'd be happy to take this to a jury."

What had happened in the case was that three winos locked themselves up in a skid row or Mission District hotel room in San Francisco. For several days they drank whenever they were awake, so they ended up in a drunken stupor. When the defendant sobered up, he found out that he was lying on top of a woman who was one of the three. She was dead and had been strangled. They were both lying on the floor, fully clothed, and the third person was gone.

So when the police arrested him and said, "This woman was strangled, you must have done it," this man said, "Well, I guess I did, because I was lying partially on top of her body with my hands somewhere near her neck." So that was the admission that the police were prepared, or Cecil Poole, was prepared to use.

Well, as it turned out, the other man is the one who strangled the woman. Years later, after this innocent man--innocent of that crime--had served a number of years in prison, this person came along and confessed. So it was [Laughter] ironic that during Cecil Poole's regime he had taken this plea, and as soon as I succeeded him,

I unravelled it and presented to the governor my report, and the governor gave an immediate pardon.

One of the interesting footnotes to this is that [Daniel M.] Dan Luevano, who was a very close friend of mine as chief deputy director of Finance. . . . I think he was adviser to the State Franchise Board or some such board that had the duty of awarding to people who had been improperly imprisoned a certain amount of money. As I recall, it was somewhere in the neighborhood of between \$5,000 and \$25,000. I presented this matter as soon as my report for the pardon was issued and we got this man out of prison. At the same time I presented my report to that board, my friend, Dan Luevano, came back to me and said, "We have a problem." I asked, "What's that?" He said, "Well, we can't give [out] this money if the person was responsible for his own conviction, and your man pleaded guilty." I said, "Well, we're going to get around that if your board will tolerate it. I'm saying that he was afraid that he was going to die in the gas chamber. So it was not, at least for the purposes of this law, voluntary." [Laughter]

And they bought that.

VASQUEZ: How did that play with law enforcement? Did you get flack for it?

ALARCON: [With] that particular thing, I don't recall that anyone in law enforcement got involved in it.

VASQUEZ: No district attorney?

ALARCON: They would not have been concerned with that at all because freeing an innocent man is always something that law enforcement is very concerned about, and helpful. In fact, I got help from the San Francisco police in this case. They quickly assigned a lieutenant to me to unravel this. It was the police department that called it to my attention.

Compensation for Unwarranted Incarceration

VASQUEZ: Do you remember his name, that lieutenant?

ALARCON: No. Dan Luevano, who is a man with a great memory, might remember this specific case. We had another problem that Dan Luevano and I had to work out. This man was a wino, and we figured he would be a target and might get killed running around with whatever he received as compensation, the thousands of dollars.

VASQUEZ: He was a wino after having been in prison so many

years?

ALARCON: Oh, we knew he would go right back. He had been a wino all of his life. Time in prison didn't change whatever caused him to be a wino. So we decided that it would be wrong to give him all of that money.

We sat down and tried to figure out what to do. We contacted a kind of street priest in San Francisco and asked him if he would be a trustee for this man. We would set up a bank account and not give the money directly but turn it over to the priest, as trustee, and have the priest dole it out in small amounts [Laughter] so that he wouldn't be killed. At least, [it would] keep him clothed and in a decent room. And that's what we did.

VASQUEZ: Both you and Cecil Poole had reputations for being pretty strong hard-liners on law enforcement. Do you think that was, in addition to your talents, part of the political reason why Governor Brown might have brought you into this position?

ALARCON: Well, I'm not sure I understand the characterization of "strong" and "hard-liner." I would say, speaking only for myself--Cecil can

speaking for himself--that I was fair and that anyone who was convicted when I was prosecutor was convicted only after I was satisfied myself that he was guilty beyond a reasonable doubt. There were several instances after listening to the evidence where I told a judge that I wouldn't convict the individual and that the jury should not receive the case.

So if that's what a strong hard-liner is, then that's what I was. I think I had a reputation for fairness, but I also had a reputation for being a very skilled prosecutor. In the ten years I was in the D.A.'s office, I lost only five jury trials, and that may have given me a reputation for being hard. I would prefer that it gave me a reputation for being good.

VASQUEZ: A successful prosecutor?

ALARCON: [Laughter] Yes.

VASQUEZ: Technically and not necessarily ideologically?

[Laughter]

ALARCON: [Laughter] Yes. But I would say that it was our reputation as prosecutors who had the respect of our colleagues in the state that attracted us to the governor. Cecil Poole, himself, had been

hired in the D.A.'s office by Pat Brown as former D.A. of San Francisco. So their relationship . . .

VASQUEZ: Went back.

ALARCON: Much closer and much longer than mine. I was a Los Angeles County deputy district attorney and came to the governor's attention, as I explained to you, because I had written something on the exclusionary rule. So I came to his attention in a totally different way than Cecil did.

But Cecil certainly was a distinguished prosecutor.

Alarcón's Working Relationship with Governor Brown

VASQUEZ: Last time, you recounted a story of how the governor would deal with you as his clemency secretary, a case in which you ended up arguing [Laughter] against capital punishment. What was the relationship, the intellectual relationship that the governor wanted to have with his clemency secretary, and, specifically, in your case?

ALARCON: Well, it was interesting because, again, there was no policy manual when I came to that office, we were given a lot of independence. He didn't say, "This is the way I want you to run the clemency office, the pardons office, the extradi-

tion office." So when I got there, I had to look over the files and get a feel for how it had been run. I must say that Cecil's personality was far different from mine. His way of dealing with people was different from mine.

So I decided to evolve my own relationship with him. Cecil had a deep, personal relationship with the governor that had gone on for dozens of years. Mine was brand new. I came in from the Los Angeles D.A.'s office as a stranger to him, except for my reputation. Our relationship started off much more formally and much more of getting on his schedule and presenting to him the reports and recommendations that I had.

I noted in reading Cecil's recommendations that they were less formal in death penalty cases than I felt I could make--again, because they had a closer personal relationship than I had. My reports were more detailed and my recommendations were much more formal. As a result of that, I presented more material for the governor to study, and he would have a more structured discussion with me. [It was] a more scholarly discussion rather than an instinctive discussion or, in

Cecil's case, more political, because Cecil went there with the governor's political interests at heart.

I went there with the public's interests at heart. When the governor and I talked, it was more of my saying to him, "Governor, since you are the governor of fifty-eight counties, you have a responsibility to make sure that justice is dispensed in a proportional way, equally, throughout the counties. So in the exercise of all these powers, you have an opportunity to exercise your discretion in a way that will make sure that someone convicted in Eureka will be treated by the law the same as someone convicted in San Diego or Los Angeles."

In our working relationship, I would peg my reports and my discussions with him to that, stepping back from this governor, with a sense of history. How will someone judge what we're talking about here? I don't think that was the approach that Cecil Poole used. I'm not giving a qualitative analysis, but I'm describing the approach we had. That approach, which was more formal perhaps than the relationship he had with

his other staff people, is the one we maintained.

Since that time I've become a very close, personal friend. But while I was there I felt there was something about the nature of the job, the serious nature. . . . We were dealing with lives. I felt that a detachment on his part and my part and a concentration on facts and research and proof, just as I used to do with judges in court, would be a better way for him to approach this kind of "superjudge" responsibility. And since as clemency secretary and wearing that hat I had to play both the prosecutor and the defense lawyer and present to him a totally balanced report, I had to be very careful about our relationship so that it wouldn't be skewed either way.

Governor Brown in Clemency Hearings

VASQUEZ: The record indicates that, unlike his two predecessors who also had the constitutional mandate but did not oversee or participate in clemency hearings, Governor Brown insisted on active participation in those hearings. How did you assist his leadership in the area of law enforcement while you were clemency secretary?

ALARCON: While I was clemency secretary I felt that he did

a very good job with law enforcement. We were able to put together an approach to the narcotics problem which had not been there before.

VI. SOCIAL ISSUES IN POLITICS

The Debate over Narcotics

VASQUEZ: Was there a lot of public pressure at the time?

ALARCON: Yes, there was. There was great public pressure about the narcotics problem. There was a great fear then of heroin addiction. On the one hand, from the left there was an outcry that we should decriminalize heroin addiction and possession. We should set up clinics and give it away, take the profit motive out of it and everything would be wonderful.

From the right, we had people saying we should have the death penalty for people who sell heroin and people who possess it should go to prison for years. We tried, we had to try to reconcile as much as possible, or at least to answer not to the satisfaction of the extremes but to work with the center and say, "Well, now, we can't. . . . We're not going to give it away." We studied other societies that the people who told

us to give it away claimed were doing that. They said it was going on in England. We found out that it was not being given away in England.

VASQUEZ: Do you remember the prominent proponents of the two sides?

ALARCON: No.

VASQUEZ: Their affiliations?

ALARCON: I really don't. It was the liberal friends of the Democratic party on the one hand plus groups like the ACLU [American Civil Liberties Union] and other such human rights groups who were concerned about it. There is a lot of literature in the late fifties and early sixties on the subject.

VASQUEZ: I'm trying to get at who the actors and the players would have been at the time.

ALARCON: I can't tell you the specific people.

VASQUEZ: It would seem that perhaps this issue might bring the governor or his administration into touch with some of his own liberal supporters.

ALARCON: Well, I cannot identify for you specifically . . .

VASQUEZ: How about on the right?

ALARCON: Oh, on the right you could fill in every D.A. and police chief in California, who were terribly concerned, and the newspapers. The Los Angeles

Times was very concerned about what we were doing about narcotics.

The people who gave the leadership for the decriminalizing were mostly from the academic community, mostly sociologists who believed that it was a problem that should not be met in a punitive way. It should be met in a therapeutic way. The law enforcement people were mad dogs who wanted to shoot, kill, and lock up everybody. And, of course, the law enforcement people said, "These people are crazy. They want to turn the whole country into heroin addicts." Then the concern was that China was supplying the heroin that was doing this to us and this was part of a great plan.

VASQUEZ: Today we hear the argument that South American countries are "infecting" us with cocaine. Was it much the same kind of argument that was presented then?

ALARCON: Yes. Sure. Exactly.

VASQUEZ: Was it as politicized as it is today also?

ALARCON: Yes. More so.

VASQUEZ: How?

ALARCON: Well, then it was attributable to communism, an

international conspiracy by the Chinese to turn us all into automatons and zombies by making heroin available to us.

Governor Brown's Anti-Narcotics Programs

VASQUEZ: How about the leadership of the campaign against heroin and the articulated policy? Where did that come from? Governor Brown?

ALARCON: Yes. Well, the purpose of the commission was to try to come up with a response for the governor. The leadership that he displayed was to take a package to the legislature which did two things. One, it did increase the punishment for the peddler of narcotics. Particularly, we were after the nonuser.

It also brought into California something that we did not have, and that was an addict treatment program. If you were arrested and you were found to be addicted and that was the primary cause of the crime for which you were arrested, we could suspend criminal proceedings and send you to a heroin treatment program. If you survived that program for the period of time after the in-care treatment, the criminal proceedings would be dismissed. That is still

the law. There is still such a treatment program at Norco [California]. That was Governor Brown's program. Law enforcement was very pleased with the narcotics package that he came up with, and it dispelled the criticism.

The Narcotics Programs in Electoral Politics

In fact, there was something [interesting] that happened. I was talking to the governor at breakfast a few days ago, and I commented to him-- I was relaying some incident--I said, "You know, there were a number of things that went on while you were governor about which you were unaware." Sometimes things are done by staffers for presidents and governors which are not told to the president or the governor because the staffers think that they're carrying out the president's wishes. The dangerous side of that is what's happened recently with Iran and the Contras.¹ The thing that I don't think I've told Governor Brown to this day was when Richard Nixon was running against Pat Brown for governor, Nixon's

1. This refers to the 1987-88 "Iran-Contra" affair in which members of the president's National Security Council carried out illegal covert activities.

campaign manager was Robert Finch. Robert Finch was a classmate of mine from law school. The speechwriter for Richard Nixon was Mildred Younger, who was an old friend.

When I found out that the two of them were in the campaign, I called both of them and I said, "Now, whatever the governor has done politically is fair game for you, and whatever legislation you want to take a shot at, of course, you should take a shot at. But before you take any shots at his narcotics program, I suggest you do two things. One, that you talk to law enforcement. Because you will find that they like the new program. And number two, I will send you my office file, and I want you to get acquainted with it. I'll be happy to help you if there are any questions that you have. But I don't think that you will do your candidate any good by attacking the narcotics program." They called me back in a few weeks and they said, "We have agreed among ourselves not to take any shots at the narcotics program." [Laughter]

VASQUEZ: You were acting in the capacity of executive secretary by then?

ALARCON: Yes. I was acting to protect the narcotics program that I had worked on with the governor and for the governor, not in his interests or in Nixon's interests, but for the program. I felt it was a good program, and Nixon's staff agreed.

[End Tape 3, Side B]

[Session 3, April 19, 1988]

[Begin Tape 4, Side A]

Fallout of the Chessman Case with Law Enforcement

VASQUEZ: Judge Alarcón, the last time we met we were going over the year that you spent in the governor's office as his clemency secretary. Could we get back into one area that we had just briefly touched on, the fallout of the Caryl Chessman case and, perhaps, others that you know of when Pat Brown was governor? He had been a district attorney, then the attorney general, but that [Chessman] case created a certain alienation with law enforcement personalities in state government. Can you elucidate a little bit?

ALARCON: Yes. There was a tremendous hue and cry about the governor's delaying the execution of Caryl Chessman. The delay occurred when he asked that the legislature meet and consider whether capital punishment should be abolished in California. That not only created problems with law enforcement, but with the media. Many newspaper editorials came out against him, characterized him as weak. Time magazine came up with a "tower of jelly" characterization. A great deal of that

had to do with the Caryl Chessman case.

I am told that when he went to the Winter Olympics in Squaw Valley [California], he was booed, and that was a pretty shattering experience for him. He went to the opening of Candlestick Park [San Francisco], and similar things happened to him. So it was a bad time for him with the media, with the public, and with law enforcement.

Two things were involved. Caryl Chessman was considered to be a brutal rapist, and the people were confused about the case. For example, if you asked people on the street why Caryl Chessman was executed, they would probably tell you that he was executed for homicide. Yet there was no homicide. But it came following the governor's action in the Walker [homicide] case that we discussed earlier, which had really infuriated law enforcement.

Chessman had over ten years of appeals. There was a very fine law review article written by [Abraham Lincoln] A. L. Wirin called, "A Decade of Appeals," in which he discusses Chessman's battles in the court system and Chessman's ability to delay his execution

date.¹ It also infuriated some segments of the public, the media, and law enforcement because of the belief that justice should be swift and certain.

Chessman was demonstrating that you could commit a capital offense and escape or delay any retribution or punishment for it for a decade. The governor's concern about capital punishment fitted in with this anger [because of the belief held] by some people that justice was being frustrated by people like Caryl Chessman, on the one hand, and people like Governor Brown, who wanted to get rid of capital punishment. All of this was going on at the same time, with the focus on Chessman. Both issues came together, Chessman's many delays and what Governor Brown said in some speeches (none I had anything to do with) that the Chessman case demonstrated how useless capital punishment was. How could it be a deterrent if you could commit a capital offense and escape punishment for such a long period of time?

¹. A. L. Wirin and Paul M. Posner, "A Decade of Appeals," UCLA Law Review (8) 1960-61, pp. 768-805.

VASQUEZ: And yet part of that delay was his doing?

ALARCON: Part of the delay could have been the governor postponing the execution date and turning it over to the legislature. The legislators were very angry to be put [in that position]. The Senate Judiciary Committee, in particular, was very angry to have the issue passed over to them. It was not an issue they wanted to get involved with, and it was extremely unpopular among many Democrats in the senate. The Senate Judiciary Committee voted down the proposal to abolish capital punishment. I happened to be in Sacramento at the time and attended the sessions, although it was prior to my being a member of the governor's office.

The Chessman Debate in the Legislature

VASQUEZ: What was your impression of what you saw there in the legislature, the debates about this?

ALARCON: Oh, I was on the side of continuing to have capital punishment. I am not opposed to capital punishment. I felt most of the reasons [for abolishing capital punishment] that Governor Brown had advanced early on were not valid. At that session before the legislature, before the

Senate Judiciary Committee, there was a superb presentation by law enforcement, including the chief of police of Los Angeles, [William H.] Parker.

One of the arguments that is raised is that capital punishment affects the poor, the minority, the poorly educated. Chief Parker came to the senate armed with charts and statistics which demonstrated the following. In the previous ten years, between 1950 and 1960, no black person had been executed in California. Secondly, he demonstrated that the average [weekly] income of persons on death row during that ten-year period was 50 percent greater than the average weekly income in California. The figures then were something like \$400 was the average [monthly] income per person, and people on death row had \$600. He also demonstrated that the people on death row in the previous ten years had spent more years in school and finished more years of school than the average person in California. So on all grounds it was devastating in terms of the factual basis for the abolition of capital punishment.

VASQUEZ: Do you remember who in the legislature was carrying the ball for Governor Brown, supporting his position?

The Impact of Law Enforcement's Arguments

ALARCON: Well, I don't remember the specific individual, but it was the ACLU, primarily, and their representative. But what stands out most vividly is the rather devastating presentation by law enforcement, in the respects that I just gave you. Every argument that was raised, emotional arguments about the poor, the uneducated, the black, just weren't true in California. It may have been true in the South. Of course, it's a different picture there, but, certainly, in California it was the wrong argument to make. And it was an unfortunate argument.

VASQUEZ: Do you feel that is the primary reason why the legislature refused to do away with capital punishment?

ALARCON: I think that the legislators looked upon it as a political question, as they must. Judges don't have political questions. Political questions are questions that the elected representatives of the people must deal with. I think they assessed

their constituency as the majority being in favor of capital punishment. It's interesting that Governor Brown came very close to winning public opinion, notwithstanding the media editorials attacking him, notwithstanding Time magazine and the national journals' characterization of him as weak, and notwithstanding law enforcement's concern. If you look back at the polls, the California Poll, the Gallup Poll, in the early 1960s, the pro and con about the death penalty was almost fifty-fifty in California.

VASQUEZ: Don't you think Brown knew that?

ALARCON: I don't know whether he knew it or not, I don't know whether he affected it or not. My guess is that he did know it. I think he has a great instinct for what average people are feeling and thinking. Interestingly, though, if you look at the polls today, the most recent ones I recall are somewhere around 75 percent of the people in California favor capital punishment. So there has been a tremendous slippage.

If he is to be condemned for what he tried to do in the Chessman matter, he should also be given credit for the fact that his actions and

his speeches may have brought the state to the point where it was fifty-fifty in its attitude.

How Governor Brown Made Decisions

VASQUEZ: Do you think that is what ruled his tactics in this matter? I ask that because I want to get at something underlying this particular incident and that has to do with Governor Brown's method of making decisions. It seems in more than one case he would drag out the time or procrastinate making a final decision, consult a lot of different people. That method, used on a regular basis, has taken some to make the disparaging remark that he made decisions according to whom he talked to last, that he was really looking for somebody else to make the decision for him. Others argue that, in fact, this man has a very high political acumen and uses that period to test the waters in many directions. What's your assessment?

ALARCON: Well, first, I think I would say that it is a deeply felt principle for him. He believes that capital punishment is wrong.

VASQUEZ: Then why didn't he act decisively himself without throwing it to the legislature?

ALARCON: Well, I have an answer for you. Under the

California constitution, he could not commute [the sentence of a person] a person who had previously been convicted of a felony from death to life unless a majority of the [California] Supreme Court concurred, and the governor had informally conferred with the chief justice.

Informal Polling of the State Supreme Court

VASQUEZ: [Chief Justice] Phil [S.] Gibson?

ALARCON: Yes, Chief Justice Phil Gibson. The governor had conferred with him informally, and it was the chief justice's assessment that the governor did not have the [Supreme Court] votes in the Chessman case to back up his commutation. The constitution is set up so that if the governor decides he wants a commutation, then he formally has to request the supreme court to agree, notwithstanding the prior felony record. If they turn him down, he cannot commute. So he could not commute.

VASQUEZ: Do you know how the vote was or would have been?

ALARCON: I don't know, and I don't believe that there was, in fact, a formal vote. I think there was an informal head count or assessment by the chief justice.

VASQUEZ: From your memory of the supreme court at the

time, how would you imagine or speculate they might have gone? [Justice] Roger [J.] Traynor?

ALARCON: I don't know. I really can't guess.

VASQUEZ: [Justice B.] Rey Schauer?

ALARCON: Again, I don't want to try to guess, because there's nothing that I know except what they wrote in their opinions. Both of the two names you've given me wrote very fine opinions. Some ended up as reversals, some ended up affirming in capital cases and other criminal cases. So I really don't know.

VASQUEZ: How about [Justices] Marshall [F.] McComb, Raymond [E.] Peters, Matthew [O.] Tobriner, or Paul Peek? Any of those ring a bell?

ALARCON: Well, again, I am acquainted with the work of all of those judges, but I really am in no position even to speculate how they might have voted.

VASQUEZ: How was this unofficial or informal assessment made?

ALARCON: Well, I know that the governor was very close to the chief justice and had great respect for him. They were in frequent private conversations which were not reported to the staff. I'm sure the governor just dialed the chief's private line from

his own private line and said to him, "Do you think if I send this to you, I will be rebuffed?" And, I think, the chief probably said, "Let me call you back," then called him back and said, "Yes, I think you will be rebuffed."

The governor probably accepted that as authoritative, from the chief's knowledge of his colleagues. I'm sure it was done on that basis, because I know in many cases the governor would say, "Well, I have talked to the chief justice." I would not press him as to what they talked about, but I knew that he would test many things, appointments to the court, other issues. In some as grave as the Chessman issue, they had a good free exchange and the chief justice apparently was not reluctant to express his opinion in response to the governor's request.

VASQUEZ: I think I might have cut you off a minute ago. You were going to lay out how Governor Brown made decisions.

ALARCON: At least in the Chessman case, I started by saying that you must look at his conduct, with reference to capital punishment, from the point [of view] that he is deeply concerned that capital

punishment is wrong. I'm not so sure he even thinks it's necessary to articulate a reason, because in my acquaintanceship with him, he gave many reasons, some of which he later said, "Well, maybe that's not the best argument to make." He just thinks it's wrong for the state to take a human life. I think he would put a period there.

Whatever argument I might raise or someone might raise intellectually, he might back off on if confronted with a statistic, such as Chief Parker did. He might back off and get back to the moral point, that it's wrong for the state to take a human life, and by taking a human life, [the state] demonstrates to the crazy people in the land that it's okay to take a human life. That might be. I haven't talked to him recently about this, but that might be what his philosophy would boil down to.

He would let me win the debate in terms that it wasn't only black people, it wasn't only poor people, it wasn't only poorly educated people [on death row], and it is a deterrent. He might say, "I'll grant you all of that. It's still wrong to take human life." So with that deeply felt

belief, he determined when he became governor to go on a case-by-case basis in deciding whether someone should be executed or whether he should exercise his [clemency] powers.

When it came to the Chessman case, he decided, "Here's the place where I will make my fight. I will put my political future on the line." Rather than being indecisive, he did this within a year or so after he became governor. I think he made a very difficult decision which other people have not done. Other governors who were opposed to capital punishment have not fought the fight to abolish it but have refused to permit an execution to occur.

Governor Brown chose a more difficult road, which was to follow the constitution, to use his powers on a case-by-case basis and, finally, to say, "All right, I will take it on, I'll put my reputation on the line." He did, and he lost badly. He lost badly with his own party. He angered some members of his own party because of his decision to ask the legislature, because he couldn't abolish it [himself].

He could commute everyone, but he felt it

was wrong for him to do that. He felt it was inappropriate for a governor to do what was done recently in New Mexico.¹ Pat Brown would not do that. Pat Brown made the decision that that was improper for a governor to do. Instead, [he felt] the governor should go to the legislature and say, "Capital punishment is wrong. Abolish it." They turned him down. But he fought the good fight. The votes weren't on his side. It would have been easier for him, if he were truly a weak person, to say, "Well, I don't have the votes, therefore, I'm not going to put it to them." Instead, knowing in the Chessman case that the supreme court would not commute or ratify his commutation, he decided to lay it on the line.

What Chessman Cost Brown with the Legislature

VASQUEZ: What did it cost him with the legislature do you think?

ALARCON: Well, I think it cost him an opportunity to run for president. Although he was able to defeat

1. Upon leaving office in 1988, Governor Toney Anaya commuted the sentences of those on death row.

Richard Nixon, I think it [the Chessman case] made it easy for Ronald Reagan to decisively defeat him when he wanted to run for a third term. I think it has given him, with some people, an unfortunate place in history. If you take away the emotional aspects of it, what he did was very courageous. I say that while disagreeing with him on capital punishment.

VASQUEZ: Was it a bad case to pick?

ALARCON: I think Chessman was a good case for him to make his fight with because no human life was taken. It was a bad case because one of the victims went to a mental institution and, I believe, is still there. That, ultimately, angered the jury, and it angers anyone you talk to about it today. In that respect, it was a difficult case. But rather than going to the legislature with a police killer like Walker. . . . He had the courage to commute Walker, notwithstanding the fact that law enforcement told him not to do it and that the political fallout would be enormous. And it was. I think he chose wisely in the sense that no life was taken [by Chessman]. Unfortunately, there were factors in the case that could not be overcome,

involving the woman who, as a direct result of the sexual attack, went to an institution.

VII. GOVERNOR BROWN IN THE LEGAL FIELD

Governor Brown's Grasp of the Law

VASQUEZ: What was your assessment at the time that you served in that office of Governor Brown's grasp of the law? Might you be able to illustrate that answer?

ALARCON: Well, I think he has an immense grasp of the law. Not only in the criminal justice field, not only in constitutional law, dealing with the rights of prisoners and the rights of defendants, but he is also an outstanding expert in the field of water law. In that field, he was involved in litigation as attorney general where enormous developments were made in the law. His legal strategy was superb.

He was also involved in other areas, like the El Paso Gas [Company] fight. That was an important, groundbreaking decision where he showed tremendous grasp of the technical aspects. In the criminal justice field, my major responsibility in working as a lawyer for the governor was

criminal law. I was amazed a number of times, when I was discussing something with him, he would say, "Well, have you read the case where the supreme court said so-and-so and the concurring opinions said so-and-so and the dissenters had this view?" I would walk out of his office embarrassed because I may not have read them that carefully or read them at all. Somehow, with all of the responsibilities he had as governor, he was on top of the developments in the law, including my field of expertise. And I, at the time, was an editor of three books on criminal law. His understanding of the process was superb.

VASQUEZ: How did he keep up?

ALARCON: I don't think he required much sleep. He did a lot of reading and got up early and read and stayed up late and read. He had a fascination Has a fascination for the law.

Examples of Brown's Legal Acumen

VASQUEZ: Do any of the clemency hearings that he participated in stand out in your mind?

ALARCON: Well, the most dramatic one, I guess, was the one involving Elizabeth Duncan and her two accomplices [People v. Duncan], because as a

result of the denial of a commutation, there was a triple execution in one day. The fact that a woman was going to be executed, the fact that there were three people to be executed at one time, makes that one stand out. Other clemency hearings stand out in my mind, again, because of the shrewd political mind that he had.

The one I recall, in particular, involved a young man whose name was Bertrand Howk.¹ He called himself Abdullah Mohammed. Bertrand Howk was a student at [University of California] Berkeley, had a white father and a black mother. While at Berkeley, he became fascinated with the International House. He met a young woman there whom he liked very much. She had hamburger dates with him because she felt sorry for him. He was a strange person, she was a beautiful person.

He thought they had the makings of a great love, and he expressed that to her. She told him he had misunderstood, that she was not interested

1. People v. Bertrand J. Howk, Jr., 56 Cal. 2d. 187 (1961).

in him as a future husband or lover but just as a friend. He became obsessed with her, wanting her to be his mate. She finally told him that she could not talk to him anymore, that he was frightening her.

So he bought or borrowed a gun from a friend, went to the Bancroft Library, walked up to her and said, "Please change your mind." She said, "No." He killed her in the Bancroft Library, then placed the gun to his own head and shot himself in the brain, performing what the doctors later described as a "crude lobotomy."

When that case came to trial, Howk sat through the trial grinning during different parts of the testimony, some of which described this young woman and her death. The jury was furious. The jury returned a verdict against Howk for first-degree murder and recommended the death penalty. The man who furnished the gun to him, knowing that Howk was going to use it to kill the young woman and to commit suicide, walked out with a manslaughter [conviction].

When the case came up for review for possible clemency, the lawyer for the man who got man-

slaughter, a fine San Francisco lawyer named Gregory Stout, telephoned me and said, "I'm very troubled about the case that's coming up before the governor and I want to give you my impression." He told me that he believed Howk, because of the crude lobotomy, was unable to control his behavior in the court room. That factor influenced the jury against Howk.

He didn't believe that the lawyer for Howk was able to make that point with the jury. He felt very dissatisfied when [his client] who was not mentally ill. . . . Howk was mentally ill and had been hospitalized off and on since he was eight years old for mental illness. The man who gave him the gun knowing that Howk was going to kill was able to walk out with manslaughter whereas Howk, who was mentally ill and had brain damage because of the bullet, was probably given first-degree murder and the death penalty because of his injury and because of his mental condition.

He urged me to look into the case from a psychiatric standpoint and recommend to the governor that there be a commutation. "But," he said, "since I'm not his lawyer, I'm giving you

this information for you to follow through and see if you agree with it." Well, I investigated it and found that what he said was true. Howk was deteriorating badly. In fact, the prison psychiatrists and doctors said he would soon be in a vegetable state and would die in prison if he were commuted.

I went to the clemency hearing having given the governor a report and having recommended to him that Howk be commuted. The governor had in front of him the district attorney of Alameda County, who had been an old friend but, more recently, his strongest critic among the D.A.'s, a man named [J.] Frank Coakley (who, by the way, trained Attorney General Ed Meese and other very prominent people now in the Alameda County D.A.'s office). Mr. Coakley was there as well as the two young prosecutors who prosecuted Howk, including a man named Zook Sutton who is now a superior court judge.

The governor heard from the defense lawyer, then asked the prosecutors to comment. They did. They said it was a cold-blooded killing in Bancroft Library and that the governor should not

intervene. The governor then said, "Well, Arthur Alarcón over there, who I'm sure you know is formerly from the Los Angeles County D.A.'s office and a very hard-nosed prosecutor, has recommended that I commute. These are his reasons." I looked at him because I did not expect as part of his job that he would expose our confidential communications.

When the hearing was over and I got back to my office, I got a phone call from Mr. Coakley. Mr. Coakley said, "Did you really recommend a commutation in this case?" I said, "Yes, Mr. Coakley, I did." He said, "Well, okay. Then we're not going to blast him [the governor]." So that one stands out. But, again, I never talked to the governor about it, nor did I tell him about the phone call either. But upon reflecting on that now, I think it's another demonstration of his political genius.

In the hearing he was able to point out to Coakley and the media that someone with D.A.'s training from Los Angeles, having examined the file, had made a recommendation of commutation in that case and was considering it. But, infer-

entially, he was saying you have to give that great weight because of my background as a former prosecutor.

VASQUEZ: In a way, was he also giving them an out? In other words, might they not respond more to a colleague's conclusion on the basis of the evidence and not look at it as politically as if the governor was making them do it?

ALARCON: That's right. Exactly. I don't know if he is that kind of a calculating person. I think he instinctively assessed that situation without deliberating and premeditating, "I am going to set up Arthur in front of Coakley and diffuse their ire at me." Pat Brown, I don't believe, is that calculating.

I believe that he had an instinct, and it developed in the hearing in a way that in response to the harshness of the recommendation to the prosecutor, it occurred to him just to do that. I think he instinctively must have been aware as he did it that it placed them in a situation where they would have to attack me, not him. Also, for those who were writing about the case, he let them know that this wasn't a "tower

of jelly" who had the commutation idea initially, but a ten-year veteran of the D.A.'s office sitting over there in the corner who had been hired by him to advise him, to steady and stay his hand in such matters.

Alarcón as a Bridge to Law Enforcement

VASQUEZ: How did the alienation of the law enforcement community affect your job?

ALARCON: The alienation dissipated during my tenure, and part of the reason I was brought there was to try to bring that about. I was able to get him to sit down with old friends, talk, and have a glass of wine. We did not have any confrontations during my tenure. The relationship was restored to what it was when he was attorney general and when he was district attorney when his relationship with law enforcement had been good.

VASQUEZ: So you served as a bridge back to law enforcement?

ALARCON: Well, I certainly tried hard. I don't know whether it was as a direct result of my efforts, but that was my goal.

VASQUEZ: It was a very conscious part of your work?

ALARCON: Absolutely. Except on the one issue of capital

punishment, I felt that his views on criminal justice were sound. They were views that were not that far from the leadership of the police services and the D.A. offices in the state. I felt that all I had to do was let them sit down and really talk about some of these things rather than making speeches to reporters which were stinging rebukes of the other person. We were able, for the most part, to put that behind.

Writing Speeches on Law Enforcement Issues

VASQUEZ: How much did you have to do with writing speeches for Governor Brown when you were in the clemency secretary's office?

ALARCON: Well, all of his speeches on criminal justice, narcotics problems, and so forth, started with a draft from my office. We had a speechwriter who would then take it over.

VASQUEZ: Who would that be? [Roy] Ringer? Or [Lucien] Lou Haas?

ALARCON: No, it was a woman in the office whose first name was [Patricia] Pat [Sikes]. She would go over the speech for polish, for proper grammar, and also for phrases that were more appropriate to Pat Brown. Then the rest of the staff would look

at it to see how it fitted [in with] things that they were concerned about. We had some fine craftsmen in the office.

But I would initiate the law enforcement speeches. Later, when I became the head of the office, I would review them. But in terms of criminal justice, that was my responsibility.

VASQUEZ: What was the most satisfying element of serving in that position?

ALARCON: I guess the most satisfying aspect of being the legal adviser or clemency, pardons, and extraditions secretary, was that I had an opportunity to suggest changes in the law and suggest changes in the process, most of which were accepted by the governor, and many of which became the law or the practice in California.

VASQUEZ: An example might be?

ALARCON: Well, in the narcotics field, I worked on the 1960 program. When I got there in '61, I was able to help legislators understand the governor's narcotics program and helped draft some of the specific language. I testified in various committees on that and was the person the legislators would call or come see, or we would gather at

lunch and talk about what would be good.

Helping to Draft Legislation

VASQUEZ: Did you give them formal briefings?

ALARCON: I not only gave briefings, but beyond that, if a legislator said, "Well, I like what the governor wants. Would you help me draft it?" We'd draft the language for the legislators.

VASQUEZ: Who worked with you closely in the legislature on that, do you remember?

ALARCON: Well, yes, Senator [Edwin J.] Ed Regan, who was then the chairman of the Senate Judiciary Committee. He and I worked very closely together. He was, if not the most, one of the most powerful men in the senate at the time. We became very close because he was quite conservative and our views were closer than the views of a lot of the Democrats in Sacramento.

I spent a considerable part of time talking to him, consulting with him, and assisting him in drafting legislation. He carried most of the governor's criminal justice program. That activity and my relationship with the legislature was very satisfying. Also, because of my political science background, I was there as a student and

learned a lot about how you can get good legislation through and, also, how some good legislation doesn't get through.

Brown Balks on Gun-Control Legislation

VASQUEZ: How does good legislation not get through?

ALARCON: Well, I'll give you an example. Prior to the November [1962] election, I had become head of the office staff. After the governor defeated Richard Nixon, I came up with an idea while the governor was resting in Palm Springs, an idea that the staff should bring together ideas for the next four years and, particularly, for the state-of-the-state address. One of the ideas I thought was terribly important was to outlaw handguns. I talked to the governor--quickly, I must say, and informally--and said . . .

[End Tape 4, Side A]

[Begin Tape 4, Side B]

ALARCON: "Would you be willing to support a law which abolished handguns in the state of California?" He said, "Yes, see ya later." I didn't have a chance to discuss it in depth, so I took that as a go-ahead and talked to some legislators. I said, "Would you be willing to sponsor legisla-

tion that would abolish handguns in California, that is, the sale of handguns to private persons?" Several legislators said they would.

VASQUEZ: Do you remember any of them?

ALARCON: I don't remember their names. I remember they were young and liberal. I said, "Well, I'll go back to the governor and get him to make a public statement. Let's introduce the legislation and start getting public opinion behind us."

Before I had a chance to talk to the governor about it, I was summoned to Palm Springs. I walked into a beautiful residence that he had borrowed and saw the governor's political advisers, Hale Champion and people in and out of government who were the policy advisers that he had gathered.

VASQUEZ: Could you name some others besides Hale Champion?

ALARCON: Eugene Wyman was, I think, another one. No, I can't. I know one of them was the head of the agency involving the highways [Public Transportation Agency]. It was a fellow named Frank [A.] Chambers, who was a state employee. There were several political appointees and some people very high up in the Democratic party. They were

looking very unhappy as I walked in the room.

I sat down, and the governor said, "We have found out that you are talking to legislators about introducing legislation to abolish private ownership of handguns." I said, "Yes, that's true." I didn't say anything more because of the group. What I would have said if we were alone is, "I talked to you about it, and you said that you were in favor of the abolition of private ownership of handguns."

The governor said, "Well, these people have reminded me that during the campaign I agreed to take no position on the subject. I agreed not to introduce legislation nor to speak out against any such legislation. I agreed not to take any position. So, for me now to have you taking an active role or for me to speak out would violate the commitment that I made to the National Rifle Association. I want you to cease and desist your efforts. I want you to go back to those legislators you have been meeting with and tell them that I will not make a public statement."

I left the meeting, flew back to Sacramento, and I had to tell those legislators that it was

not going to happen. By the way, it still hasn't happened. [Laughter]

Brown's Relations with the State Attorney General

VASQUEZ: [Laughter] Right. That's a case in which the governor short-circuited his own [legislation] or something generated out of his office that you thought was good legislation. While you were there, was there a case that you can think of where the legislature itself managed to kill good legislation that was important to the administration? Specifically, one dealing with law enforcement?

ALARCON: No, I really can't. We were pretty successful in the areas that I baby-sat, which was law enforcement. I can't recall a defeat of something generated by our office and with the governor's total blessing that ended up in a defeat. One of the reasons is that we were very careful.

The governor, putting aside capital punishment, was very concerned about effective law enforcement, and still is. If I would come to him and say, "We need to amend this statute, it's causing a problem that can be corrected by this amendment." Or, "We need some legislation in

this field and the law enforcement officers in this state want that." He would say, "Fine. Tell them that they have my support." So we would draft it, go to the legislature, and I would walk in with the chiefs of police on one arm and the D.A.'s on the other. There was a Democrat who was attorney general, so because of his general support for good law enforcement, it was a fairly easy time.

VASQUEZ: What was the relationship between [Attorney General] Stanley Mosk and Pat Brown when you were there?

ALARCON: I think it was a good relationship. I did not, by choice, get into discussions about the political aspects of their relationship. The governmental relationship was quite good.

VASQUEZ: Did he [the governor] use the same informal style [with Mosk] that you earlier mentioned he used with the chief justice of the supreme court?

ALARCON: Yes. They had great communication informally. The only problem I ran into had nothing really to do with the attorney general. It had to do with the [attorney general's] staff after I became the [governor's] chief of staff. Charles [A.]

O'Brien, who had been my predecessor, left the governor to go back to work as chief [deputy] for Stanley Mosk. I had a problem, which, in retrospect, is almost comical and, perhaps, even petty. I had drafted the governor's program on narcotics and law enforcement legislation for a particular year. I had worked it out with the district attorneys, the prosecutors, Senator Regan, and other people who were essential for this.

VASQUEZ: Was this a law or a piece of legislation that you had a chance to conceptualize and implement as well?

ALARCON: Yes.

VASQUEZ: No wonder it was so satisfying.

ALARCON: Yes. Sometimes it would emanate from law enforcement, sometimes I would go to law enforcement and say, "Would you support the governor in doing this?" Other times they would say, "Will the governor support us in doing this?"

VASQUEZ: And you would do the same thing with the legislature, right?

ALARCON: Yes. We would go to the legislature and would say to Senator Regan, for example, "We need your

help, Senator. Would you sponsor this package?" He'd say, "Who's for it?" I'd say, "The chiefs of police, the sheriffs, the D.A.'s . . ."

VASQUEZ: Something you had drafted? Or your office had drafted?

ALARCON: Yes. I had drafted it; they [law enforcement] approved it. They would ask me if there could be corrections in this area. They would look at it and say, "Yes, and I want my name on it. We'll go for it." I did that on a particular package for the coming legislative session in the latter part of one of those years.

Out of respect for the attorney general's office--because, after all, he is the the chief law enforcement officer of the state--and because I knew that he was also a Democrat, I made the decision to call Charles O'Brien, hand him the package, and say to him, "Look it over. Tell me the problems you see in it. If you don't see any problems in it, will you get the attorney general to be prepared to react when we introduce it in the legislature and when we have a press release saying this is the governor's package?" So O'Brien looked at it and said, "It's great. I'm

sure that there will be no problem. But let me take a copy with me and I'll talk to the attorney general." Well, the next morning, I read my Sacramento Bee and San Francisco Chronicle, and there was the attorney general's package . . .

VASQUEZ: [Laughter]

ALARCON: . . . on narcotics and law enforcement.

VASQUEZ: And this was something important to you?

ALARCON: [Laughter] Yes. My superior, the governor, had been on vacation, and when he returned the next day, I stormed into his office and said, "I want to show you some treachery that has occurred. This is not my field, this is politics, this is your field. But I'm never again going to let them have the courtesy of seeing something that I produce for you because they are scoundrels over there."

He said, "Now, now, now, now, calm down and tell me all about it." There were several of us there, and I marched in with some of his very close advisers, including political advisers like Hale Champion. When I finished telling him what had occurred, I saw him dialing on the phone which was from the ones that were connected to his

receptionist. He said, "Hello, Stanley." I looked at him with my mouth open. He said, "Arthur's in here and he's really mad at you. I want to know what this is all about." So they talked for a few moments, and the governor said, "Fine, I'll see you for lunch on Thursday."

He hung up and said, "Stanley says you've really blown this out of proportion." [Laughter] So they had very good communication with each other. [Laughter]

VASQUEZ: It was a political matter then, after all?

ALARCON: Well, I think the governor decided that it was. He was willing to let this go by. There were other things that were more important for him. He would absorb what had happened.

VASQUEZ: This didn't demoralize you?

ALARCON: Well, it didn't really. . . . It disillusioned me a bit about other people.

VASQUEZ: Did he use this kind of approach on a personal basis with many state or constitutional officers?

ALARCON: Yes. With a lot of people. He would call people like Bill Parker, one of his sternest critics during the Chessman matter, and say to him, "Bill, I know you're mad at me and I know you

said this, but, you know, you're kind of mean in what you said." [Laughter] Which I admired. I think he had a lot of guts to call someone and say that.

Drawbacks of Alarcón's Job

VASQUEZ: What was the most disappointing or frustrating element of being clemency secretary while you were there?

ALARCON: I really didn't have too many low points. I'm hard pressed to really give you an answer.

VASQUEZ: Maybe not events, but in the process of that office and what it has to do.

ALARCON: I really cannot come up with any particular low point. There were just a very few times when I was unpersuasive, and I'm always disappointed when I'm unpersuasive. By that I mean if the governor acted as governor and disagreed with me, I think those were the only events that caused me to feel badly.

I think the low point I've already described. I had to decide on my flight back to Sacramento whether I would resign when the gun control measure was killed. Although I had thought in my conversation with the governor that

it was something that he wanted, I wasn't sure that I wanted to work in an atmosphere where that sort of thing happened. There were one or two other events like that where, for political reasons, the governor had to do something that deeply disappointed me.

VASQUEZ: Can you think of any?

ALARCON: If I don't have to name names, I can mention them. Because the people are still alive. There was a time when the governor got pressured to appoint someone who was Hispanic to a particular full-time post. The incumbent for that post, whose four-year term had run out, was also Hispanic.

The governor came to me and said, "I want you to tell the incumbent that he's not going to be reappointed. I want you to call this other person, who is being supported and, I think, will do an outstanding job, and tell him he has the job." Then he said, "See you later," and walked out of my office.

I called the man who was the incumbent. He happened to be in Sacramento, so he came to my office. He was someone I happened to have known

since I was a little boy. I said to him, "The governor has decided that he wants to have new people come into the administration, so he is not going to reappoint a number of people who have served a four-year term. But he has asked me to help you find a position in the private sector." Which was an embellishment of mine. The governor didn't quite say that, but I knew that that's what he would want me to do.

I said, "Sorry to be the bearer of bad tidings." The man started crying. He told me about his financial problems and what a blow this was to a man in his late fifties to go out and have to start all over again. I said, "Well, I'm sure we can help you find a place." So he said, "What would be the best way for me to help the governor?" I said, "Well, the best thing you could do is to write a letter of resignation indicating that you do not wish to be appointed for another term because you want to go into the private sector." He said, "You dictate it, I'll write it and sign it." I said, "Don't make me do that." And he said, "Dictate it." So I said something to the effect that, "I have decided it's

time for me to return to the private sector. I don't know what your decision was going to be about a new four-year term, but my decision is to return to the private sector." He walked out of my office crestfallen, still crying, and left the paper. I sat there and stared at it, feeling horrible.

I then called the other person, who happened to be a school principal, and said, "It is my pleasant duty to tell you that you have this position." He said, "Wonderful. There's a school board meeting tonight. I'll tell the school board what's happened. It's great, some of them had hoped this would happen." I said, "Well, it's happened." So I went home feeling terrible. The next morning the governor came in and said, "You haven't called those people yet, have you?"

VASQUEZ: [Laughter]

ALARCON: And I said, "Of course I did. I called them immediately." He said, "Well, I've gotten pressure from some congressmen and decided not to make that change but to reappoint the man [instead]." I said, "But, Governor, I made the

calls." He said, "You are so smooth, I know you'll take good care of it. Good-bye." And he left me.

VASQUEZ: [Laughter]

ALARCON: That was a low point. [Laughter]

VASQUEZ: What did that tell you about Governor Brown?

ALARCON: Well, it told me that he was a political person and that in politics, politicians count. For this political position, there was more political support for one [appointee] than the other, and one thing that politicians know how to do is count.

VASQUEZ: That person was able to muster that pretty quickly, evidently.

ALARCON: Oh, yes. I think he left my office and called congressmen more powerful than [those who] were supporting the other one. [Laughter] Or more powerful senators . . .

VASQUEZ: [Laughter]

ALARCON: . . . or people whose constituency the governor was more concerned about. And while as a personal matter I hated to be in the position of having to do that, I can recognize in a detached way that for political positions based on trying

to please people politically, there is patronage and this kind of thing is going to happen.

The Use of Patronage in Brown's Administration

VASQUEZ: What was your feeling about the use of patronage?

It is rather limited in the state of California, but it does exist for the governor in some instances. Did you have problems with that?

ALARCON: No, I think it's a fact of life. I think all you can do in exercising the power to make political appointments is attempt to give the governor the best choice, albeit a political one. When I was asked [for recommendations] in the areas that I concentrated in--which were parole board positions, for example, and judicial positions, he consulted me occasionally on that--I would give him the best qualified person for the parole board that I could find and [someone] who would meet the political needs of the governor.

VASQUEZ: How did you go about assessing the wisdom of a judicial or a parole board appointment? You were very much involved in that.

ALARCON: Well, I wasn't that much involved in the judicial [appointments], but I certainly was on the parole board. I operated on the premise that if the

governor made an outstanding appointment to a parole board position, it would have a good political fallout for him. I would give him someone that he could accept regardless of political affiliation, for example, because this person was so overwhelmingly qualified everyone would say, "What a superb appointment he made." I felt it my duty to take the public into consideration. Then public approval of that selection would have whatever political points that he [could] make with the limited number of appointments that he had.

VASQUEZ: Did you take law enforcement's view into consideration in those cases?

ALARCON: Certainly, for the parole board. I recommended people for parole board positions from the therapy field, from the probation field, from the academic field, from law enforcement, and was able to convince some very fine people to let me give their name to the governor. The chief of detectives of the Los Angeles Police Department, for example, and other people of outstanding ability, character, and demonstrable achievement. The governor agreed with me that appointing the

chief of detectives of the Los Angeles Police Department to a parole board would give great credibility to the decisions of that board.

VASQUEZ: Who was your sounding board in law enforcement for those kinds of appointments?

ALARCON: I knew all of the D.A.'s, all of the police chiefs, and all of the sheriffs of the major counties. I would call them and say to them, "I'm looking for somebody outstanding, [someone] who has a statewide reputation, for a political appointment that the governor can make to this board or that board." I would say to them, "Either way, would you give me some recommendations?" Or, "What would you think if the governor appointed this person?" In a couple of cases where they were on the chief's own staff, I'd say, "This person is about to retire. I think it would be marvellous to bring all of that experience over to this post." They would give me a candid answer. They were flattered that I would call them personally and ask them. I would say to them, "Well, I don't guarantee that he'll listen to me, but it will help me to have this information and to know that you feel this way

about it."

Alarcón's Role in Judicial Appointments

VASQUEZ: In those cases where you did get involved in judicial appointments, what was your role?

ALARCON: Well, while I was in Sacramento, in the judicial appointments area, the governor several times would talk to me when it involved Los Angeles County. On one occasion, I recall where there was a man who was in a very high position in the Los Angeles County District Attorney's office. His name was offered to the governor by this man for a judicial appointment. The governor, in an informal setting, as I recall, at dinner, he leaned over to me and said, "I'm thinking of appointing the chief deputy to the bench in Los Angeles because I want to do something that will make the D.A.'s office pleased that I recognized [their] public service." He said, "I want to appoint someone that will make members of your old office really happy about their public service and give them a goal." That was the philosophy he had. He liked to make appointments from public offices like county counsel and district attorney. He said, "These people work

at a sacrifice. They could make a lot more money in the private sector, so I like to appoint judges from that area. This fellow, I think, would make the office very happy. What do you think?" I said, "Well, I think it would make the office very happy because he's one of the most hated men in the district attorney's office."

[Laughter]

VASQUEZ: [Laughter]

ALARCON: "And they would be happy if you would take him off their hands." One thing about Pat Brown, he doesn't like negative and personal comments like that, so he pulled away from me. But he didn't make the appointment. [Laughter]

VASQUEZ: He didn't?

ALARCON: At another time he came to me and said, "I've just appointed somebody [to the municipal court bench] because the Speaker [of the Assembly] asked me to appoint him. I don't think he is a very highly qualified person. I don't like to do that, but there was a lot of pressure to put this person on. I don't think the state bar or board of governors is very happy about that appointment, so I want to appoint someone [to the court] who

will really make the bar pleased. Do you have a name?" I said, "Yes. There is a commissioner in Los Angeles named Arthur Marshall." I suggested, "If you appoint him, he's an expert on probate law and a very, very outstanding person who has devoted a lot of time to Los Angeles bar and state bar activities." So the governor said, "Thank you," and he appointed Arthur Marshall.

About two or three years later, I had a similar conversation. The governor came in and said to me, "I just appointed someone that I think wasn't very pleasing to the pillars of the bar in your town. I'd like to put somebody on the superior court that would make them very happy and kind of take the bad taste out of their mouths from this prior appointment." I said, "Well, there's Arthur Marshall." [Laughter] So he elevated him.

Why Alarcón Became the Executive Secretary

VASQUEZ: What happened that made you decide to move up into the office of the executive secretary [in 1962]?

ALARCON: Charles O'Brien left to return to his former job. When that occurred, I didn't know it was

going to happen. It was a sudden decision. I happened to be in South Lake Tahoe giving a speech to a law enforcement group when the governor called, asked me to come back immediately, and offered me the position.

Initially, I told him that I didn't think I wanted it, nor did I think it was a particularly wise decision for him, because that position had been used by him as a place for a political adviser. I said, "I don't think I want to be your political adviser." He said, "That's not how I envision your role with me. I want your role with me to continue the way you have defined it, trying to help me make the best decisions I can make in the interest of the public. I want you to think about it overnight and come in tomorrow and accept."

So I went home, talked to my family, and went back and accepted. Now, I think I accepted primarily because it would give me a chance to study aspects of governing a state other than just law enforcement. And it would give me a chance to interact with the directors of the various branches of the executive office and

learn about mental health and other parts of state government.

VASQUEZ: Did you see that position as a stepping-stone to becoming a judge?

ALARCON: No. I didn't see it as a stepping-stone to being appointed to the bench. The governor never told me that he was going to put me on the bench when I went to Sacramento, never discussed the subject with me. I hoped all along that that would be his decision, because that was my personal goal. I think the governor was aware of it without our discussing it. In fact, I felt that not only was it not a step towards being appointed, but it gave me more chances to make mistakes, dealing in areas that I didn't know anything about. So, if anything, it might prove a hazard to my becoming a judge.

But I decided then that I was young enough. I was then thirty-five or thirty-six, and if some decision I made in good faith was interpreted as a bad decision, enough to cause me to leave and not get to be a judge, there would be other governors. I might be able to go out and make triple what I was making there and have my family

live a little better than they were on a very modest salary. I decided it would be fun to try, notwithstanding the fact that it might end up harming my chances.

Alarcón's Involvement in Republican Politics

VASQUEZ: This was 1962?

ALARCON: Nineteen sixty-two.

VASQUEZ: In 1962, the Republican party was in the midst of some pretty intense internecine fighting. [John] Birchism had become an issue within the party. Had you overcome all of your hesitations about serving in a Democratic administration, as a Republican, enough to not have that interfere with your decision?

ALARCON: Once I made the decision to work for Pat Brown, it did not bother me thereafter what the political winds were in the Republican party. My decision to go to Sacramento was not to be a Republican working for the goals of a Democratic, elected official. My decision was to go there as a lawyer and a student of government, to try to lend my talents to making the government run better if I could, to advise on ways that would assist the public.

VASQUEZ: This commitment carried over from your tenure as secretary of clemency to executive secretary?

ALARCON: Absolutely. From my standpoint, I didn't see either job as being a partisan political job.

VASQUEZ: No, but you must have had some political agenda that you hoped that you could help.

ALARCON: No. No. I didn't have any political agenda. Except, I think, making the machinery work efficiently. If an idea would come, either from me or someone else, to make it fit smoothly, efficiently into that machinery. But I didn't have a laundry list of things I wanted to accomplish.

VASQUEZ: Or a set of philosophical principles that you wanted to see furthered?

ALARCON: Well, that, yes. But that's with me all the time. It's the way I look at things. But I didn't have a specific list of things that I wanted to do to further my general philosophy. One of the reasons that's true, among others, is that the governor had other people he relied on very heavily for his political agenda. Some of those ideas that he was being fed were good ideas. Some of those ideas I didn't think were

good ideas for the public.

I had enough responsibility and enough [of a] burden trying to sort out for him which [ideas] I felt were good for the public. For those that were not, I didn't have much energy and time left to sit down and draft an agenda, a personal one. We did do a lot of work encouraging the staff and the directors to come forward and ask what they could do to make their departments run better. What laws need to be enacted? What laws need to be eliminated to make their office run better? For example, in the area of discrimination, we did a lot of work which came out of my office by executive order.

VASQUEZ: Out of the clemency [secretary] or executive [secretary] office?

ALARCON: As head of the office staff.

VASQUEZ: I want to get more into civil rights. What contact did you maintain with the Republican party as a Republican? Did you remain active in some elements of it?

ALARCON: No, I was never active in the Republican party. Never have had a chance to be, because when I was in the D.A.'s office, it was the belief of the

head of the office and the interpretation by others of California and national laws that public employees could not be involved in partisan political activity. So I never belonged to a Republican club. I wanted to, but as long as I was a D.A., I could not.

I could not be active politically prior to the time that I went to the governor's office. I went directly from the D.A.'s office to the governor's office. While in the governor's office, I was not active in the Republican party for two reasons. One, I didn't have the time. Two, it was certainly inappropriate at that time to do it. It would have been inappropriate for me to do so, and I had no history of it. I had a lot of friends who were prominent Republicans. I maintained my friendships and ties with them.

VASQUEZ: Were there times when you needed a Republican to talk to? [Laughter]

ALARCON: A lot of the Republican leadership in the senate were very close friends of mine. Houston [I.] Flournoy, in particular, was one of them. When we had formal parties or banquets, I usually ended up being asked by the Republican leadership

of the assembly and the senate to sit with them. We would sit and talk Republican philosophy, and sometimes they would use the opportunity to say, "Would you try to get him [the governor] to think seriously about supporting this?"

VASQUEZ: You were approached for informal intercessions?

ALARCON: Sure. Absolutely. Very openly. I would sit down with the governor and say, "Well, last night my Republican friends told me that they hoped you could support this." And sometimes he said, "Sure, I'll support it."

VASQUEZ: Was that one of the values that you provided to Governor Brown, do you think?

ALARCON: I would think so, sure.

Alarcón's Mandate as Executive Secretary

VASQUEZ: When you came into the executive secretary's office, what was the mandate of that position? Or was it loose enough that it could be oriented one way or another?

ALARCON: Well, I think Charles O'Brien saw the job as being political adviser to the governor rather than being the chief of the staff, to make sure that the office ran itself smoothly. Part of the responsibility was to make sure that everyone did

his or her job.

VASQUEZ: Coordination of the executive staff?

ALARCON: Sure. We had several hundred employees. That, in itself, was a full-time job. To answer your question, the governor never sat down and told me how I should conduct either job. He left it pretty much to the style of the individual as to how they would conduct it. And, really, to their own initiative.

First, by selecting [as executive secretary] Hale Champion or Charles O'Brien, who were very active with their political ideas, I think it was natural for him to expect them to continue to do that [act as political advisers]. When he and I talked about what I would do in the office, it was with my saying to him, "I don't agree with your politics in some respects, and that's not what I want to do." And he would say to me, "Well, what you defined as your role is what I want you to do." So my role in both jobs was not to be a political guru but to advise him, to make sure that his policies, directions, and orders were carried out by his department heads and by the staff. That's how I defined my role.

I don't know why Charles O'Brien left. My guess is that he may have been unhappy or uncomfortable with the fact that Hale Champion moved across the hall [as director of Finance] but was still highly sought after by the governor for his political views. More importantly, for his views about public opinion, what would look good and what would not, because of Champion's journalistic background. I think that it would have been frustrating to be the successor to a Hale Champion, believing that you would be playing the same kind of role.

VASQUEZ: And filling his shoes?

ALARCON: Yeah. I did not want to be another Hale Champion. I did not want to be a political guru. I wanted to be an administrator and learn about the administration of state government. So Champion and I never clashed, never clashed directly. There were some of his ideas that came to me for my reaction in terms of, "Is this good government?" I would come back and say, "Not in this form."

[End Tape 4, Side B]

[Session 4, May 3, 1988]

[Begin Tape 5, Side A]

More on the Governor's Clemency Power

VASQUEZ: Judge Alarcón, in discussing your tenure as clemency secretary, we discussed to some degree the role that Governor Brown took in clemency hearings. In an administration as long as his, I imagine there was some rationalization of this process, either some formula, some approach or method for coming to a decision on clemencies. Would you comment on that?

ALARCON: Yes. Let me start this way: The power of clemency is one that is not defined in the California constitution. It's not spelled out in the statutes. It's not really discussed much in court decisions because it is one of the last sovereign powers that an executive has. Almost everything else is covered by our checks and balances and by our separation of powers, our three branches of government. But the clemency power is almost unreviewable. It's almost left to the discretion of the governor.

The one exception, I think, I mentioned with reference to Chessman, where if an individual has

a prior felony conviction, then the governor cannot pardon that individual without getting the approval of a majority of the supreme court. That's a rarely exercised . . .

VASQUEZ: Restraint.

ALARCON: Restraint, yes. Rarely does the governor go and ask for that, but it's there and it's a control. Except for that, the governor has the power to grant a pardon to anyone that he wishes to. On the national level, what [President Gerald R.] Ford did for [Richard] Nixon is an example of the pardon power which is unreviewable. All of the speculation about what might happen to Colonel [Oliver] North, it's the same kind of thing.

Well, on the state level, it's exactly the same way. When you become governor, you're only controlled by your sense of history, how you want to be looked upon twenty-five years, fifty years from now by historians. If you want to be looked upon as a great governor who was fair and equal in the enforcement of the law, then you impose restraints on yourself. If you want to be looked upon as a governor who struck a blow for a particular point of view, like the most recent

governor of New Mexico who . . .

VASQUEZ: [Governor] Toney Anaya.

ALARCON: Governor Anaya, as he was leaving, commuted all of the people on death row because he's opposed to capital punishment. So you have a range from being very conservative in the exercise of your pardon power to what Governor Anaya did reflecting his own personal view. In either case, there's nothing much that can be done, particularly if you're not going to run for reelection or you've been defeated in your election campaign.

Perhaps one of the remaining controls on a governor is his ambition in the exercise of his power and how he wants the voters to look at it. I mentioned that historical sense, but I guess there is a more immediate problem for a governor. [Laughter]

Equal Justice in Fifty-eight Counties

Now, with all of that, when I went to Sacramento I did not find any kind of structure there in terms of how I would prepare my reports. What was it he was looking for? So I talked to him a lot about it. We developed in our conversations this kind of policy that he imposed on

himself. He was the governor of fifty-eight counties. One of the things that was very important to him was to make sure that someone did not die in the gas chamber because of a local prejudice or a local attitude about homicide, where that same person in another county, such as Los Angeles, would not have received capital punishment.

So he was very careful to look at that, to make it proportional throughout the state of California, and several of the cases where I recommended a commutation were examples of that, where in a different county, in a different time, there would not have been capital punishment.

Case Studies of Local Prejudice

For example, there was the case of a man named [Stanley William] Fitzgerald,¹ who was a drunk living on skid row in San Francisco, who went with two men to Reno to go gambling. These two men were companions of the street, but they had a little more money than he did. So when they got near the Reno border, this Fitzgerald

1. People v. Fitzgerald, 56 Cal. 2d. 855 (1961).

decided he was going to rob them. He asked the car to be pulled over to the side of the road, they got to the side of the road, and he had been carrying a gun. He pulled out the gun and said, "Give me your money." Well, one of the two men decided to be a hero, struggled with him, and in the struggling over the gun the man was killed.

Fitzgerald was so upset that he handed the gun to the other man and said, "Kill me." And the other man said, "No, I'm not going to do that. It was an accident, just calm down. We'll turn you in to the police." And they did.

Unfortunately for Fitzgerald, he was in one of our tiniest counties, a mountain county with a very small population. They had not had a homicide there for years. A second unfortunate thing happened. There were some young people who were thrown into this ancient jail--it was one hundred years old--who decided to make a break for it. They had a single jailor who was fat and sleepy and dozed off. They reached out--as you've seen in Western movies--they reached out, got the keys off of his belt, opened the cell, threw the jailor in, and the three young toughs

and Fitzgerald, the wino, walked out.

Immediately, there was a hue and cry in the community about this mad killer from San Francisco on the loose. I was later told by the D.A. that the members of the jury bought shotguns and told their wives and children not to leave the house till the escapees were captured. A few days later they captured Fitzgerald and these other three fellows. Nobody else was injured, nothing happened. They were terrified, hiding in a cabin until they were found. But because of the community concern, when that case came to trial it was very easy for the D.A. to talk the jury into the death penalty.

When the governor had to rule on that matter, he decided that because of what happened, because of this mix of historical accidents for Fitzgerald, because of that and only because of that, he got capital punishment. Had it happened at another place, in San Francisco County or in Los Angeles, a plea bargain would probably have resulted in second-degree [murder], voluntary manslaughter, or even involuntary [manslaughter]. Certainly, because there was a robbery, it might

have been a second-degree murder, but never a death penalty. So in cases like that, he would exercise his clemency power. But he did so rather conservatively.

VASQUEZ: He was trying to equalize the application of his beliefs throughout the state.

ALARCON: That's right. Exactly. And that characterized his use of that power even though he felt as strongly as Governor Anaya that nobody should die at the hands of the state. He felt under his oath that so long as the death penalty law was on the books, he had to apply it. But he tried to apply it in a rational way. There were a number of executions while he was governor, and each one of them was, for him, philosophically repugnant.

VASQUEZ: What did that mean for you in reviewing cases that had to involve him?

ALARCON: Well, it meant that when I looked at the case, I would sort of use the Los Angeles or Orange County standard if it was a case from another county. What would people do in a detached area who are looking solely at these facts? What actually happened here? It was easy in the Fitzgerald case.

A jury not affected by this community fear when the escape occurred with Fitzgerald, putting that aside. . . . Fitzgerald was a drunk who was trying to take some money and the whole thing got out of hand because the victim fought him. There was no question but that it was an accident. Fitzgerald was a man who was so appalled at taking a life that he told the other man who was supposed to be a victim, gave him the gun and said, "Kill me."

Somewhere else that would not have been a death penalty case. The prosecutor wouldn't have asked for it. So I looked for things like that. If they weren't present, I would recommend that he not intervene. But if there was something like that in the case, then I would say to him, "This is a case where you should consider commutation." There were, I think, only one or two cases where we disagreed.

VASQUEZ: What were those cases, what were the particulars of the crime and/or trial, and what were the underlying philosophical questions?

ALARCON: Well, the one that stands out most strongly is a case involving a gang of very sophisticated

jewelry thieves.¹ Actually, they were robbers. "Thieves" sounds too mild. They would actually hold up jewelry stores at gunpoint. This sophisticated gang had a member that was suspected by the others of cheating, of holding back money. They also had some fears that he might be ready to be an informer if he were caught.

They decided to kill him, and they took him out into the mountains and killed him. Then they cut up the body into small pieces, stuffed parts in latrines and rubbish pits in the mountains in various camp grounds, and scattered the remains so that, hopefully, there would be no identification. They were eventually caught and prosecuted.

Two of them went to trial together. They both got the death penalty. The ring leader, the fellow who said, "This is what we're going to do," who said, "Shoot him and then cut up the body," he got the death penalty. The other man was an underling, a soldier instead of a leader, who happened to be an Hispanic. He did not shoot and

1. People v. Stanley W. Fitzgerald, 56 Cal. 2d. 855 (1961).

did not cut but helped get rid of the parts. He also got the death penalty in that case.

When I reviewed that file, I decided that anywhere in California, in any county, any jury would come back with the death penalty for both because of the horror of the planning, the pre-meditated killing, and what they did to the body.

The governor disagreed with me as to the Hispanic and felt that since he did not personally participate in the killing and in the cutting--all he did was dispose of the parts--that he should look at that differently. Because he was governor, he commuted the one but not the other. That was another problem that I had. While there clearly was a difference in what they did, to let one die and to spare the other seemed to be inappropriate as well.

Now, looking back on it, I probably would still recommend the same thing, but I can understand why he distinguished between the two. He is a very brilliant lawyer, and he explained to me that his reasoning was that a follower should not be punished as severely as the leader, that what happened to the body after, which horrified

me. . . . Remember that the person was already dead before the body parts were disposed of. So that was the basis for his distinction.

A funny thing happened. Years later I was seated in Frank and Lucy Casado's restaurant, El Adobe, on Melrose [Avenue in Los Angeles], when a burly man walked up to me as I was at a table. It happened to be a table with the former chief of police, Tom Reddin, and some friends. This burly man walked up to me and said, "I want to thank you for saving my brother's life." I looked at him, and he identified himself as the brother of the man the governor commuted.

[Laughter] I didn't explain to this burly man that I recommended the other way. [Laughter]

VASQUEZ: What was the other case?

ALARCON: The other case involved a man who had gone into a bowling alley to commit a robbery.¹ He had been an employee, came back [after closing], and, by chance, one of his bosses had worked late. As he went about stealing, he bumped into his

¹. People v. Allen Detson and Carlos Gonzalez Cisneros, 57 Cal. 2d. 415 (1962).

employer. He reached over, got a bowling pin, and smashed the man's head in. The jury came in with a first-degree murder committed in the perpetration of a robbery. They came up with the death penalty.

On that one, I felt that because it was a robbery and a murder in connection with a robbery--there was no self-defense, he was just doing it to escape--that the governor should not intervene, there were not sufficient mitigating factors.

The governor felt it was situational, that but for the man being there, there would not have been a homicide. He didn't come armed with a weapon but grabbed something and, trapped in a corner, he used it. But for that, he would not have killed. That's the other one where we disagreed. I think it was only those two, really.

Building Precedents Against Capital Punishment

VASQUEZ: It sounds like Governor Brown was consciously building a body of law or precedents in this area to give some room to maneuver for his beliefs, even if the law allowing capital punishment

remained. Is that your sense of it?

ALARCON: Yeah, I think so. What he was trying to do was to exercise the power in a rational way, in a way almost as a defense lawyer would plead to a judge and say, "This man picked up the bowling pin because he was trapped and all he wanted to do was get out of there. He didn't really intend to kill." That is something that a judge or a jury would consider.

It is a legitimate argument in favor of mitigation. It's not one that moved me at the time, but it's one that might well move another person. Perhaps that, too, is something that the governor was concerned about, that it could have gone either way. Why shouldn't he be allowed to say, "If a jury could just as easily have been moved to spare his life, then why shouldn't I spare his life?"

VASQUEZ: Do you think that he understood that if he did this over time, especially being in office as long as he was, local [police] cases and local [prosecutors] would keep in mind that the governor [was] very likely to use this kind of rationale for commuting? He might have put a

"chilling" effect on those pushing for the death penalty in some cases?

ALARCON: Well, I certainly think that your point's well taken. I think that prosecutors, at least, would think very carefully about asking for the death penalty, because it costs a lot of money to prepare for that. It is wrenching to a prosecutor to ask that someone else be killed. It's a very difficult decision in a prosecutor's office. So where you have a governor who has indicated that given particular facts it was really inappropriate to ask for the death penalty or for the jury to return the death penalty, they might well have changed and said, "Well, if you have a situational killing which results during the perpetration of a robbery where the individual believes that the only means of escape is to lash out with the nearest thing he could reach, that really isn't what the death penalty is all about." The prosecutors in the future might not ask for it.

I think it would have more effect there. I frankly think juries are tougher than prosecutors and legislators. What you have to do as a prosecutor, really, is to decide whether to ask

for it. Once you've made that big decision, it's not that difficult a task to get a death penalty from the jury.

VASQUEZ: So the pivotal point might be the prosecutor?

ALARCON: That's right.

VASQUEZ: So then Governor Brown was getting exactly where the sensitive spot was, wasn't he?

ALARCON: Sure.

VASQUEZ: That's very interesting. So, over the time that you were there, did he apply this blanket equalizing attitude towards the fifty-eight counties?

ALARCON: Interestingly, yes. He did that during the time that I was there, both as clemency secretary and then the following two years as executive secretary, until the supreme court stopped any further executions. I believe that there was no other execution after I left. During my eleven months, there were a number of them. But because of decisions by both the United States Supreme Court and the California Supreme Court in the ensuing two years, there were none. There were only a couple of cases where there was a clemency hearing, but it ended up that nothing happened

because of these [court] decisions. It was only during my time there that I saw this equalizing occur. But I think that set the standard for what he would have done.

VASQUEZ: Very interesting.

ALARCON: There hasn't been an execution, as you know, for over twenty years in California.

VASQUEZ: But we're coming up on some at San Quentin, I understand.

ALARCON: Well, we have several hundred people there. That's right. And I know that he [Governor Brown] is writing a book right now on the subject of the death penalty.

Alarcón's Assessment of the Political Use of
Capital Punishment

VASQUEZ: How do you feel, given the tenor of the last eight or nine years, that will go, into end of the century, for example?

ALARCON: We were talking about Governor Brown's impact in exercising his clemency powers. While he was not popular with police chiefs because of that position, while there were editorials in the major newspapers against the exercise of the [clemency] power and the way that he acted in those cases,

the public opinion polls at the time when he suffered his worst political setbacks concerning the death penalty were about fifty-fifty, 51 [percent] in favor, 49 [percent] opposed. In the most recent polls, it's well over 75 percent in favor and 25 percent opposed.

I think we are in for many executions in this state, and I don't see at the moment any turn-around in the public attitude. I also see in the politicians of the eighties, the late eighties, no Governor Browns, no people who would have his courage to speak out against capital punishment.

As I look at elections in this decade from the neutral vantage point of a federal judge on the sixteenth floor of this building, I see everyone running for sheriff instead of governor or lieutenant governor or United States senator. [Recently] you had United States senatorial candidates running against [California Supreme Court Chief Justice Elizabeth] Rose Bird [Laughter] in the last election. There's not much that a United States senator can do about local California law, particularly with reference to the death penalty. But the attitude has

changed considerably.

What is puzzling to me--and sociologists and historians might know the answer, I don't know the answer--is how the product of the sixties, those who were out demonstrating and tying up campuses and stopping a war, have produced a population that is more conservative in its attitudes about something, at least like capital punishment, than the parents they rebelled against.

VASQUEZ: Do you think it's they who produced it, or was it their failure to change ideas and structures, that the reaction that beat them down might have produced that?

ALARCON: I don't know the answer.

VASQUEZ: There are, of course, arguments on both sides of that.

ALARCON: I don't know. I think it's just plain naked fear. I think people are quite terrified about crime. Although, interestingly enough, there has been a turnaround in the statistics in the nation concerning crime.

VASQUEZ: Yes. But the rhetoric on the part of law enforcement continues and, in fact, may have even

stepped up.

ALARCON: That's right.

VASQUEZ: If you compare the relative stabilization and even decline in major crime, graph that and then graph budgets for police agencies, you see a great disparity.

ALARCON: Sure.

VASQUEZ: What has taken place?

ALARCON: Well, I think Professor [C. N.] Parkinson¹ is laughing somewhere because, as he pointed out when half the British navy was scuttled in 1930, for the next decade the number of officers increased, the number of enlisted men increased, and the budget increased, although you had half the ships. I think the same phenomenon has taken place [in law enforcement]. While the crime rate is apparently high, I don't mean to minimize it, but it has stopped [growing] and is nudging downward, yet our budgets continue to increase. Also, we have dramatic things going on. We have gang killings and drive-by killings which make it

1. Parkinson formulated the law that work expands to fill the time allotted for its completion.

easier for a police chief to get his budget augmented. In Los Angeles, our police force is undermanned. It was undermanned when the crime rate was going up; it is still undermanned when the crime rate is high but nudging downward. So what the police chief is doing, wisely and politically, is saying, "If you want me to give you safer streets, you're going to have to give me the kind of police force that I need." But it's not related to the statistics going up or down, it's related to the necessity in his eyes to have so many police for a city of this size.

VASQUEZ: Is it also related to the public's perception of how much crime there is or is not?

ALARCON: Yes. Sure. You take the community where you work. A horrible killing occurred there of a young woman. But it's only been one horrible killing of one young woman in the streets of Westwood. Yet I know I'm not very comfortable about having my sixteen-year-old go to that community in the evening, even though the statistics are probably such that it may be safer for my sixteen-year-old to be in Westwood on a Friday evening than in any other part of the county.

Because of the awareness that there could be another drive-by killing someday, the odds may favor him now that that won't recur. But from a standpoint of fear, which is the theme I was setting up, my fear for his safety is there.

If they said to me, "Would you support an increase in the number of police who patrol Westwood on Friday and Saturday nights?" I would say, "Yes." I would say yes because I wouldn't want some idiot to drive by and shoot my sixteen-year-old.

Law Enforcement or Crime Prevention?

VASQUEZ: How do you respond to those who argue that monies spent in policing, which is really after the fact, are monies that could be better spent before the fact, either in employment or other educational services for youth that would keep them off the street and not looking for or needing to be involved in gang activity?

ALARCON: You sound like Pat Brown. These are some of the debates that he and I would have. How I would respond to him if he were seated here now and what I would say to him in Sacramento in trying to have an impact on his decision making would be

that we're talking about, as the Hawaiians say, "eggs and bananas." The "egg" is what causes people to become drive-by killers, robbers of mom-and-pop liquor stores, terrorists, burglars, or what have you. That's the egg. The "banana" is once they have done this thing, what do you do as a society to stop them from doing it again? We need to respond to the egg problem, we need money to solve the egg problem, which I feel we have not provided.

Any kindergarten teacher can tell you that she can spot kids who are going to have social problems, adjustment problems. She can tell you with some degree of strong predictability which one is going to be the car thief or the experimenter in drugs by the time he's eleven or twelve or thirteen. Yet we're not doing anything about that. All you have to do is talk to a kindergarten or first-grade teacher. We're waiting until they take that car. Then we're dealing with it in a paternalistic way until he builds up a record at [the age of] twenty-five or twenty-six when he has a gun and kills somebody. Then we pour hundreds of thousands of dollars to prevent

that individual from doing it again.

VASQUEZ: Or locking him up?

ALARCON: But they're different problems.

VASQUEZ: You don't see one related to the other?

ALARCON: No. The chief of police of Los Angeles needs more guns and more policemen to stop people who hold up liquor stores, and we need to have an intelligent program directed at preventing people from ever getting to the stage where in their middle twenties they're holding up liquor stores. So they're different problems.

We cannot say to the person who holds up the liquor store. . . . And this is what I used to say to Pat Brown. He would look at me with a snarl [when] I'd say, "You can't say to the police, 'Apologize to those people who hold up the liquor store, pistol-whip the husband, and shoot the wife and paralyze her for life.'" You can't apologize to them for all of the social injustices that they may have endured until they were twenty-five. We have to do something with that person. We should also be directing our resources at preventing that person, that monster, from ever being created. But they're

different problems.

VASQUEZ: There is one connecting element, it seems to me, and that is the debate over the goal of incarceration: rehabilitation or isolation from society. Isn't that part of what connects those two things?

ALARCON: Yes. And, unfortunately, we are at a very bad point, in my perspective, in looking at that problem. In 1977, the governor's son, Governor Jerry Brown and the legislature thought that they had a solution to the problem of crime on the streets, the problem of doing something to improve our statistics in this area. That [solution] was the determinant sentence instead of the indeterminant sentence.

The Indeterminant Sentence

The indeterminant sentence concept, which we had in California before '77, placed the [discretionary] power in a parole board to look at an individual shortly after he came to prison and [weigh] the choices. "This individual did something in a situational way that he'll never do again. It won't happen. The stars won't be lined up the same way ever again, so he's really

ready to be released today."

A second choice would be to say, "He needs some time to put structure back into his life. His judgment has been so impaired by his lifestyle that he doesn't know how to. He doesn't get up at the right time, he doesn't eat three meals a day anymore, and he doesn't work. He's forgotten that there is satisfaction in doing things for yourself and your family. So we have to socialize this individual." That was a second choice.

A third choice would be to say, "This individual is a mad dog, and if we release him, he's going to go out and find another liquor store. If people don't move fast enough, he'll shoot somebody else. So we have to keep him here for life." That was the indeterminate sentence.

One of the cornerstones of the indeterminate sentence concept was that you can rehabilitate the second group. You can make a difference in the prison system. You can retrain someone back into being a social animal rather than a mad dog.

The Determinant Sentence

In 1977, under Jerry Brown's leadership, the legislature said, "That's wrong. We can not rehabilitate." One of the big slogans of the time was, "You can't rehabilitate somebody who is not habilitated in the first place. These people can be locked up if you want. We'll warehouse them if you want, but we can't do anything. Don't expect us to accomplish anything in prison."

VASQUEZ: And part of the reasoning underlying that argument was the "era of limits" and budget cut-backs, wasn't it?

ALARCON: Exactly.

VASQUEZ: Rather than a philosophically based argument?

ALARCON: Exactly. I opposed the determinant sentence and participated in writing an article for the state bar journal in opposition to it.¹ I interviewed a prisoner in Soledad Prison, a very articulate young black man. He said to me, "The indetermi-
nant sentence theory was never given a righteous

1. Anthony Murray, Gordon Ringer, and Arthur L. Alarcón, "Prison Reform: Backward or Forward?" California State Bar Journal. Vol. 50, No. 5, Sept./Oct. 1975, pp. 356-98.

chance." And he was absolutely correct. You can't rehabilitate without a budget, you can't rehabilitate without trained people. And we have the training, we have people getting M.A.'s in learning how to help people restructure their lives. In 1977, there were twenty-six psychiatrists employed by the Department of Corrections for twenty-six thousand men. You figure that's one per thousand, and you figure how many minutes a year those psychiatrists could devote to those people. The answer is almost none because the paperwork would consume the few moments per year in which they could do it. So that prisoner was absolutely correct.

We did not fund rehabilitation efforts, so it was easy to pronounce it a failure. It was like the cynical concept that people had at the end of the Vietnam war. Somebody suggested the president announce that we had won and just leave. That's basically what we did with rehabilitation. We said that it doesn't work.

VASQUEZ: And then walked away from it?

ALARCON: And then we abandoned it.

Biological Explanations for Crime

VASQUEZ: We now have a growing body of literature in law enforcement that harkens back to biological arguments as the source of criminal behavior, which seems to be taking a more predominant place in legal theory than it has in the recent past. Does that bother you at all?

ALARCON: Well, it doesn't bother me, really. What bothers me is that any one of us, you or I, can be an expert on the causes of crime, because everybody believes himself to be an expert. Yet there is no [genuine] research in this field that is being properly supported.

It may well be that those people who go in and pistol-whip or shoot someone who doesn't move fast enough have some problem in their genes. There is a study going on in Australia about chromosomes which cause violent behavior. It hasn't been sufficiently tested out. It's a theory and it may be wrong.

What we should be doing is finding out if it's wrong or not wrong, and then doing something about it. This is a very sensitive social policy question. Because if we were to find out that

people have a Y chromosome which caused them to be violent, what do we do in kindergarten? Do we test kids in kindergarten and take the Y-chromosome people and isolate them for the rest of their lives? Those are problems that, as a society, we're going to have to look at.

VASQUEZ: That's a long-range problem. A more immediate problem is that this kind of argumentation or theorizing is many times used for prison budgetary reasons as well as political reasons. If you argue that there are biological reasons which make people criminals, taking even the most cursory look at our prisons you'll find that the population is overwhelmingly either black or Hispanic, at least in the state of California. A conclusion has then got to be that it is among blacks or Hispanics where this Y chromosome seems to be running rampant and, therefore, reflects on an entire community.

Before you get into testing your theory, the public perception can easily be manipulated to argue there are certain communities that need more law enforcement than others. If you link that with the phenomena of gangs and drive-by

shootings, which are for the most part in those two communities, you've almost got a self-fulfilling prophecy that there is something these communities have to work their way out of. It does something else. Some would argue it takes away the onus and attention from white-collar crime, which may not be as messy or violent at the time that it is committed, but the outcome or upshot from that kind of crime may be just as socially destructive. I'm thinking of people who bankroll and launder money used in large drug operations that do a lot to undermine our youth. Do you think that argument is overblown or too alarmist, or do you think there's an element of truth in it?

ALARCON: Well, what you've said involves, again, a lot of very delicate social and political questions. Mayor [Richard] Hatcher, the mayor of Gary, Indiana, a number of years ago gave a speech which was very challenging. Only he could have given that speech at that time. He said, "We have got to stop looking outside and have got to address some of these problems that are happening to black people ourselves. We have got to stop

blaming the policemen because of the high arrest rates among our youth and look at the fact that over half of the homicides in the United States are committed by blacks and that their victims are black. And the same is true with rape." If a white person said that, he would be in such political hell not only with black people but also with people who are sympathetic with the problems, with the plight of being poor and black or being in an educational system that, in my view, doesn't properly educate black students even in my city. So there are problems.

[End Tape 5, Side A]

[Begin Tape 5, Side B]

Responding to Community Concerns

ALARCON: We need more policemen in South Central Los Angeles, and it's fascinating to me as a sixty-two-year-old observer. When I was with the governor's office, delegations came to talk to the governor and, sometimes, to me because of the governor's schedule. I talked to a group of black leaders one time when I was working with the governor, and they said to me, "Why is it that the LAPD [Los Angeles Police Department]

concentrates so many police in South Central Los Angeles? That's why the statistics are so bad. You put in more policemen, you're going to have more arrests. You decrease the number of policemen in West Los Angeles, you're not going to have many arrests there. They are distorting the crime figures to make us look like terrible people." A few weeks ago, we had a delegation of ministers come to the city council saying, "Why is it that the LAPD does not have enough officers in our community where our people are being gunned down?"

VASQUEZ: So it's a matter of what political winds are blowing through in the particular community?

ALARCON: Sure. At the moment. I think at the time of the earlier protests, there was a need to have police there, and now there's a need to have more police there. But that's a different problem. The fact is that there are a high number of blacks in prison and a high number of Hispanics in prison, not only in California but all over the country.

Years ago I went to Michigan on an extradition. In Michigan 90 percent of the people in prison were black in a state where I don't know

what the black population was. My guess would be that blacks numbered maybe 20 percent of the population, including Detroit.

VASQUEZ: And I think that's high.

ALARCON: There's no question that there are reasons for those high figures which have nothing to do with chromosomes. They have to do with social problems. Senator [Daniel P.] Moynihan got into a lot of trouble years ago in talking about this very subject. He talked about the fact that at that time over half of the black children were illegitimate. Today the figures are higher. What impact that's having on black crime, I don't know. My guess is that without a father figure in the household, without an authority figure who is working and is a role model, it's got to have a devastating effect on a kid growing up in that community. There are so many problems that we're not addressing.

Rights of the Suspect and Rights of the Victim

VASQUEZ: Do you think we went from one extreme to the other, going from what some argue were exaggerated concerns for the rights of the person driven to crime to the exaggerated concern for the

victims of crime?

ALARCON: No, I don't think so, because at the time 90 percent of the people in prison in Michigan were black. It was a time when someone might say, "Well, this the result of a [Chief Justice Earl] Warren court when we were supposedly overly concerned."

I don't think that we have been overly concerned with the rights of the defendants. Although I don't agree with some of the decisions of the supreme court, I think they have not had an impact on the crime rate. What people who write editorials don't understand is that there are affirmances by appellate courts in about 95 percent of the criminal cases. It's only in the death penalty cases where the court reverses a publicized killing, where it's dramatic and makes a headline.

Judges and Juries on Conviction Rates

If you put the death penalty aside, which really involves a handful of people. . . . In this state there are two hundred people on death row while there are one hundred thousand plus felons who have done other bad things. Of that

hundred thousand, 90 percent plead guilty, 5 percent go to trial. Of the 5 percent that go to trial, 75 percent are convicted by juries and about 65 to 70 percent are convicted by judges. These are constant statistics that go on, year in and year out. Of the 75 percent that are convicted by juries, if they appeal, 95 percent have the appellate courts uphold that conviction. So court decisions or a concern for the rights of the defendant don't really have an impact.

VASQUEZ: They don't reach inside that court room.

ALARCON: No.

VASQUEZ: You were saying earlier that juries are harder than judges.

ALARCON: Yes. Oh, definitely. As a prosecutor, there were several times where I would say to a lawyer, "I really think that it would be in the best interest of your client to have a court trial in this case." I'll give you an example. I prosecuted a kid, a twenty-year-old kid who had just bought an old car that was in terrible condition. The lights didn't work, among other things. He drove over to see his girlfriend right near the 'SC [University of Southern

California] campus at Hoover [Avenue] and Jefferson [Boulevard]. There used to be a police station at Hoover and Jefferson.

A block away from the station, he went through a boulevard stop. He had no lights on, it was dark, and he broadsided a car. The two people in the car were knocked unconscious. He panicked and walked around the block. His girlfriend lived half a block from the accident.

Everybody in the neighborhood heard the crash, they ran out in the street. His girlfriend ran out in the street, saw that it was his car, and waited for him. She looked for him and, sure enough, in a few moments he came around the block ready to turn himself in. She ran up to him, grabbed him, and took him up to the officers. He was sobbing and said, "I panicked. Here I am. I didn't have lights on the car. I was scared."

The fellow who represented him came to me and said, "We're going to have a jury trial." I said, "You're making a very serious mistake." And he asked, "Why?" I said, "Because I'm going to have to tell that jury that this is the law."

You cannot hit and run. It doesn't matter that it's only a walk around the block, that is the law. We have to obey it. It's up to the judge later to determine what he should do about that, but the narrow question that jury's going to have to decide is, 'Did he hit and run?' And there's no question that he did."

Now, if I made that same argument to a judge, he would say, "Don't you people have better things to do in your office than to file felonies in a case like this?" But the lawyer said, "No, I'm afraid of this judge. We're going to trial with a jury."

The jury was out for twenty minutes and convicted him as charged. Juries will do that. They follow the law. The prosecutor points out to them, "Here's the law, here's what he did," and they do it.

The Impact of Public Discourse on Juries

VASQUEZ: So then public campaigns about the victims of crime do have an impact on the kinds of sentencing that goes on in jury trials?

ALARCON: Well, juries don't sentence in California. But they do . . .

VASQUEZ: Set the basis for that sentence.

ALARCON: They [sentences] are affected by jurors I'm sure. Yes. The statistics I gave you on the death penalty are a reaction by the citizens of this community to what they perceive as an unsafe city. The death penalty is one way to get rid of the monsters who kill so that they don't make our city unsafe for wives, children, for me.

VASQUEZ: Unless there's something else that we need to touch on in the clemency position, why don't we get into your tenure as executive secretary?

ALARCON: Okay.

VIII. ALARCON'S APPOINTMENT AS EXECUTIVE SECRETARY

Brown Looking for an Administrator

VASQUEZ: You referred to the call you got when you were delivering a speech. I believe it was in Reno. You got a call from the governor to come back to Sacramento, and then you were offered Charles O'Brien's position. Do you want to lead into that?

ALARCON: Yes. Actually, it was South Lake Tahoe.

VASQUEZ: Right.

ALARCON: [Laughter] Which is much prettier than Reno. I

was giving a talk there. I got a phone call and he [Governor Brown] announced that Charles O'Brien had suddenly decided to return to the attorney general's office. He wanted me to accept the position of executive secretary, or executive assistant. I told him on the phone that it was an honor, but that I felt he should get someone else who was a Democrat and who was more in tune with Democratic philosophy and programs.

VASQUEZ: You saw it as a political position, did you not?

ALARCON: Yes. I saw it as an extremely political position, that is, the role that I had seen Charles O'Brien play and, also, Hale Champion and others (the other person whose name I can't think of at the moment who preceded Hale Champion [John Carr]). Those people had been very close political advisers to the governor. They had suggested a political program to not only help him be reelected, but perhaps become president of the United States.

I did not see myself at all being comfortable with that kind of a role. I was not a Democrat, and there were areas where I had disagreements

and felt it would be better for him to have someone who could fill that role, fill it and do the kinds of things that Hale Champion did for him. The governor told me that he didn't conceive of the job for me the way I did. He would be very happy to have me come in and be an administrator of the office, be a liaison with all the department heads in his administration, and to run the office for him on the day-to-day work while he was campaigning. Because that was the time of his campaign against Richard Nixon.

I told him that I really had strong misgivings about it. He said, "Well, I want you to come back to the office, take a day to think about it, and come in tomorrow and say yes." So I thought about it and came in the next day and said yes, with a lot of misgivings because of what I had seen as the kind of people that he had in that job before. I wasn't sure that it would be a comfortable position for me to assume because there were other people who were still around, including Hale Champion, who I felt would continue to play that role. And I didn't mind. That didn't concern me. [Brown] certainly needed

to have advisers on his political side, but what concerned me was whether Hale Champion really had left the office or would continue to do what the governor had asked me to do and have an impact on the day-to-day running of the state.

VASQUEZ: Had that been a problem between Hale Champion and Charles O'Brien?

ALARCON: I don't know. I thought it was. But O'Brien never sat down and told me that was the problem. Upon reflection, with a couple of decades distance, I think the problem was on the political side rather than the administrative side. I think that Charles O'Brien may have been concerned that his political advice was subject to review or challenge by someone else. There might have been a problem of who had greater access on the political side rather than on the administrative side. I think Charles O'Brien spent more time on programs, policies, and politics than day-to-day operations.

In the eleven months I worked for him and at his request, I did a lot of things that ordinarily would be administrative. I was glad to do them because I was learning about what was going on

there. So I don't know that there was any interference in the day-to-day . . .

VASQUEZ: So you came in with a clear understanding that as executive secretary you would be expected to administer the executive office?

ALARCON: Yes.

VASQUEZ: And keep a liaison with all the departments?

ALARCON: Sure.

VASQUEZ: And, I would imagine, the agencies?

ALARCON: Yes.

Hale Champion's Role in the Governor's Office

VASQUEZ: As you were saying, political considerations and internal decision making would continue to involve, more than likely, Hale Champion.

ALARCON: Yes.

VASQUEZ: Even though he was now director of Finance?

ALARCON: Yes.

VASQUEZ: As I understand it, he also involved himself with press releases and media campaigns?

ALARCON: Yes.

VASQUEZ: And political strategies?

ALARCON: Yes.

VASQUEZ: The sort of thing you felt you would be removed from?

ALARCON: Yes.

VASQUEZ: Is that the way it actually turned out?

ALARCON: Yeah, it is exactly the way it turned out. Hale and I worked very well together. To my knowledge, he did not interfere with any administrative decision that I made on the governor's behalf or recommended to the governor. We had no clash at all.

VASQUEZ: What is your assessment of Hale Champion, politically, intellectually, administratively? And of his personal ambitions?

ALARCON: Well, I did not have a great deal of contact with Hale Champion. I deliberately separated myself from the Democratic political aspects of Sacramento and did not go to meetings where Hale would be talking strategy or a propaganda campaign. So I really didn't have a great deal of contact with him.

VASQUEZ: No, but you must have been involved when he was challenged for his spending and his budgetary manipulations, when he started having budgetary problems with the legislature. Being in the governor's office, you must have heard some of that.

ALARCON: Well, yes. Although, frankly, I can't really recall at the time that that was anything other than normal political . . .

VASQUEZ: Give-and-take?

ALARCON: Yeah, vollies back and forth. My assessment of him was that he was a very brilliant administrator. The Department of Finance was very well run. I would define a brilliant administrator as one who not only knows how to administer but knows how to delegate. He had some superb people working for him, and part of being a brilliant administrator is listening to superb people who are working for you. I think that he did listen.

He had Dan Luevano and Roy [M.] Bell, who were, as I recall, his top assistants. They were outstanding. So his office was extremely well run. I would give him very high marks in that area. Those political decisions that I was aware of that were Hale Champion's decisions, I thought were brilliant as well. That's not my field, but to me they seemed to be well done. Overall, I was very impressed with him. I spent not a great deal of time with [Champion]; I spent a lot of

time with Dan Luevano, his chief deputy. Dan and I were social friends. We saw a lot of each other. Many, many lunches. Many, many evening bottles of wine while I was in Sacramento.

VASQUEZ: Both of you were the day-to-day operators of the two important offices. You handled things for the governor.

ALARCON: Yes.

VASQUEZ: And Dan Luevano for the director of Finance? They had the power, but you ran the everyday operations, the offices?

ALARCON: Yes. But our time together was spent more in discussing what we could do long-range to improve the plight of minorities in the state of California than in the day-to-day operation. We both kept an eye on things.

The Legislature Becomes More Independent

VASQUEZ: Ex-Senator James [R.] Mills in his recent book¹-- and a number of other political actors and observers of the time--made the point that much of the conflict between Governor Brown and

1. A Disorderly House: The Brown-Unruh Years in Sacramento. Berkeley: The Heyday Press, 1987.

Assembly Speaker Jesse Unruh, while it may not have originated with Hale Champion, was perpetuated by Hale Champion who, for some reason, thought it was best to keep the governor and the assembly speaker at odds. What's your assessment of that?

ALARCON: I have to answer this way. It was not apparent to me that this was either going on or deliberate. My assessment of it, from the compartment of government that I had deliberately placed myself in, was that there were these two political giants [Brown and Unruh] who were vying for center stage politically. And they had different approaches to meeting the problems of the state.

Prior to Jesse Unruh coming on the scene-- now I'm going to talk to you from my political science background at UCLA--the legislature appeared to me to be reactive rather than [pro]active. The legislature waited for the governor to say, "Here's a problem. Here's a solution. Here's a proposed statute. Enact it." The legislature would agree or not agree and then wait for the next missile to fly across

saying, "Now we're going to talk about education. Here's my plan. Accept it or reject it."

VASQUEZ: The legislature seemed to be used to the executive setting the agenda?

ALARCON: Yes. Exactly. Whatever was accomplished at the end of the year was the governor's program, if he had a sympathetic legislature. When it turned out that there was a Democratic majority in the assembly and a Democrat as governor--it hadn't always been so--we got a very, very strong individual in Jesse Unruh, who decided that the legislature should constitutionally play a different role than the traditional one.

VASQUEZ: A more proactive role.

ALARCON: Exactly. That the legislature had a duty to assess the needs of its constituency and then to come up with solutions for them if the governor did not. And not wait for the governor, even if the governor might come up with one. Jesse Unruh [and the legislature] developed a very strong staff which spent its time looking at problems and trying to find solutions to problems. He really changed the California legislature. Doing that at the time that he did and then taking on

issues as Unruh issues rather than Brown issues naturally caused political tension between the two. Champion may well have not been the cause of friction but may have been used by both sides as the whipping boy of this friction.

VASQUEZ: For what reason? The frustration that Brown may have felt because he was used to taking the initiative? Do you think that in Brown's mind the executive was being challenged in areas of prerogative that traditionally had belonged to the executive branch of government?

ALARCON: I wouldn't put it in terms of detracting from the power of the governor. I think I would put it more politically. When Brown became governor, he assumed that he would be the political leader in Sacramento.

VASQUEZ: By virtue of being governor?

ALARCON: Yes. There would be the Brown education plan, the Brown water plan, the Brown law enforcement plan, you name it, and that there wouldn't be another plan out there which would be in competition with his plan.

VASQUEZ: Like the Unruh Civil Rights Act?¹

1. Unruh Civil Rights Act. A.B. 594, 1959 Leg. Sess., Cal. Stat. 1866 (1959).

ALARCON: Exactly. When you had the the assembly run by Democrats, I think he expected from a historical perspective that there would be, at worse, the "Brown-Unruh" Civil Rights Act rather than having Unruh be a leader in developing ideas, then getting the legislature to enact them. I think that became an area of tension.

VASQUEZ: Some observers argue that either Brown did not really understand the role of the legislature in a state like California or that he didn't understand the contributions that were being made to the state by such an activist legislature.

ALARCON: I think I would say that Brown understood how the legislature's role had been defined before he got there. He did not anticipate the new definition that evolved while he was there. It was really a concept of Unruh's and of some brilliant people on his staff that the legislature had a duty to do its own work.

Champion's Role in the Executive-Legislative Rift

VASQUEZ: That's where the question about Hale Champion that I asked comes in. I think you will agree that Hale Champion at the time was probably the most important political adviser Brown had or the

person he most listened to. Instead of guiding the governor into a more productive relationship with the legislature or a partnership, he either advised against or imputed to the legislature a competition for political muscle and power.

ALARCON: Well, I think I would put it this way. What was created by Unruh, this new concept of the legislature as coming up with programs initiated by them, this was healthy. Number two, just like in business, competition is good [for government]. So, from a political standpoint, I think the more glory there was for Jesse Unruh the less there was for Pat Brown. For someone with Hale Champion's background, and [considering] his role, to make Brown the dominant person in California politics and in national politics, there was a clash.

VASQUEZ: Of course, the [Kennedy] administration in Washington saw Jesse Unruh as the California Democratic leader, not Pat Brown.

ALARCON: Right. And I think in that respect the role Hale defined for himself was threatened--that is, Hale being the person responsible to make Brown the leader of the Democratic party in California.

That's where I put it.

I put the clash as really being a Democratic party problem created by a political science decision to make the legislature strong. The legislature is still strong. Unruh is gone. Other legislatures in the United States patterned themselves after what Unruh accomplished here. But from a political standpoint, there was clearly a clash between Brown-Champion and Unruh and his people.

VASQUEZ: So you feel that Brown saw the power equation between the two as being a zero-sum game where if the legislature won terrain he necessarily lost it.

ALARCON: Yes. Politically, absolutely. To the extent that the legislature became strong and to a great extent independent even though it was a Democratic house. That detracted from what the governor anticipated. He anticipated a four-year honeymoon with Democrats and the legislature, having press conferences, standing next to the speaker hand-in-hand or pen-in-hand signing bills that the speaker had fought to get through the assembly for his Democratic governor. As it

developed, that was not to be.

The Role of the California Democratic Council

VASQUEZ: There was another intraparty tension at the time, and that was between people like Paul Ziffren and the CDC [California Democratic Council] on one side, and, on the other side, Jesse Unruh. What role do you think either Paul Ziffren or Hale Champion had in that struggle? Were you privy to any of that?

ALARCON: No. I was not privy to it, and we're now going into political stuff that I looked upon with a detached disinterest.

VASQUEZ: You stayed away from it, I take it?

ALARCON: Yes. First of all because I had no interest in it. Secondly, it was contrary to what I defined for myself. I felt if I crossed that line I would get into a problem with the Hale Champion connection to the governor. So I preferred to remain away from that and looked upon it with slight interest.

Brown's "Vacillation"

VASQUEZ: Are there any areas where you feel the close relationship with Hale Champion blocked the governor out from other sources of advice which

might have kept him from making mistakes? Or is that a terribly loaded question?

ALARCON: No. I can't be that specific with you, because my observation of Pat Brown was that he listened too well to too many [people] rather than not enough.

VASQUEZ: That is a common observation made about him. And, further, that it was part of the reason for his vacillation on important decisions or on sensitive positions. Sometimes they weren't as important, but they might have been sensitive at the time.

ALARCON: I guess I react to the word vacillate as someone who really admires Pat Brown. Because as I've grown grayer I realize that the world is not black or white, as it appeared to me for the first thirty years of my life, but it's mostly gray. There aren't any really sure and easy solutions to most things.

Reasonable minds may differ. If you have that mind set--and I think Pat Brown does--then to say there's a lot to what visitor A says, then visitor B comes in and takes the contrary view, you could say, "You make a very good point in

your position." One way you can characterize that is as vacillation or listening to the last person, another accusation [made] against Pat Brown. But I would say that's one of the admirable qualities he has as a man, I'm not sure as a politician but, certainly, as a man. He is not sure. As I grow older, I grow more fearful of people who have sure solutions for everything. There aren't any really sure solutions, there are compromises and accommodations. Which is the way government works. Maybe it's better that way.

VASQUEZ: I guess the thought that arises in that kind of a cautious approach is whether there is room for a very aggressive, confident, perhaps overly confident, and brilliant political adviser to begin to use that kind of slippage to further maybe not an agenda but his own point of view?

ALARCON: Well, there certainly is the possibility. I think if you throw into the mix, however, a man like Pat Brown, who, I think, took courageous stands. . . . For example, I am sure that before I came to Sacramento Hale Champion said to Pat Brown, "The death penalty issue is going to hurt you if you don't handle it with great care.

There is a name that will block you from becoming president of the United States, and it's Caryl Chessman. So whatever you do with reference to Caryl Chessman and the death penalty, politically it is terribly dangerous for you. From a political standpoint, you owe him nothing. You can't talk the supreme court into permitting you to commute the punishment, so leave it alone." Obviously, Pat Brown didn't follow that advice.

So my answer to that is, yes, it's certainly possible for a brilliant person like Hale Champion to have attempted to persuade the governor to [follow] what Hale Champion believed to be a great truth. But there were too many areas where the governor went his own way. Those areas, mind you, are the areas where people depicted him as vacillating. Had he gone the Hale Champion way, they would have said, "By god, he took a stand. Even though he's against capital punishment, he decided not to interfere and withstood all of the liberals, the CDC and the liberal wing of the party trying to change it around." But, in fact, he did change it.

Another area that I don't think we touched

on, one which is typical of Pat Brown also demonstrating that he didn't listen to people like Hale Champion, certainly, at all times, is his opposition to boxing. Have we touched on that?

VASQUEZ: Yes, we did.

ALARCON: We did. Well, that's another example where he took a stand that was against his adviser's wishes and politically bad, but, from the human standpoint, [it] probably [was] exactly what he should have done.

VASQUEZ: And consistent?

ALARCON: Yes.

Alarcón's Role as Administrator of the Governor's Office

VASQUEZ: Okay, let's get into your role as an administrator. What was the staff like when you came into the executive secretarial position? How was it organized? Who were the main players? What were some of the problems that you tried to address? And did you try to reorganize any of it?

ALARCON: Well, okay. First of all, when I inherited the job, I found out that there were a number of people who were doing political things, who I felt should not be doing political things on the

state payroll.

VASQUEZ: Like?

ALARCON: Well, there was someone in the governor's office whose job and part of his time was spent checking on the governor's secretaries who were not married to make sure that they were not dating the kinds of people who might cause an embarrassment to the governor.

VASQUEZ: Assemblymen?

ALARCON: Assemblymen or lobbyists who might create political problems for the governor. One report that I read was about a member of the staff who had spent the previous evening--I walked into the office the day after my predecessor left, so I had a recent report which was within a day or so of my assuming the office--in a tree outside the governor's personal secretary's condominium because she had come to her apartment with a date and he wanted to see what happened. I found [that] appalling and got that person out of the governor's office.

VASQUEZ: What was the position that person had formally?

ALARCON: He was supposed to be my assistant, one of my assistants. He had been one of Charles O'Brien's

assistants.

VASQUEZ: I can probably track that down now, but do you want to mention the name?

ALARCON: I'm not sure of his name.

VASQUEZ: What was your problem with this?

ALARCON: It was an absolutely incredible invasion of privacy, which would have been a greater story than if she had been having an affair with Richard Nixon. The fact that there were [members of the] governor's staff spying on secretaries would have been devastating. And that's political. I didn't try to worry myself about political things, but, naturally, you can understand that. I just felt it was almost a criminal use of the taxpayers' money. There were things that my assistant should be doing other than spying.

VASQUEZ: Was this something that Governor Brown or the executive secretary had approved?

ALARCON: Governor Brown had no knowledge of that. He doesn't know about it to this day. I didn't tell him.

VASQUEZ: Did your immediate predecessor initiate that, do you think?

ALARCON: Yes. I'm sure he did because the report was to

him. That kind of activity ceased immediately. I felt that unmarried secretaries of the governor had a right to date or sleep with whomever they wished. The risk of an evening or weekend with the wrong person wasn't worth that kind of snooping, which smacked of Gestapo tactics to me. One of the things I did was to go through and see what people were doing for the governor. Structurally, the office was not in bad shape.

VASQUEZ: What size of staff are we talking about that you oversaw?

Members of the Staff

ALARCON: Oh, we had in the press secretary section about three people.

VASQUEZ: Those would be Jack Burby?

ALARCON: Yes. And Lou Haas.

VASQUEZ: Roy Ringer?

ALARCON: Roy Ringer. Prior to Roy, Lee Nichols.

VASQUEZ: Okay.

ALARCON: We had my assistant, who is a wonderful person, Sherrill [D.] Luke--not the tree climber. We had a legislative secretary, who was Paul Ward. We had what we called a departmental secretary who was supposed to be liaison with the department

heads, Frank Mesplé.

VASQUEZ: The political scientist?

ALARCON: Yes. Exactly. We had a travel secretary, several of them--one of them was named [Robert A.] Bob Chick--while I was there. And then there was an appointments section of the office which was run by the governor's sister-in-law, May Layne Bonnell [Davis]. Also in that section was a man named Frank [A.] Chambers.

VASQUEZ: These are the people that would investigate potential appointees, or sift through their dossiers? Which?

Political Appointments

ALARCON: They were the political-appointment section. What they really did was to go out and fill spots with people that the governor wanted or they thought the governor would want.

VASQUEZ: Translate appointments into political capital?

ALARCON: Yes. Well, both. Appointments there in Sacramento, but appointments to commissions and boards and so on.

VASQUEZ: Yes, but those that would bring in political capital for the governor?

ALARCON: Yes. That's right. Yes. There was patronage.

VASQUEZ: How was that formula arrived at, if there was such a formula? And who was involved?

ALARCON: Well, the people involved in that in terms of boards and commissions was a combination of Chambers, who was a very bright political supporter of the governor, and May Bonnel, who had the governor's interests at heart. The two of them worked very hard to satisfy Democratic legislators' wishes, because they would come in and say, "You've got an opening on the Small Boat in Harbor Commission, and I recommend that you appoint so-and-so." They had to make sure that those appointments were made with people who would follow the governor's policies and also were given or distributed equally to Democrats in the legislature. At least they would listen to them.

[End Tape 5, Side B]

[Begin Tape 6, Side A]

ALARCON: Chambers and May Layne Bonnell [Davis] worked very hard to try to get a distribution of the kind of patronage on boards and commissions which would either be the nominee of a legislator, would not offend a legislator, or would please a

legislator. If you took somebody from the Democratic party out of Bakersfield who had run against the state senator from Bakersfield, it would be deep trouble. You'd be building that person up. So they worried about that kind of thing. At least when I was there, in the area of judges and the parole boards, I was consulted by them.

VASQUEZ: Even though you were no longer clemency secretary?

ALARCON: That's right.

VASQUEZ: Who replaced you as clemency secretary?

ALARCON: John [S.] McInerny. He is now a superior court judge in Santa Clara County. Particularly for southern California, the governor relied very heavily on me for both appointments from law enforcement and to parole boards, for example. Also, for my input on judges in this area.

VASQUEZ: That meant that you had to keep up your contacts here in Los Angeles, even though you were out of the city now going on two years.

ALARCON: Yes.

VASQUEZ: How did you do that?

ALARCON: Well, I had an office here. The governor had an office here, and I spent a good part of my time

visiting that office and staffing it as much as we could. The job also entailed a lot of speech making. So I spent a good bit of time in southern California.

VASQUEZ: But you must have kept plugged in with the D.A.'s office, police department, the sheriff's department . . . ?

ALARCON: Well, that was part of the job anyway.

VASQUEZ: As executive secretary?

ALARCON: Well, it was a part that I took with me to make contacts with them, to keep the contacts going. Part of my job as executive secretary was liaison with the Department of Corrections, as well as the others, and with the Adult Authority and the other parole boards.

Continued Contacts with Law Enforcement

VASQUEZ: That changed the clemency secretary's position, didn't it?

ALARCON: Because of my previous relationships with that, that's true. Because of the governor looking to me as the liaison with law enforcement, I shared it with John. John and I would cover different meetings. There often were conflicting dates.

VASQUEZ: John was, of course, a Democrat.

ALARCON: Yes, he was a Democrat.

VASQUEZ: A liberal Democrat?

ALARCON: Well, that I don't know.

VASQUEZ: Well, how was he seen on the question, say, of the death penalty?

ALARCON: I've never asked him that directly. My guess is that he was not opposed [to it].

VASQUEZ: But by the time he came in, the federal courts had sort of taken that away as a political issue.

ALARCON: That's right. All of the time John was there no one was executed, so the political concerns [about the death penalty] were zero while he was there.

VASQUEZ: Well, the political part of it went with you, didn't it? Because the political part came down to identifying who should be appointed.

ALARCON: Well, I'm talking about the political part with reference to the death penalty.

VASQUEZ: But in reference to patronage or to identifying allies that the Brown administration could count on, that went with you, didn't it?

ALARCON: Yes. That's true. Of course, John and I consulted with each other and talked about it, but I did play a role in that.

VASQUEZ: So you had the press, appointments. What was the

rest of the staff?

ALARCON: Well, let's see. There was . . .

VASQUEZ: Travel?

ALARCON: Yeah, the travel. There was another. . . . We later developed a part of the office that dealt as a liaison with the cities and counties. Sherrill Luke took over that.

Working with Local Governments

VASQUEZ: With the executive administrations of the cities and counties, mayors and supervisors or . . . ?

ALARCON: Well, his job was to work with cities and counties, listen to what they would propose needed change in the law. So he was the liaison with the cities and counties. I remember pretty vividly that one of the things they ended up getting into was the formation of cities. That concept developed while Pat Brown was governor, and Sherrill Luke had a lot to do with that.

VASQUEZ: Incorporating cities?

ALARCON: Yes.

VASQUEZ: What was the benefit that the Brown administration saw in incorporating more cities?

ALARCON: Actually, it was the other way. There was a concern that the proliferation of cities might be

a problem in providing services to people.

VASQUEZ: That makes more sense.

ALARCON: They tried to structure steps before you could become a city. Certain things had to be looked at, and that's what they came up with. There was another office called. . . . I don't know if I've already mentioned it. We had a secretary who was in charge of liaison with departments that later became the cabinet secretary when we created the agencies.

VASQUEZ: Who would that be?

ALARCON: Frank Mesplé.

VASQUEZ: That's right.

Alarcón's Duties

ALARCON: My job as executive assistant, as I saw it, was to run this hundred-person office. Because with those six or seven sections of the office and the steno pool, we had about one hundred people. My job was to see that all of them were properly staffed and were performing their functions in an honest, lawful way.

VASQUEZ: And in a coordinated way, right?

ALARCON: And coordinated, that's right. Oh, we had another. We had a speech secretary.

VASQUEZ: Who was that?

ALARCON: Patricia . . .

VASQUEZ: Sikes?

ALARCON: Yeah, Pat Sikes. Exactly. Yes, she had been a professor at UC [University of California] Davis. My job was to see that all of these units were functioning at their highest potential, [act as a] dispute resolver between the various staffers, and assist in hiring and firing of the various people in the office.

VASQUEZ: Did you have a crossover there that you had problems with, say, involving people who had been used to doing things a certain way when Hale Champion or Charles O'Brien had been there?

ALARCON: Not really. For example, the press section. There were some parts of the office where the table of organization was not that rigid. The press section worked directly with the governor and Hale Champion, and that was on a daily basis or, sometimes, on an hourly basis as events progressed.

VASQUEZ: Did you have any problems with that?

ALARCON: No, not at all. Because, again, I felt the public relations aspect of the job, from the

Democratic party standpoint, was something I didn't want to get into. From the standpoint of doing something well--that is, if a department head solved the problem or we came up with a good success in running the state--then, of course, that was something that I made sure the press secretary was aware of and that Pat Sikes wrote a speech about for the governor in terms of the pluses that we were able to accomplish.

But other than that, the press had a responsibility of keeping up with. . . . They had an AP [Associated Press] and UP [United Press International] wire in their office, and they would run into the governor and say, "You're probably going to be asked to comment on this." I would not participate in that.

VASQUEZ: But you were aware of what was going on there?

ALARCON: Absolutely.

VASQUEZ: What's your assessment of the role that Jack Burby played as press secretary while you were there?

ALARCON: Well, I thought . . .

VASQUEZ: Was he ever fully in charge of press? Or was Champion really someone who could override him at

any moment?

ALARCON: Well, I would put it this way. I don't know what Champion's role was before I got there, but his role while I was there was in key political image problems. He had the dominant role, and Burby was comfortable with that. I don't ever recall Jack Burby coming to me and saying, "He's interfering," or, "I'm being undercut and I'm not happy." They had a good relationship, and they worked, I think, as they were trained in the newspaper work they both came from.

VASQUEZ: In fact, Champion brought in Jack Burby.

ALARCON: Yes, and I think that Jack was very content to continue that relationship, looked upon Hale as brilliant and a mentor, a person who had good instincts about political problems.

VASQUEZ: So it ran pretty smoothly?

ALARCON: Yes. It ran very well. I was very pleased with that section. I had no problems with it, and no one ever said to me, "Well, I have to check with Hale," for the areas that I felt needed some attention. I never had a problem with that. In fact, it was the reverse. When they ran into a political problem, particularly in the law

enforcement area, they would come in and sit down with me and say, "Okay, give us your advice as to how we should react to this. What should we say?" I would tell them what I felt I would do or say as governor. And they listened.

VASQUEZ: So you found a pretty well organized and smoothly run operation that you didn't have to change too much?

Structure and Management Style in the Governor's Office

ALARCON: Well, the structure was good. There were some people problems that we had to change. Other than the press secretary, I put more of a concentration on the inner staff on the day-to-day running of the government, and got myself trained and involved in understanding what was going on in the various parts. I'll give you an example--I don't think I mentioned this to you before--of crossovers between what I considered to be my administrative function in a nonpolitical way and politics.

I got a call from the highway commissioner, I think his name was [Robert B.] Bradford. The highway commissioner and Frank Chambers, who was

very close to him, called me and wanted to talk to me. So they came in. This is while I was executive secretary. They said, "We have a problem. We made a commitment to the Irvine Ranch that a certain part of Orange County would not have any development and would remain either rural or have faculty housing to keep the character of this property. In exchange for that commitment, we were given by the Irvine Ranch a lot of property for the University of California at Irvine. There is a very powerful man in Orange County who wants us to agree to his running a roadway to an area adjacent to the Irvine Ranch so that he can form a community for senior citizens there.

VASQUEZ: Who would that be?

ALARCON: I can't remember his name. They said, "To get the approval for changing the character of this area, having the road and permitting development there, the landowners on both sides of this proposed roadway have to agree. The state of California, [that is] the University of California, is the dominant landowner in that area. We think it would be in violation of the

commitment we made [with the Irvine Ranch] to agree to permit that development, that senior citizens' community there.

"So, tomorrow, when this comes up before the city council which needs a vote on that, we are prepared to vote against that. But it's going to create all kinds of hell, politically, for the governor." Because this man was also his campaign manager. So they said, "What should we do?"

I said, "Well, there's no choice. You have to stay with your commitment." And they said, "Should we clear this decision with the governor?" I said, "It's the right decision. It's following the law. I don't see any reason why you should have to clear that with the governor, but we'll try to reach him." I was not able to reach the governor. So we had to act, and we acted. The man was very angry when the city council blocked the development. A footnote to this is that he went to the campaign manager for the governor . . .

VASQUEZ: Who at that time would be?

ALARCON: Don . . .

VASQUEZ: [Donald] Don Bradley?

ALARCON: Yes.

ALARCON: He went to Don Bradley and said, "I have given you \$15,000 in cash for the campaign. I want it back." And Don Bradley said, "There are no refunds in politics." [Laughter] So there was a kind of crossover. There is an instance where we made a decision. That is, the University of California made a decision, as well as the Highway Commission, which we felt was in the interests of the people of the state of California.

VASQUEZ: And in the governor's political interests?

ALARCON: Yeah.

The 1962 Gubernatorial Election and Alarcón's Role

VASQUEZ: Now, they were gearing up when you got there for the '62 gubernatorial campaign. How did that change the alignment of duties and work of the staff? Did it affect you?

ALARCON: During that campaign--I got there in August--the governor was less and less in Sacramento, which meant that more and more of the day-to-day operations fell in my area. I would try to communicate with him as often as I could, but he gave me the authority to oversee and to answer questions and to go along with what I felt would

be consistent with the best interests of the people because of our agreement that that would make him look good.

The decision that I just told you about in Orange County near the Irvine property was an example where I felt confident that he would back me. I felt confident that even if he were a little miffed at what I did without clearing it, [I had] put him in a position where he could say, "Well, he [Alarcón] is a real square," or, "He's a former prosecutor, and this is the way he looks at it. I'm sorry." So I felt that I was safe in doing it either way. But until the campaign was over, we were with minor problems on a day-to-day basis. For major problems, he, of course, had to be consulted. But the day-to-day stuff fell to me and our staff. We met daily and tried to see that the state ran smoothly. And I felt it did. I felt it ran very well.

VASQUEZ: So there was no disruption or realignment of anybody's duties or roles for this campaign within the executive staff?

ALARCON: No. As a matter of fact, it almost worked to the advantage of running the state better. During a

campaign, you have to be very clear from an image standpoint that you're not using staff for political matters. So those people who politically were the most active were pulled out or the decisions were made by Don Bradley's group rather than in my office.

VASQUEZ: Weren't some of those people brought here to Los Angeles to work the campaign out of Los Angeles?

ALARCON: Yes. Sure.

VASQUEZ: People like who? Roy Ringer, was he down here?

ALARCON: Roy, yes.

VASQUEZ: Lou Haas?

ALARCON: Lou Haas also, that's right.

VASQUEZ: Jack Burby, did he stay in Sacramento?

ALARCON: Jack stayed in Sacramento, yes. But moving out the political questions actually made it easier for us to devote all of our energies to the day-to-day operation of the state.

VASQUEZ: So you had very little to do with the campaign?

ALARCON: That's right.

VASQUEZ: Just not making any mistakes?

Keeping Government and Politics Separate

ALARCON: That's right. I'll give you another example of the clear demarcation. The office manager used

to write the governor's signature on routine acknowledgment letters. And she could imitate his signature perfectly. A lady named Wilma Wagner.

Wilma came into my office one day upset. She was crying. I shut the door and I said, "What's the problem?" She said, "I just got a call from the political people"--these were the political people not on the state payroll--"and they said they had made a mistake and hadn't filed an expense form."

VASQUEZ: Financial report?

ALARCON: Yes. They were asked to periodically make a report of contributions, and they had a deadline that day at five o'clock. It was around noon, and they hadn't filed it. So they asked her to sign the governor's name and for someone in the Sacramento office to file it. She had said that she couldn't do that. She didn't think it was legal. [Laughter] She thought it was a felony. They said, "Well, we'll see to it that you're fired if you don't do it." That's when she ran to me.

So I called the person that had talked to

her, and the first thing I said was, "Don't you ever threaten one of my staff with firing again." He said, "Well, how about my threatening you?" I said, "That's fine. You threaten me all you want." And he said, "Well, what you're doing is going to hurt the governor's campaign, it's going to be embarrassing for him. I will tell him that you blocked it, and he may want to fire you." I said, "That doesn't worry me at all. First of all, I don't think he would. Secondly, if he would, I wouldn't want to work for such a person." I said, "She's not going to do it."

VASQUEZ: Who was the person on the other end of the line?

ALARCON: Eugene Wyman. So he said, "Well, what do you suggest we do?" I said, "Well, you have choices. You can rent a Lear jet which can get here in twenty-five minutes and file it properly, or you can be late and file it tomorrow and say you goofed. Those are your only choices." I will say this for Gene. By the end of the conversation he apologized, and within an hour there were dozens of roses in Wilma Wagner's office with an apology in a letter the next day from Gene Wyman.

In our conversation I said, "Gene, you know that I don't involve myself in politics, but I think what you're suggesting is so stupid politically." Because the secretary of state happened to be Frank [M.] Jordan, who was a Republican and who may well have figured out that there's no way that Pat Brown could have signed that since [Laughter] he's a floor away from here. I said, "You know, that's really dumb. I wouldn't let you do it even if it weren't a possibility, but that is a possibility. I think it's a pretty stupid decision on your part." So they rented a jet and flew it up. It cost the campaign some money. But, again, I felt, number one, it was the proper thing to do and in the best interests of the people. Secondly, they had no business interfering with our staff.

VASQUEZ: And yet you called the Nixon campaign, didn't you, about the narcotics issue? That was political involvement, wasn't it?

ALARCON: I would say in the most peripheral sense of the word. What I was concerned about is that they understand that this was a very good narcotics program and that they not make a political issue

out of something that was just starting and should not be harmed by what they said. So that's when I said to them, "You can look at our files. You can look at the backup reports and then do what you want. But I think you will decide that this is one area you will not [want to] take any shots at. There are a lot of other areas that are open for you to talk about, [such as] capital punishment. There has been, as you know--you read the L.A. Times, too--some problems with law enforcement. Exploit that all you want. That's fair game. But this is one area that I don't think you want to get into." And they didn't. So I was protecting my child.

VASQUEZ: You were protecting your work, weren't you? Did you have any other involvement in the campaign? Campaigning in the Mexican-American Community for Governor Brown

ALARCON: No.

VASQUEZ: Not at all?

ALARCON: The only involvements that I had were two [incidents]. I was asked by Mrs. [Bernice] Brown to travel with her one day when she went into the Wilmington-San Pedro area because there were

going to be a lot of Hispanics in the audiences that she went to. She said, "Would you like to take a few minutes at some of them to talk about the governor's law enforcement record?" I said, "Well, I don't mind doing that, but I don't want to say anything political. It's worrying me a little bit that I am in a sense being thrust into campaigning." She said, "Well, I'm not going to ask you to say, 'Vote for the governor' or anything like that. Just explain about the program that you've been working on." I said, "Well, okay." I decided it wouldn't hurt to do it one lunch.

I went to this luncheon, and she was supposed to be the main speaker. I got there at twelve o'clock, and she was supposed to be there at twelve. It got on to ten minutes to one and she hadn't appeared. The chairperson said, "You've got to start talking and keep talking until she gets here." So I said, "Okay, but I'm not going to make a campaign speech." And he said, "Well, say whatever you want, just talk."

So I got up and talked about the narcotics problem and the approach that had been taken by

the legislature, with the governor's leadership, and explained the various parts of it. She didn't arrive until 1:30 P.M., and I was still talking when she arrived. So when she came in and sat down, I said to the audience, "Thank you for listening." And as I sat down, while she was being introduced, she said to me, "What did you say?" I said, "I came out for Nixon." It wasn't true. [Laughter]

VASQUEZ: [Laughter]

ALARCON: The only two instances where I even got near the campaign was when I was asked to give a speech in Fresno by a young lawyer who gathered together six hundred people, Hispanics. [It was] the biggest meeting [of the Hispanic community in Fresno] that anybody up to that time had ever been able to put together. It was a community type of organization.

VASQUEZ: Who was this lawyer, do you remember?

ALARCON: Let me tell you the name later. You decide if you really want to press me on that because of the incident that occurred.

VASQUEZ: All right.

ALARCON: This lawyer called me and asked me to speak. I

said I would.

VASQUEZ: Why did you agree to speak? Was it specifically on law enforcement?

ALARCON: Why did I? Because he'd asked me to talk about the narcotics problem.

VASQUEZ: Okay.

ALARCON: And law enforcement. Those were areas that I felt were apolitical. I wanted to speak to an Hispanic group.

VASQUEZ: Why?

ALARCON: Because I thought it was very important for the Hispanic community to see a lawyer working in the governor's office, because at that time Fresno had, I think, one or two Hispanic lawyers in the whole county. So I felt it would be a great opportunity to encourage and inspire those people to go home and get their kids to go to college. So I went there for that purpose.

VASQUEZ: Do you think that the efforts of the Brown campaign to cut into areas that Nixon might not be able to touch had anything to do with you being lined up for that speech?

ALARCON: No, because of what happened. This speech, originally, was not a political event. It was

not intended for that. It was a community event. It was an annual banquet for this group. Oh, what happened is that the day before I was supposed to go there, the press secretary, Jack Burby, came in and said, "We bumped into a little problem." I said, "What's that?" He said, "We just found out about this six-hundred-person banquet of yours in Fresno. We didn't know about it." I said, "Well, I don't report to you about all of the speeches I give. Do you want me to start doing that? You're going to be bored." And he said, "No, but we are running the governor through Fresno that afternoon and we'd like to put it on his schedule to make a drop by with an audience like that." I said, "Well, I'm sure they'd be very happy to have the governor, but I'll cancel my speech." He said, "Oh, no, no, no. He's just going to stand up and say hello. He's not going to make a political speech. He recognizes that this is not a political meeting. Do you think they would welcome that?" I said, "Sure, but I'll call the person."

So I called, and he said, "Wonderful." So I

said, "Okay, but what I'm going to do is have you put him at my place. I will not get on the head table, I won't even approach it until after he has left, because he's going to talk at the beginning just to say hello and leave. I don't want there to be any clash or to upstage him." So he said, "Fine."

The next day I was met at the airport by this young lawyer. He said, "This is the worst day of my life." I said, "What's the matter?" He said, "My wife came home unexpectedly this morning. I was in bed with my secretary and she caught us." He said, "She's going to be at the banquet tonight and she's taken the table right in front of the rostrum. So I'll be hiding in the kitchen the whole evening." [Laughter]

Sure enough, she was there. She came up to me and invited me to come to her house after the dinner. She said, "We're throwing a little cocktail party after the banquet. The mayor and the judges"--and I knew the judges who would be there--"and the D.A. will be there"--and I knew him--"and they'd love to have you join us." I said, "Well, I have to fly to San Francisco at

6:00 A.M. tomorrow, so I don't think I'll be able to do it."

She said, "Well, here." She took a match-book and on the inside wrote her name down--let's say Yolanda--with a phone number. She said, "Just keep this, and if you change your mind, we'll send a car to pick you up." So I said, "Fine." Well, I didn't go. By the way, the governor made his speech, it was well received, then he left and I made my speech.

The next morning on the airplane flying to San Francisco, the fellow next to me said, "Do you have any matches?" When I was in World War II, I used to carry cigarettes for my fellow soldiers because they would run out and get nervous. I didn't smoke, but they gave them away in the service so I just always carried matches and cigarettes. So when he asked, "Do you have any matches?" I said, "You know, sometimes I pick up matches because of a habit [left over] from World War II." So I fumbled around and said, "Well, here are some matches." I handed them to him.

When I got home to Sacramento that night, I said to my wife, "You know, you may read about

some man who was killed by his wife because she found a Yolanda's name [Laughter] and phone number, and she said, 'How do you explain this?' and he said, 'Well, I got these matches from a man on the plane.'" [Laughter] Fortunately, I never heard about any homicide.

VASQUEZ: So that's as close as you came to politics in the 1962 Nixon-Brown campaign?

ALARCON: Yes.

IX. SERVING THE GOVERNOR

[Session 5, June 9, 1988]

[Begin Tape 7, Side A]

Effects of the Rumford Fair Housing Act

VASQUEZ: Judge Alarcón, you were in the governor's office during a period when a series of important issues and series of events took place which, in one way or the other, either short or medium-range, affected the Brown administration and the public perception of it. Some of these issues splashed over to affect the 1966 reelection effort by Governor Brown. One of them was the Rumford Fair Housing Act.¹

What was the thinking in the governor's office and/or the discussion that went on as the Rumford Act was being passed? And what was the thinking about what the implications of it might be?

ALARCON: My memory of the intraoffice discussion about the Rumford Act was that all of us favored it, that many of us--and I was one of them--felt it was a

1. Rumford Fair Housing Act. A.B. 1240, 1963 Leg. Sess., Cal. Stat. 1853 (1963).

"mom and apple pie" issue that no one could possibly be against: discrimination against anyone who wished to rent or buy housing. We were shocked when, after it was passed, it became a subject of great controversy.

When the ballot measure to repeal it,¹ the initiative to repeal it, came forward, again, it was the feeling of some of us in the office that it would lose overwhelmingly. Many of us went to Berkeley--and other places, but particularly in Berkeley--to work on the campaign on our off-duty hours.

VASQUEZ: When you say the campaign, what do you mean?

ALARCON: The initiative. Have I got this confused?

VASQUEZ: I asked you first to address the Rumford Fair Housing Act as it was passed, and then later on repealed.

ALARCON: All right. During the time that the Rumford Act was being passed, there was no controversy in the office itself . . .

VASQUEZ: No one expected any repercussions from this?

1. Proposition 14, 1964. The measure to repeal the proposition appeared on the ballot in November of 1966.

ALARCON: It was certainly not brought to my attention. We felt that it was something whose time had come. And we felt that the mood of the public was such that it would be accepted by a majority of the voters.

VASQUEZ: At any time was representation of real estate interests or the real estate lobby consulted or brought into the governor's office?

ALARCON: Oh, not that I'm not aware of. Again, my memory of that time was that it was not one of the problems we focused much attention on.

Keeping the Governor Informed of Politically Sensitive Issues

VASQUEZ: Whose responsibility would it have been to inform the governor's office as to the political terrain and sensibilities about this?

ALARCON: Well, the way the office was set up, the input to the governor would have come from three different sources. One would have been the legislative secretary. It may have been Paul Ward. Whoever was the legislative secretary would have had the duty to pass on to the governor the concerns of the members of the legislature of the majority party, which was the Democratic party in both

houses. It would have been his duty to say, "There are problems here. We're getting pressure here. This could be something that could hurt you in the future." Because that is what faithful Democratic senators and assemblymen do, and the legislative secretary, at least while I was there, was that liaison person that conveyed that kind of message.

VASQUEZ: So it was essential that that person have good rapport with all of the Democratic leadership, as well as, perhaps, with Republican leadership?

ALARCON: Yes. Well, both. But, primarily, of course, with the Democratic leadership. The people that the governor chose while I was there had good rapport with both sides of the house.

VASQUEZ: So that's one source, the legislative secretary.

ALARCON: That's one source. The second source would have been the press secretary. The press secretary had the duty of sensing how the public would react to the governor's support of a legislative measure. The press secretary would have gone in to warn the governor had he sensed that there was danger for him politically in supporting that. So the governor could make the choice to do it

anyway or to stay on the sidelines during the battle.

The third source would have involved what I would call the political advisers, Hale Champion being the key person in Sacramento. But there were others, such as a man named Bob Bradford, and I mentioned earlier a man named Frank Chambers, who had come up through the labor ranks. The man [Jack Henning] who represented the AFL-CIO [American Federation of Labor-Congress of Industrial Organizations] in Sacramento was part of this small political group.

VASQUEZ: This was Frank Chambers?

ALARCON: Well, not Frank Chambers. I can't think of his name at the moment, but he played a very key role in advising the governor on labor's view of the governor's stand or what would happen with certain legislation. So those three different sources would have told the governor. I do not recall any discussion coming over my desk from any of these three sources that there were problems with the Rumford Act.

VASQUEZ: It was never discussed in a staff meeting?

ALARCON: No.

VASQUEZ: In an executive staff meeting?

ALARCON: No, it was not. Now, the governor did not hold staff meetings, traditional-type staff meetings. He did not call in his chiefs of the various units and discuss things and seek reports. He worked one-on-one. So if he had discussions with his press secretary on this, if his legislative secretary passed on to him that there were problems, it did not come across to me at my desk as, "This is a problem. Watch out for it." Or, "Let's combine our efforts." We had staff meetings which I conducted. But I can't recall during my whole time in Sacramento that he had a staff meeting where all of us were present and had an agenda and discussed issues that were vital to him.

He conducted such meetings not on a staff basis but on a crisis basis, where he would bring in the political people. I think I previously described one or two of those who would say, "What your governor's office people are doing is creating problems." Or, "It's wrong." Or, "You've gone back on a campaign commitment

because of what they're doing." But staff meetings as such [were] not his style.

VASQUEZ: And your staff meetings were essentially administrative?

ALARCON: They were administrative, but we also dealt with "What should we recommend to the governor as his agenda for next year?" We had some very interesting staff meetings after the '62 election in which we brought in--I believe I mentioned this--[Professor S. I.] Hayakawa and other leaders of thought in the state of California and asked them, "If you had the power of the governor, what would you do?" And we got some very interesting input. We brought in physicists. One fellow came in and said, "The key word is ecology." We'd never heard of the word ecology in '62.

VASQUEZ: Let's pursue this question of the Rumford Act. When the Rumford Act passed, almost immediately there was a hue and cry throughout the state.

ALARCON: Yes.

Reaction to the Rumford Fair Housing Act Furor

VASQUEZ: How did that build? When did the governor's office begin to get wind of the fact that this

was going to be an explosive issue, and when did the governor's office start mustering forces to try and defend it?

ALARCON: The governor's office, as such, did not take a stand. That is, calling upon me, for example, to mobilize the various parts of the office. The defense of the Rumford Act which did occur was treated by me as a political matter that had to be handled outside the governor's office. So the governor's positions in support of the Rumford Act were those prepared in consultation by him with the press secretary and political advisers like Hale Champion. But it was not made a part of our agenda, the governor's office agenda.

VASQUEZ: But didn't you say some of you worked on the campaign to fight the repeal?

ALARCON: Yes, exactly.

VASQUEZ: What form did that take?

Working to Help Rumford

ALARCON: Well, we all became concerned, particularly those of us who were naive. Now, maybe it was hindsighting, but after the political controversy arose and the repeal efforts started, we heard from the press secretaries and the political

people, "You should have known that this was going to be a very controversial thing." Then those of us who thought it was something that everyone would accept went to work evenings and weekends trying to help.

VASQUEZ: On your own time?

ALARCON: On our own time. I remember going to Berkeley to assist Rumford in walking precincts and so forth. It is, I think, the only campaign where I sent a contribution after my side lost.

[Laughter] And I was so incensed, because I had predicted a 2-to-1 vote in favor of the Rumford Act, and it turned out to be about 2-to-1 the other way. Which absolutely stunned me because I had thought that I was astute about political science matters.

Learning the Role Perception Plays in Politics

But I learned from that that it's one thing to know about how government works and how politics works, and it's another to try to understand how an individual voter on an emotional issue will react. As to that, it's unpredictable.

VASQUEZ: Did it change your mind or expand your understanding of the California electorate?

ALARCON: Oh yes. It certainly did and has. I think it made me much more in tune [with the fact] that people in government must not underestimate the lack of understanding of the public about political issues. Worse, and, perhaps, sadly, that there is a lot of bigotry and prejudice out there that is just below the surface. I don't want to sound elitist, but there's also a lot of ignorance.

In today's paper there's a discussion about one judge [Roberta Ralph]. The only incumbent judge who lost in the Los Angeles County election this week was the one who didn't use the word judge but used the word incumbent. She is being told and now believes that the public doesn't know what the word incumbent means. But those who used the word judge were reelected, even those found not qualified by the bar association and those who did not receive the endorsement of the major newspapers in this area. But so long as they used the word judge, the public voted for them.

VASQUEZ: Perception seems to be terribly important in California politics--as I suppose anywhere--but

it seems to be especially important here.

ALARCON: Yes.

VASQUEZ: What did the governor's office--maybe not the office itself [but] people around the administration--do to try and combat the perception of the anti-Rumford forces of declining property values as an assault on the sanctity of private property, etc.?

ALARCON: I must say that my memory of this chapter of our history is blurred, perhaps because it was such a distasteful event that I've put it out of my mind. My memory is that we felt the forces of right would prevail and didn't take it as seriously as we obviously should have. We ignored many of the arguments that were marshalled as totally foolish and not worthy of the kind of effort that, obviously, we should have put into it.

It was not considered one of the major items. But I think we blew it because we did not understand the impact of these ads that you're talking about. I'm not so sure that those ads, by the way--perhaps this is displaying my naiveté again--I'm not so sure that reduction of property values was really the issue that motivated the

voters.

VASQUEZ: What do you think it was?

ALARCON: From some discussions I had with some voters afterwards, I think they were concerned about two things. One, they were concerned about violence, about having "those people move into this neighborhood and introduce my children to drugs and gangs" and so forth. The other was a concern by some small homeowners who had in mind the possibility of selling or renting, that they would get themselves mired into lawsuits if they refused to negotiate with someone for reasons other than prejudice.

VASQUEZ: Or what could be construed as prejudice?

ALARCON: Yes. That they would still have to defend themselves. And there was a weakness in the statute. It did not provide for attorney's fees if the landlord or the homeowner established that he did not discriminate. So he [the landlord] would be out his attorney's fees and costs even if he had been right. Now, that's a pretty sophisticated argument. But I did hear that second argument.

The first argument is a very difficult

argument to deal with. This is 1988. We have a terrible problem of crime, drugs, and gangs in this county where we're sitting. Over twenty years ago people worried about that coming to their neighborhood. It was a valid concern. It was not directly the issue in the Rumford Act, but it was a concern that was there, and I'm afraid that many people voted on that basis. Not in the sense of being bigots, but in a sense of saying, "Do I want my child exposed to this?" That is something we did not deal with well. I'm not sure we're dealing with it well now.

Reasons for the Anti-Rumford Reaction

VASQUEZ: It seems to me that it's a problem that a quarter of a century ago was not as pronounced as it is today, yet the reaction was so strong.

ALARCON: Yes.

VASQUEZ: Was it in part a reaction to some of the recent gains in the area of civil rights, do you think?

ALARCON: I don't think so. I know the statistics of the sixties are not that different from the statistics of the eighties. I think we discussed this before. If you read the statistics in the sixties, you knew then that in over half of the

homicides, the victims were black and the defendants were black. The same was true for robbery, rape, and assaults. I don't think that people in California were unaware of that. So there was a real fear. The expression of it by voting for the repeal of the Rumford Act was wrongheaded. But there was a real fear.

VASQUEZ: What happens that an administration misreads something so completely? Does an administration like the Brown administration get so caught up in its very optimistic and progressive rhetoric that they begin to impute upon the public what they think they want to do or . . . ?

How Administrations Lose Touch

ALARCON: Yes, I think that's a real problem in an administration, particularly after they have been in office for a number of years. The problem being they listen only to themselves after a while. That demonstrates itself by a misperception of the mood of the public. It also demonstrates itself in doing things that members of that office would not have done in the first year.

One thing I observed in my days in

Sacramento--and I've observed it in the Eisenhower administration, the Kennedy administration, and so on, including the present administration at the national level--is that when you first got to the capital you would say, "I won't go to lunch with you if you're a lobbyist."

After four or five years these things blur, and you get problems of sleazy ethics and so forth. That, I think, results from talking only amongst the members of the administration and imputing [to the public] those values or judgments. "Well, there's nothing really wrong with this. The lobbyist for the liquor industry is a wonderful man, a churchgoing fellow with three kids. Their kids play with my kids. So there's nothing wrong if I go to Paris to investigate the wine industry and compare it with California, all expenses paid." That sort of thing happens. It's happening now in Sacramento and Washington. It is a factor that's there.

VASQUEZ: What they call in some cases "Potomac myopia," getting caught up with the immediate players around the centers of power so that people lose

touch with the political base they represent.

ALARCON: Exactly. And Washington, the Potomac area, is a wonderful example of it because almost everybody is connected with the government somehow, either directly or indirectly.

VASQUEZ: Sacramento must be pretty much the . . .

ALARCON: Same way.

VASQUEZ: And it was at that time, was it not?

ALARCON: Yes, definitely.

The Effects of Rumford on the Brown Program

VASQUEZ: What do you think was the impact of the repeal of the Rumford Act for the administration's political leverage? And with whom?

ALARCON: Well, I think that my assessment, again, almost in an apolitical way, watching what was going on in the legislature--because at this time the legislature, as we discussed before, had taken more and more of the initiative on the Democratic party agenda--my assessment was that they became cautious about social issues. They became concerned about being out in front, again, beyond what the public wanted. Particularly assemblymen, who have to run every two years and face the electorate in their district, they don't

like to be on the wrong side of an issue.

VASQUEZ: Yet, at the time, you had some very brash, young assemblymen that were breaking ground in many areas. Tom Rees and any number of others that I could mention. Bob Crown.

ALARCON: Yes, but as they got grayer or balder, they became less activist.

VASQUEZ: Do you think the Rumford Act and that experience had something to do with that?

ALARCON: I think so. I think it had a shattering effect on a lot of us who were there. I did not consider myself a liberal; I don't consider myself a liberal. But in this area, I thought everybody shared my view. I didn't think it was a liberal view. [Laughter]

To find out that two-thirds of the people of this state disagreed with me I know affected me tremendously, making me decide I had to get in closer touch, that I had to do more of a job of selling, to try and get a switch in the electorate's mind, to worry about, "How do we change these perceptions? How do we deal with the real concerns?" It is not enough to dismiss the two-thirds vote by saying, "Two-thirds of the

people of California are bigots." It's not true. So I felt that we had to step back and say, "What is causing the kind of concern that was reflected in that vote?"

VASQUEZ: And how did you do that?

ALARCON: How did I do it personally?

Setting "Realistic Goals"

VASQUEZ: Well, how did you as executive secretary do that? And how did the administration do that? There must have been a pulling together of forces and reassessment of things.

ALARCON: Well, one of the things we decided--and this is part of what I was discussing awhile ago--we started looking ahead to try to fix some realistic goals and then work our way to them. Of course, one of the things that we felt would overcome this would be a good educational system that reached out and worked with the children of the voters who voted in this fashion. We worked in the school system to bring about a change in attitude and to demonstrate that, "We are brothers," that, "All black young men don't carry knives, some of them aspire to be businessmen, priests, lawyers, doctors, and physicists."

The Use of Polls

VASQUEZ: What was the mechanism, if any, that the Brown administration used that time to poll the public or to get a sense of the public? And did the Rumford defeat in any way stimulate that or step that up?

ALARCON: Twenty-five years ago, I don't recall that there was the kind of private polling that is part of the eighties. I don't recall, for example, that any political money. . . . I know that no government money was spent in conducting a survey to find out why the people voted the way they did.

I think we relied on the California Poll and the one or two other polls that had statewide reputations at the time and their assessment. But those polls were not as sophisticated as the ones we have now. In comparison, we learned very little. Some of the things that I have told you are speculation on my part or the result of talking to people in a bar, "What did you think of the election?" and getting a feel for what they said. We just did not do that kind of polling.

Effects of the Rumford Act on Black Support

VASQUEZ: What was the impact on the support of the black electorate in California for the administration as a result of the repeal?

ALARCON: I believe that it did not change the loyalty of the black or the Hispanic Democrat. My feeling, and perhaps it's because of my age of sixty-two, that going back twenty-five years, the registered voters in the black and the Hispanic communities at that time were still loyal to the Roosevelt days. What they felt Roosevelt did for the poor and minorities [made] their loyalty unshakable. If you put the word Democrat after your name, you could count on over 90 percent of the Hispanic vote and over 90 percent of the black vote.

VASQUEZ: Do you feel that might have led to a lack of consistent attention to these two communities? There are a number of times when it seems that the Brown administration was caught flatfooted. Watts, I can think of, and the lack of an immediate response to the [United] Farmworkers [Organizing Committee]'s plea for some kind of show of support?

ALARCON: Well, I think the answer is yes. Although I'm

now speaking not as a former executive assistant but as an observer and, also, as a Republican, I believe that certainly was the sense of the Hispanic political leadership and the black political leadership in the Democratic party, that they were ignored.

They were ignored precisely because they could be counted on to vote Democratic, regardless of the neglect by the party of that constituency. At that time, as I recall, there was perhaps one [Hispanic] legislator, a fellow named John Moreno, in Sacramento. Throughout the sixties and seventies, the city council of Los Angeles had no Hispanic representative after Ed Roybal left.

The Democratic party just did nothing about that problem. I must say, in fairness, the Republican party did less. They did not think it was worth the money to try to attract Hispanic or black voters because of this strong loyalty. So the Hispanics and the blacks got it from both parties--or got nothing from both parties.

Governor Brown and Baker v. Carr

VASQUEZ: There was another process taking place then as a result of the Baker v. Carr decision in 1962,¹ and that was the move toward the reapportionment of the state senate. Governor Brown had a very definite plan for how to reapportion the state senate that would ensure more senators from places like Los Angeles. Were you involved in any of that?

ALARCON: No. That, again, was primarily a political process. That is, it was a Democratic party-Governor Brown decision, as I think all reapportionment was. It was not in the realm that I had carved out for myself of "What's good for the people of the state of California, Republican or Democrat?"

VASQUEZ: So you pretty much either stayed out or were kept out of that?

ALARCON: Yes. Well, both. I was not involved and didn't want to be involved.

1. Baker v. Carr, 369 U.S. 186 (1962).

Why the Brown Administration was Surprised in
Watts and Berkeley

VASQUEZ: There's another area that I think had many repercussions. Again, it's an area that some critics have said the administration should have anticipated or been able to react to sooner and, maybe, in a more creative fashion. And that has to do with the demonstrations in Berkeley at the UC campus that led to the Brown administration having to call the Highway Patrol onto the campus, which was unprecedented. Can you tell me how those discussions moved along, how the decision to send the police onto the campus came about?

ALARCON: Well, first, a little background, because I think it's important in discussing this problem. You mentioned the Watts problem awhile ago. The state of California does not have a state police force, as does, for example, New Jersey, which has a large agency that enforces the general laws throughout the state of New Jersey. They also have local police, but the primary law enforcement agency is the state police.

In the state of California we have something that's called a "state police," but they are

primarily building guards. They also protect the universities. They have no general law enforcement responsibilities outside the Capitol grounds, the University of California [campuses], the [California] State University grounds, or public buildings. The Highway Patrol, which is the other state agency involved in law enforcement, deals with traffic matters.

Now, because of that, when we were confronted--and the state was confronted--with rioting on our largest campus in the state of California, the Chancellor [Edward W. Strong] had [three] choices. He could call upon the State Police, who were small in number and not properly trained to handle a riot. They were trained to take reports on thefts from student lockers or parking problems at the university. They had no training in riot control. Or the chancellor could call upon the assistance of the Highway Patrol, which ultimately occurred because the chancellor wanted to treat it as a state matter.

The other alternative--which he did not do [but] which he should have done--was to call upon the city and county police, the sheriff's office,

and the local police. That was a political or philosophical decision because of the distrust in the university community of law enforcement. They did not want people coming in with jack-boots, swinging billy clubs, with riot gear, clubbing students. They didn't want that image for the University of California.

The result is that while they were trying to figure out what alternative to call upon, it got out of hand. They moved too late. When they finally called upon the Highway Patrol, young men came in who'd never been trained to handle a mob. They had been trained to handle you and me when we go too fast on the freeway. It was handled badly and much too late. Properly trained local law enforcement should have been called upon immediately.

VASQUEZ: Do you think that Alex [C.] Sherriffs, who was responsible for making those movements, let it get out of hand?

ALARCON: Yes, absolutely. The chancellor did.

VASQUEZ: Do you feel that the governor's office had a fair chance to consider options? Or by the time you were called in were just too few left?

ALARCON: It was too late. I also felt that the chancellor did not take action when he should have, did not show the leadership that he should have shown. And when he got into a terrible crisis, [he] turned the problem over to the governor, who took steps that should have been taken much earlier. The governor got the blame for the crisis and for the mistakes that were made. In my view, the whole problem started with not having a state police. Now, philosophically, we've never wanted a state police in this state. We have wanted to keep our state weak, we wanted to give the power to the local areas in terms of controlling crime.

VASQUEZ: Were there different views on what actions to take within the Brown administration? Were you involved in any kinds of meetings or planning sessions at this time?

ALARCON: No. Unfortunately, I was not involved, because I would have said then what I've said now. The decision was made by the governor that the chancellor was responsible for this and that it should be left in his hands, that local law enforcement should be kept out of it, that it was a traditional thing on campus, that students

should be allowed to protest and state their grievances. By the time it became ugly and dangerous and a decision to call in the Highway Patrol was made to protect property and lives, it was too late for us to really plan it properly or to prevent the escalation. So I think the decision [by the governor] not to do anything and to let the chancellor handle it was a critical mistake. On the other hand, the chancellor should have been given some initial responsibility to take care of it. My judgment, my assessment is harsh of the chancellor, who disappeared, and really was not available to give guidance and take charge.

The Effects of the Berkeley Disturbances on the Brown Administration

VASQUEZ: How important do you think the Berkeley issue was for the effectiveness of the administration in its later years?

ALARCON: Well, I think what happened in Berkeley and what happened later in Watts gave the public the feeling that a Democratic governor was incapable of handling the problems of student unrest or problems of rioting in the streets, that a

swifter, surer hand was needed.

I don't think that the Democrats as a party were able to shake their paralysis of action, their failure to take proper action in a timely fashion. And I think that's the problem they have today. Since the sixties--I think I mentioned this before--whenever we get near election time, everybody runs for sheriff. You find Democrats who have been saying they're against capital punishment talking about how tough they're going to be and how they voted for . . .

VASQUEZ: Presently, isn't it competing about how tough they are against drugs?

ALARCON: Exactly. Ironically, we have the Democratic party at the moment indicating that they will be tougher on drugs than the Republicans have been nationally.

VASQUEZ: What do those two events or series of events we just mentioned tell you about crisis management style in the Brown administration while you were there? Or was there such a thing as crisis management at that time?

The Causes for the Berkeley Unrest

ALARCON: Well, let me put it this way. During the time I was there, except for the Berkeley problem, the student rioting, and the Rumford debacle, it was a fairly tranquil time. There were no crises that I can recall that would test the governor's style of crisis management. In retrospect, I think that the crises that occurred as a result of the Berkeley rioting demonstrated a distaste to call upon the cops to come in and solve the student problem. And I think it demonstrated with that philosophy that you could be right. It could have evaporated.

Although I can't compare the Brown administration with the Beijing administration, this week in the news the students in Beijing said they were going to conduct a march, and the government responded by saying, "No, you're not. Those streets are closed." The students decided not to conduct the march because they didn't want to go to jail. That is a repressive way of controlling this kind of conduct.

Brown was philosophically incapable of initiating that kind of repressive measure to

avoid a crisis. Now, when you start off that way, then you can be lucky sometimes and unlucky sometimes. You can let the problem start, let the people demonstrate, and then maybe they'll go away. Then you are a hero because you listened, talked, and nothing happened. Or you can talk, you can let them come into the university chancellor's office and occupy it, they can trash the whole administration building, and then you have to belatedly take action, call in the Highway Patrol, and look like a terrible crisis manager.

I think it starts with, "How do you react to this sort of a thing?" Do you overkill at the beginning so it doesn't get any further, as the Beijing authorities did this week in China? Or do you do what Brown's approach was, let people try to reason it out?

VASQUEZ: You were not there when the Watts riots broke out or the period immediately before that.

ALARCON: No.

[End Tape 7, Side A]

X. THE BROWN ADMINISTRATION AND CALIFORNIA'S MINORITIES

[Begin Tape 7, Side B]

Brown's Minority Appointments: A Mexican-American Response

VASQUEZ: From where you were sitting, what was your perception of the relationship of the administration with minority groups in the state? You indicated earlier that the Democratic party and Democrats tended to take these groups for granted at the time. Was the administration equally guilty of that?

ALARCON: No, I don't think so. Governor Brown appointed a substantial number of minority people because he wanted to have them visible in his administration and wanted to encourage young [minority] people to aspire to become lawyers. For that reason he appointed judges who were black and Hispanic.

That was his sincere motivation; it was not a vote-getting mechanism. He really felt that way. I specifically remember the focus on one person, because this, perhaps, best illustrates the answer to the question you posed. Early in the Brown administration, before I got there, he appointed a man to be a judge in East Los

Angeles. The man was not an Hispanic.

VASQUEZ: What was his name?

ALARCON: I can't recall his name at the moment. But this man was a lawyer in the community, had practiced for many years, a loyal Democrat who had the support of the assemblymen Democrats in the district. Hispanic Democratic party activists supported this man. The East Los Angeles Municipal Court had no Hispanics at this time, and the area was over 50 percent Hispanic. A young lawyer named Leopoldo [G.] Sanchez decided that at the very next election he would run against this Brown appointee.

He ran against this Brown appointee and beat him. The whole focus of Leopoldo Sanchez's election was that the Democrats. . . . "And I'm a loyal Democrat," he would say. "Look at my skin. How many people named Sanchez do you see on the court in East Los Angeles?" I remember that very vividly because I was embarrassed.

I was sent to represent the governor's office at a Memorial Day ceremony in East Los Angeles. I stood up and gave my speech in front of a monument to the heroes of World War I or

World War II whose names are inscribed on this monument in East L.A. When I finished, Leopoldo Sanchez got up, spoke in Spanish to the people who were gathered there, and read off the names: Garcia, Sanchez, Hernandez. He said, "They can go die for this country, and we celebrate their contribution here today, but they apparently are not worthy enough to be on the municipal court in East Los Angeles."

He won the election. He beat the Brown appointee, and it was a very embarrassing situation for the Democratic assemblymen in the area, [for] the Hispanics who had gone along with the appointment of this non-Hispanic lawyer. [It] caused considerable concern in Sacramento with the political advisers to Brown about what was going on. Many of them were very angry at Leopoldo Sanchez.

Governor Brown as the Leader of the Democratic Party

VASQUEZ: Why? For embarrassing the Democratic party?

ALARCON: Yes, for embarrassing the Democratic party, for not waiting his turn. I think he was in his late twenties or early thirties when he did this. He

was a firebrand and a liberal activist. But they were primarily concerned that he went outside the Democratic party ranks and took away an appointment that the governor had the right to make to a worthy Democrat who had given long service to the party.

As we approached the Nixon campaign, Leopoldo Sanchez was looked upon as the leader of the political activists in the community. The Hispanics, who were also Democrats, looked to him as a leader. Pat Brown came to East Los Angeles to speak at a rally for his reelection [as governor]. At the end of the dinner, he asked if anyone had any questions. Leo Sanchez stood up-- [he was] now a judge--and said, "Why is it that you come for our votes when you want us, and yet we have to fight your appointees to get [Hispanic] judges in this area? We love you Pat Brown; why don't you love us?"

VASQUEZ: What was his response?

ALARCON: Pat Brown said to Leo Sanchez, "I want to talk to you. I want to work harder on it. I want you to call me whenever you wish. I want your advice because I think I'm not being properly advised

about what's happening." This, of course, didn't endear the governor to the staff who was there, his own political people. But I think the governor felt that way.

VASQUEZ: How did you feel about that?

ALARCON: Well, again, the decision to appoint this man was a political decision.

VASQUEZ: You weren't consulted on that particular appointment?

ALARCON: No. In fact, it happened before I went there. I felt Brown's reaction to Leo Sanchez's public challenge was a political response. Also, he was not terribly loyal to his staff. But politicians do that. We know campaign managers in the '88 campaign who were fired because they did something to help their candidate which got bad press. The staffer who makes the decision walks the plank. That's politics. So I wrote it off as an unfortunate aspect of politics.

Now, let me say one more thing about Leo Sanchez. Before Pat Brown left office, he put Leo Sanchez on the superior court of Los Angeles, against the advice of all the people around him. His advisers felt that Leo Sanchez would be

unhappy as a superior court judge and, frankly, did not have the ability to handle the job. But Governor Brown loved his spunk, loved his courage to stand up to the head of the party and publicly criticize him.

The Use of the "Token" Appointment

VASQUEZ: Some people criticize [politicians]--and they especially criticize liberals--for the way in which they make the determination to appoint members of minority groups. They call the process by which that is done "tokenism." That is to say, they look for members of a particular group that look good to them, the appointers, and take into very little consideration the base that that person has in their community. You can get a high-visibility, high-profile minority out there, but that person might not have any sense of what's going on in his own community.

Do you think that might have been the case in the Brown administration, say, with Cecil Poole in the black community and maybe yourself in the Latino community or other appointees who were there?

ALARCON: Sure. That's a very complex question you pose.

I don't want to be trapped into generalities, but I would answer it this way: There is clearly a difference between having leadership qualities and being qualified for a particular responsibility in government. But the sad end to the Leo Sanchez story is that he was publicly reprimanded by the supreme court because he signed bail bond applications in blank. He gave them to favored bail bondsmen, who then used them to release people who gave the bail bondsmen additional money because of their access to these bail bond releases. Leo Sanchez lost his judgeship in a contested election. While Leo Sanchez had natural leadership and courage, he was not qualified to be a superior court judge. That was demonstrated by his performance. That's one problem, the problem of leadership versus the ability to do a job.

A second problem in the so-called tokenism, which is fading, thank god, as we get to the end of the twentieth century. . . . In 1959, I attended a meeting in Governor Goodwin Knight's office because he wanted to appoint an Hispanic to the bench in Los Angeles County. All eighteen

of the Hispanic lawyers in southern California were invited to the meeting. All eighteen. Only three of them had been attorneys long enough to be considered for the appointment. When I talked to the governor, he said, "Well, come back, kid, when you've had enough years as a lawyer." I'd had barely five years in the D.A.'s office by then.

VASQUEZ: So no one was appointed?

ALARCON: No. He appointed Carlos [M.] Teran, and Carlos Teran was the only one who had had enough years and service to really be considered. So you can say, "Well, now, the appointment of Carlos Teran from this tiny roomful of eighteen people was a token appointment by a Republican governor to make points for the Republican party." And it was!

But token in the broadest sense. You can say, "Well, that's bad to appoint someone just for political reasons." He didn't have a field to appoint someone else. He had to appoint Carlos Teran. Leo Sanchez didn't have enough years at that time to get that appointment.

VASQUEZ: Was he at that meeting?

ALARCON: He was at that meeting. Every lawyer who had an Hispanic surname was invited to that thing. I was invited to that meeting myself. I was in the D.A.'s office. Now we have at least three dozen, closer to fifty, Hispanic judges on the bench in southern California. We have hundreds of lawyers who could come into that office and say to the governor, "I am qualified." We have dozens of law review, top-of-the-class graduates from Stanford, Cal, Harvard, and Yale practicing law today in the large firms like Gibson, Dunn & Crutcher or O'Melveny & Myers.

So, today, if a governor were going to appoint someone to the court who was Hispanic, he would look to one of these top-of-the-class, O'Melveny & Myers or Gibson, Dunn & Crutcher persons. Those persons are not like Leo Sanchez. They are not down there in the trenches, in the precincts, getting out the vote and going to meetings of MAPA [Mexican American Political Association].

VASQUEZ: And [an appointee] who, in many cases, no more understands what's going on in the community than the people that would appoint him.

ALARCON: That's true. That's true.

VASQUEZ: So then of what value are they to that community?

ALARCON: Well, let me put it this way: I think they are of tremendous value.

VASQUEZ: In a symbolic sense?

ALARCON: Yes. I think every person who has a name like Richard Montez has, for example. . . . When I read in the newspaper that Richard Montez [was appointed] superior court judge, as an Hispanic I am proud, even though I am also a judge. I still feel that every time I see someone with a Spanish surname make it, I am proud. So I think it has a tremendous value.

Richard Montez is not on the court to be the advocate for Hispanics. If he has an Hispanic defendant who has raped someone, Richard Montez will put that person in prison. He won't let him go because he's Hispanic. All we can expect of Richard Montez is that his own experience in life will make him treat Hispanics as fairly as he would treat anyone else. That's all we can ask of him as a judge. We can't ask him to be partisan.

VASQUEZ: Right, but I think we're getting into another

area. The area that I was referring to has to do with how an administration deludes itself into thinking they understand a problem or a community by having picked a member of that community who is not really representative. Then they get themselves into a problem like the Brown administration got itself into, not only with blacks, but with Mexicans, as well, and any other number of groups that I could think of.

Why Governor Brown Had No "Black" or "Brown" Desk

ALARCON: Well, let me put it this way: In the sixties, at least the Brown administration did not pick someone to be the black representative in Sacramento to advise the governor on black problems. There was no such post.

VASQUEZ: Why not? With the size of the black community, there already were stirrings and murmurings of discontent, not only in the South but here in California. Why not?

ALARCON: I don't recall at any time sitting down and discussing this with the governor. My guess was, again, with the benefit of hindsight, it was naive. But in the sixties, I think that it was believed that if you were a Democrat and you were

elected to be the governor of the state, if you picked good Democrats who shared your philosophy, those decisions would help minorities because Democrats are concerned about the problems of minorities. So it didn't matter if you picked someone with an Irish name or an Hispanic name to deal with housing, with the black community, or any other part of the Democratic party.

I think they thought that you didn't need to have a black person in Sacramento to show your sensitivity to the problems of blacks. Being a Democrat was enough. I think that was the perception.

That has changed in the last twenty-five years. Now they have the Mexican desk or the black desk. This is where you can say, "Well, if you pick a Juan Gonzales to be the Hispanic liaison, and Juan Gonzales lived in Palos Verdes Estates and was playing polo before he went to Princeton and Yale and has never lived in East L.A., that's an astoundingly stupid political selection. You should pick a Leo Sanchez for the Hispanic desk." There was no Hispanic desk in the Brown administration.

VASQUEZ: Were you there long enough to see the realization sink in with people in the governor's office that things were moving in that direction, that you were eventually going to have to get representation?

ALARCON: No, that actually did not occur until Reagan came in. Reagan selected a person to run the Los Angeles office of the governor's office who was . . .

VASQUEZ: Was it Al Zapanta?

ALARCON: No, it was before Al Zapanta. He selected a person he believed to be in tune with the Hispanic community. Now, he had a little problem because he picked a Republican. [Laughter] We used to kid about being able to get all the Republican Hispanics to have a meeting in a phone booth. That's still true about Republican Hispanic judges. There are only two or three of us. But Reagan picked the Republican he thought was in closest touch with the community.

VASQUEZ: In hindsight, do you think that the liberal Democrats in the Brown administration should have anticipated the need to pay greater attention to truly representative members of the various

minority communities?

The Weakness of Minority Appointments

- ALARCON: I have a lot of problems with the concept. I happen to think that it is wrong to have an Hispanic desk and a black desk. What about the Filipino desk, the Vietnamese desk? I can go through the immigrants that have arrived in the last ten years. And how about the Nicaraguan desk and the Cuban desk?
- VASQUEZ: There is some difference between having a Vietnamese desk and a Mexican desk in California, isn't there? We're talking about a population that has not only been here a little longer than the Vietnamese but really are a politically conquered minority, if you will.
- ALARCON: That's true, and the problem I have with that concept is that I think it is more appropriate to deal with the problems of poverty, of homelessness, of health care, of catastrophic illness, or of unemployment, across the board as problems, not as a Mexican problem or a black problem.
- VASQUEZ: But at what point is a community mature enough to have political representation as well as having their bread-and-butter issues taken care of?

ALARCON: Well, that's a different problem.

VASQUEZ: Is it?

ALARCON: Yes. I think it is. You see, what I'm talking about is, ideally, if I were a Democrat and I were governor of the state of California and I campaigned on being concerned about these social issues, ideally, I would not need a black person advising me on black needs because I would know the needs of those who were unemployed or getting poor health care. I would be doing everything possible during my four years to produce a record of taking care of those problems. I say "ideally." Now, the real problem--which I'm sure you are alluding to--is that I'm going to be distracted as the governor by other constituencies, other problems, and, also, other realities. It costs money to take care of catastrophic illness or to provide for job training or to do this and do that. And we've got a problem with the school budget. We have a bilingual education lobby. So you've got to choose between bilingual education and job training because you only have so much money.

What is needed is not someone in the

governor's office to pound on the governor's desk and say, "Take care of this job training or this health care problem." We need people who can represent persons with those needs to train themselves and go ask the governor to solve these problems.

VASQUEZ: But you had that. With Leopoldo Sanchez, that's exactly what he was doing. And what was the ultimate response of the governor's office and of the Democratic party to him? It was negative, wasn't it?

ALARCON: Well, let me put it this way. I think we're talking about different things. You see, I think the appointment of a judge has symbolic meaning, but it does not pave a street. The appointment of a Leo Sanchez to the East Los Angeles Municipal Court would have made a lot of us proud, but it would not have solved the immediate social problems of the poor. To solve the social problems you need people who will come up and say, "Governor, don't neglect this social problem. You promised. You say you're a Democrat. You say this, you say that. Why aren't you taking care of this social problem?"

The Mexican American Political Association's Role
in Democratic Politics in the 1960s

VASQUEZ: Isn't that what MAPA was doing, for example?

ALARCON: Sure.

VASQUEZ: Was MAPA being listened to? Let's not forget, MAPA began, really, as a reaction to the attention given the Mexican community by the Democratic party in the elections of 1958.

ALARCON: I attended MAPA meetings in the sixties. MAPA was not--you're going to get me in a lot of trouble with some good drinking companions--MAPA was not a potent force. They only met at election time to give the MAPA endorsements. Sometimes the candidates were asked to produce money for advertisements in the program and they had to be present at the convention. Sometimes those meetings only had a handful of people. I mean, I was there. It was not an effective force. It was a vehicle for a handful of people to get themselves a story.

VASQUEZ: To get themselves a what?

ALARCON: A story in the paper about how they were organized. I belong to the West Hollywood MAPA. We've never had a meeting. I've never gotten a

notice from my group. I don't know if they still exist. I paid my dues a long time ago and never heard from them again. That kind of an organization is not going to be a very effective spokesperson for anybody. My view is that the problems of Hispanics who are Democrats will be solved by Hispanics who are active in the Democratic party, not in MAPA.

VASQUEZ: And yet--this is after your time there--after Watts and after the farmworkers' public marches, there was an effort to bring in people primarily on the basis that they were representative and sensitive to the needs of particular communities. This may go over into other social areas of unemployment and what have you, but they were picked not because they were experts in unemployment, but because they were experts in the perceptions of that particular community about their unemployment and a whole series of other things. How Token Appointees Become Apologists and Buffers

ALARCON: Let me tell you what happens. It's one thing to pick as a director of Employment an Hispanic or a black who has been trained in that area.

Obviously, you're bringing to that state function somebody who's very sensitive to these things. It's another thing to have somebody come into Sacramento and sit in the governor's office and be in charge of the black desk as liaison with the black community. In reality, what happens is that person becomes the one who says to the black community, "I am very sympathetic with what you're asking for, but we have to take care of the blind, the poor, the disabled, the school-children, and we can't get this through."

VASQUEZ: So instead of an advocate that person becomes a buffer?

ALARCON: The apologist and a buffer. So that's not very effective.

VASQUEZ: But it fulfills the token purpose.

ALARCON: Exactly. He becomes. . . . What's the old term from the South? He's co-opted. He loses all his power. Had Leo Sanchez been taken to Sacramento he would have had no effect in the community because he would have had to say, "We can't do this. There aren't enough Hispanic lawyers who had ten years in practicing law to put somebody on the supreme court of California. But, by god,

he'll do it as soon as possible." They'd say, "Oh, Leo, you sold out."

We're doing better, I think. We, the Hispanics, with a [Senator] Art Torres, with a [City Councilman] Richard [J.] Alatorre, with a [City Councilwoman] Gloria Molina, who as elected representatives can say, "Governor, I'm not going to support you unless you do this for my constituency." We're doing much better than if Art Torres were sitting in the governor's office in charge of poverty programs.

VASQUEZ: I understand that. Right. I understand that leadership that is indigenous and rises from the base of a particular group is probably more effective. The concern or the question that I was trying to pose was how a liberal administration that was, at least in its rhetoric, so committed to progressive change within the state, which included several groups that had been effectively disenfranchised, was for many years unable to find a mechanism or a means by which to anticipate their actions instead of being caught essentially flat-footed, as the Brown administration seemed to be caught with blacks, with

Mexicans, with students, with any number of other constituencies in the sixties?

ALARCON: I think I want to talk about two things. One is that, on the one hand, I think I would have said to you in the sixties, "We are meeting the problems of the disenfranchised. We have an education plan that is going to bring into the universities and community colleges children who otherwise would not have had that opportunity. In ten years, you're going to have neurosurgeons and physicists and lawyers and great leadership from the black and Hispanic communities because of what we are doing. Because we recognize that through education we will create effective leadership who will demand reform and will demand that social needs be met.

"We will also create political leadership and community leadership through education. That is the way we are solving the problem. We are very painfully aware of your problems." That's what I would have told you in the sixties if you were interviewing me then about "What are you doing?"

Now, if you had come to me in the sixties

and said, "Why didn't you anticipate the Watts riots?" I would have said to you, "How could I anticipate the national, the international movement that hit the whole world, starting in France with the yippies?" It really started in Europe, and then came to this country, this anti-authoritarianism concept that hit in the sixties. How could we anticipate that people in the United States would take to the streets? How could we anticipate that a California Highway Patrol officer on a hot August day in Watts would call for backup and that two or three of them would be unable to deal with a drunken family that was having a lot of beer that day because it was hot? How could we anticipate that their neighbors would come over to rescue this drunken Mark whatever-his-name-was [Fry]?

And how could we anticipate that 20 percent of the black employees of Los Angeles County, [people] who had jobs, would be arrested for participating in a riot? How in the world could we have anticipated that?

Did the Brown Administration Overlook Indicators
of Imminent Minority Problems?

VASQUEZ: The Brown administration had commissioned some studies a few years before on the patterns of growth and decline in urban areas. Those studies all very clearly mapped out the Watts area as an impacted area, an area in decline, an area suffering persistent unemployment. I'm not trying to be unfair, but there were some indicators.

ALARCON: Sure. There were indicators that there were a lot of social needs that were being unmet in Watts. But my answer to you would have been in the sixties, "We're trying to meet those needs. We are really trying. We're really concerned about this problem. We know that the statistics, the unemployment of black teenagers, and the quality of teachers is not good. We know the test scores in Watts are the lowest, the most disgraceful in reading results." I will tell you that in 1988 it's the same.

Assessing the Brown Administration

VASQUEZ: How would you assess the impact the Brown administration had on the state of California, let's say, in social legislation?

ALARCON: I would have had a more ambitious social program. I would say that the modest social legislation that was produced was good and was sound, fiscally sound. I think the Brown administration deserves high marks in education and the water program more than it does for its social program. I think that its social agenda was hampered by the mood of the times, of trying to be fiscally sound.

I remember my father was a very liberal Democrat, and he told me one day to tell the governor, "Stop saying you're going to balance the budget. Democrats don't do that." I think the Brown administration was similar to what we're hearing today from the person who is probably going to be the [presidential] nominee of the Democratic party [Michael S. Dukakis], "Be fiscally sound. I got people employed, and my budget is balanced." So I think that there was more concern then about that than a very far-reaching program to solve social programs, because they're costly. I think it was a time of not taking risks. We had just gone through the Eisenhower years in this country, and I think

that that mood was still a part of our political views.

VASQUEZ: You don't think the effort to break out of that had clearly jelled yet?

ALARCON: No. I think Unruh, some of his programs, and some of the people that he was trying to lead-- some of the ones you named--wanted to do more.

VASQUEZ: Are you saying then that there might have been more aggressive leadership and more initiative being taken by legislators than by the executive in these areas?

ALARCON: Absolutely. I think that was part of what Unruh contributed to this country, that the legislature said, "We're not going to sit back and wait for them to give us an agenda. We know what the needs are. We are closer to the people than the guy who runs statewide. I'm from Watts. I know what my constituency needs. I don't have to wait for him to tell me."

The "Responsible Liberalism" Program

VASQUEZ: But, in all fairness, that was Unruh's district, and he was caught just as flat-footed as the governor was when the Watts [riots] broke out.
[Laughter]

Might the tenor of the times have been behind what I consider a very defensive-sounding title or mandate, if you will, that the Brown administration carved out for itself, "responsible liberalism"? They were trying to do two things: on the one hand, carve out very innovative, progressive social change, and at the same time try to be fiscally responsible. Perhaps your father put his finger on that contradiction. Was there a contradiction?

Differences Between Democrats and Republicans

ALARCON: Well, it was a dilemma. I think it is the thing that still distinguishes the Republican and Democratic parties, at least those who try to define the differences. I think the difference, if you can find one, between what Republicans say they stand for and what Democrats say they stand for is whether the focus of government should be to address problems without concern for the cost.

The extremist Republican position would be that social problems should be met by the private sector or by people joining together and making charitable contributions. The Democratic philosophy as expressed by my father is, "There's

a problem out there. Pass a law. Find out what the cost is, then spend it. Worry some other time and some other generation about the price."

VASQUEZ: Some people say that's what a conservative Republican administration has done [in Washington] in the last eight years.

ALARCON: Well, that's true. What appears to have happened in the Reagan years is that the cost of what Reagan would say is rehabilitating our defense capacity, which was destroyed by prior Democratic administrations, was critically necessary for the security of this nation. "Those costs had to be incurred, and, unfortunately, we had to go into debt to do that." Plus he would say, "The social programs of the Democrats, which are now out of my control, must be funded. And each year, because of inflation, the funding is greater. Those two things are the things that have [made this necessary].

"First, the Democrats visited me with a Defense Department that had been crippled, and we were in a poor posture militarily. Secondly, the Democrats gave me social programs that must be funded, and I cannot [reduce the debt] without

getting Congress, which is controlled by the Democrats, to repeal those social programs. I have to submit a budget which covers those. That's why we are in the fix we're in."

But, back to the responsible liberalism, I think the Democrats who used that label--and they're using it now as they did twenty-five years ago, or using other names for the same thing--were trying to say that we can have social programs, we can meet social needs without paying our way. "We think the rich are the ones that should pay more taxes. So we may have to have increased taxes to pay for this. Through the Republican years, the rich have profited and the tax burdens have been placed on other people. Now we're going to make this equitable and make them pay their fair share for what they're taking out of the economy. But we can meet these social programs without bankrupting the nation."

That's all it is. They're just labels for that problem, that dilemma. Both parties have the problem. Both parties say there are social needs that must be met.

VASQUEZ: But isn't there supposed to be a fundamental

difference between the two in their vision of what the role of government is in solving social problems?

ALARCON: Yes. Sure. I think that's true. I think that's been blurred terribly. I think the president is probably going to sign a bill that was overwhelmingly passed by both houses, by members of both parties, which will go a long way in taking care of the catastrophic illness problem.

VASQUEZ: They weren't so blurred in the 1960s, I don't think. Wasn't there a much clearer notion of what Republicans thought as opposed to what Democrats thought government should do in these social areas?

ALARCON: Let me put it this way, I would say that in the sixties, if you read the party platforms of the parties, I think you would find little difference. I think the difference, in terms of what they did when in office, was to say that they were going to meet these social needs. The Democrats would say they would meet them, but they would be concerned about the ability to pay as you go. "We're not as concerned about not being able to meet that goal as the Republicans."

Republicans more likely would say, "I recognize we need a compensatory program in this area, but we can't pay for it this year. We'll try it next year. Come back next year." This is what [Governor George S.] Deukmejian has been doing during his office.

VASQUEZ: So the difference between the Republicans and Democrats, in terms of the role of government as you saw it at the time, was one of methods, not so much ends?

ALARCON: Yes, I would say that.

[End Tape 7, Side B]

XI. GOVERNOR BROWN'S PERSPECTIVES .

[Session 6, June 29, 1988]

[Begin Tape 8, Side A]

Governor Brown's View of the Executive Secretary

VASQUEZ: Perhaps we can talk a little bit more about your tenure as executive secretary on Governor Brown's staff. In an oral history Governor Brown gave to the University of California at Berkeley,¹ he says, "The executive secretary is a very important job, because he's really the governor. The two most important jobs in the state are the executive secretary and then the head of the Department of Finance. These are the two keys to your government." Judge Alarcón, is this the way you understood the office of executive secretary, and is this the way that you carried out your duties?

ALARCON: Yes, that is the way that I understood the office. I understood the realities of what was going on in Sacramento. I think, however, I

1. "Edmund G. Brown, Sr.: Years of Growth, 1939-1966: Law Enforcement, Politics, and the Governor's Office." Governmental History Documentation Project, Goodwin Knight/Edmund Brown, Sr. Era. Regional Oral History Office, The Bancroft Library, University of California, Berkeley. Can be found at the UCLA Department of Special Collections, University Research Library.

would describe it differently from the way the governor described it. It has more to do with what in the eighties we call management style and the differences in the way that people govern.

I think what Pat Brown will remember as the way the executive secretary worked or should have worked and the director of Finance worked or should have worked is only true with reference to the first people he brought in with him, the first one [executive secretary] being [Frederick G.] Fred Dutton, followed by Hale Champion.

When they came in with him having helped him through his campaign to be governor, the governor leaned very heavily upon Fred Dutton, then Hale Champion, to guide him through the political problems of being governor and being the head of the Democratic party, as well as giving him advice on the day-to-day problems of running the state of California, what I would call the non-political side of the job.

I think that if Fred Dutton were seated here, he might say, "Yes, Arthur. But that's really the same thing. Because if you do a good job, it has a great political impact." I think

that Hale Champion might answer the question differently and say, "Well, what you call political is really what I was doing in trying to run the state effectively at the governor's request or assisting him in doing so." I think I made a sharper distinction between the political aspects and the day-to-day administrative operation.

And I did that for two reasons. My own position as executive secretary came about in an unusual way. As I discussed earlier, when I [initially] went to work for Pat Brown [as clemency, pardons, and extradition secretary] it was with the understanding that I was a Republican, he was not, and that I didn't share some of his political views. Now, when he talked me into working for him, this immediately put me in a totally different position from Fred Dutton and Hale Champion, who not only shared his political views but, in effect, were shaping them.

I went there with the idea that I would not be a part of either sharing or shaping his political views. Later, when a vacancy suddenly occurred in the executive secretary's job, he looked upon me to take over that position. Well,

what I think really caused him to want to do that is that he was comfortable with having me run the day-to-day problems of the office, because he had Hale Champion one hundred feet away, now director of Finance, who would continue to help him shape his political decisions and help him deal with the problems presented by Jesse Unruh and so forth.

So he shifted his focus from leaning on the executive secretary to leaning on the director of Finance. Which freed me from being pressured to be involved in political questions, [allowed me] to devote all my time to seeing that the state of California ran efficiently, that the departments ran efficiently, and that we gave service to the people of the state of California that they deserved for their tax dollar.

Which reminds me, I took a trip to Acapulco sometime while I was executive secretary. I went to a hotel there that was run by a superb hotel manager named César Balsa, who had hotels all over Mexico. One of the things that he did to train his staff was to have them say, whenever you asked them for something or thanked them for

something they did, "Para servirle." "We're here to serve you." I was so taken by that management style that when I came back to Sacramento, I instructed all of my secretaries and the receptionist to respond when someone said, "Thank you for directing me to the Department of Motor Vehicles" with "We're here to serve you." Which I stole from César Balsa.

VASQUEZ: You saw yourself, essentially, as an administrator.

ALARCON: Yes.

VASQUEZ: Devoid of any political decision making and/or responsibilities?

ALARCON: Yes. It worked both ways. The governor looked to Hale Champion and others for political decisions or the political impact of his position on proposed legislation. He did not look to me for that. He looked to me for the impact on law enforcement, the impact on the courts, the impact on parole, problems like that. He did not look to me for how many votes this would cost him or how dangerous this was for his future or the future of the Democratic party. Those decisions were not part of anything I participated in.

VASQUEZ: Was there ever a time when a politically charged decision had to be made or position had to be developed that came to you but you had to defer to Hale Champion or someone else?

Putting Down a Scandal

ALARCON: No. I don't think so. There were problems that came up which would have a fallout, to use President Reagan's term, things that happen on your watch while you are the president or the governor. As in the military, you are responsible. We had things occur which happen during administrations. I recall that a scandal in the Department of Motor Vehicles occurred while I was there.

VASQUEZ: Tell me about that scandal.

ALARCON: All right. People high up in the Department of Motor Vehicles were involved in accepting favors-- automobiles, discounts on automobiles, free use of vehicles and, possibly, money--from automobile dealers to assist them when they ran into a problem with Department of Motor Vehicle investigators carrying out state laws.

For example, the odometer must be correct. If they were caught turning it back to show less

mileage on the car, that was threatening to their dealer's license, it's a criminal problem. It finally came to [our] attention [because] someone blew the whistle, that right outside the door of the director of the Department of Motor Vehicles they were running an operation which protected automobile dealers. The D.A.s' offices in Los Angeles, Sacramento, and San Francisco got into it. Finally, it hit the newspapers. It was a political problem for the governor because he had appointed the director of the Department of Motor Vehicles.

VASQUEZ: Who was it at the time, do you remember?

ALARCON: Tom [M.] Bright. And the deputies, the chief deputies immediately under him, were his appointees, that is, Tom Bright's appointees. So it all came right to the governor's desk.

The way that the governor reacted to that had both a statesmanlike aspect to it and, also, carried a political danger for him. In that kind of context, my advice to him was, "You must fire those people, suspend those people, and cooperate fully. Indicate that you're going to find out why you were not made aware of this sooner and

you will make sure that that doesn't recur. There will be better checks and balances and, if necessary, you will replace the head of the department, either because he didn't know and should have known or there was so much going on that maybe he didn't."

That's an example of the kind of thing, from an administrative standpoint, from a day-to-day operational standpoint, that involved me as kind of his eyes and ears to what was going on in the state. But it also involved a political problem, and I don't know what advice he got from others who were his political gurus. He did what I recommended. That is, the governor did what I recommended.

Either they [his political advisers] said, "He's right," or they said, "Well, we don't agree with it," and the governor chose to go my way. I don't recall a time when that kind of thing occurred that the governor went against my recommendation, that the proper thing for him to do as the governor of the state was to help get rid of the rascals after they'd had a fair hearing. If they proved to be rascals, do something about it.

Problems in the Department of Mental Hygiene

We had another problem occur in the Department of Mental Hygiene, at the Fairview State Hospital where there was concern about the way that mentally ill or mentally disturbed children were treated. It turned out to be a problem of an administrator not keeping control, similar to the Department of Motor Vehicles problem. With lax control at the top, things happened below that level, people took advantage. Again, we had to change people at the top.

A similar problem happened in the corrections system, where the head of one of the prisons was found to be lax in doing things that were not within the law or within the regulations. Again, it was a problem of supervision. He needed to be supervised more carefully by his immediate supervisor, and the governor was responsible for the political appointee who was not watching the store.

So those were administrative problems. We had not done our job in picking the right people, [people] who were alert to problems, who could see them developing and would nip them off before

they became a criminal problem. So that was a problem administratively. It was also a political problem.

VASQUEZ: Was there ever a time in which a problem that you might have seen as an administrative one became or was made a political problem in which you were circumvented, say, either by Hale Champion or one of the other advisers close to Governor Brown?

ALARCON: No. I cannot recall any instance where what I perceived to be the proper thing to do ethically, required by law, was rejected for political considerations.

Making Judgment Calls as Executive Secretary

VASQUEZ: How about a judgment call?

ALARCON: No. I can't recall a specific incident. Now, I must tell you that one of the things that happens is that things are done on occasion in the name of the governor but without his knowledge. We've seen in the Contra-Iran affair that the president wasn't told about things done by his appointees.

That works both ways. When you are selected to be in a policy-making position or you're delegated the responsibility to direct something, you assume that the governor (in my case) has a

philosophy which you think you understand. So you do things on a day-to-day basis that you feel are consistent within that philosophy.

You don't necessarily always run to him and say, "How shall I handle this?" You handle it, hoping that you are handling it consistent with the mandate he has given you, "This is the way I want to govern the state." So there are things that I did as executive secretary which I did not always tell him about because I didn't feel I wanted to bother him with them. Had I done so, it's possible that there might have been someone saying, "You can't do that" or "Don't do that."

I think I may have told you about the problem concerning filing the campaign contributions claim. There was another incident which also involved Chief Deputy Director of Finance Daniel Luevano, where we were called by someone who said, "Unless the governor orders the department of whatever"--it was to accept a bid on a contract--"I will support Nixon. I will also expose some information that I have about him." I don't know if we've discussed this.

VASQUEZ: I don't think we did.

ALARCON: Well, he then named the individual with whom he had consulted. The individual he claimed [he had] consulted with was the governor's campaign manager [Eugene Wyman], a lawyer.

I said, "When did you retain him?" He told me, "Last night." I said, "Did he tell you to call me?" He said, "Yes, he did." I said, "Well, I'll tell you what I'd like to do. I will meet with you. Not here. I'll meet you in a restaurant. I also want to have a witness." So I had Mr. Luevano go with me. Dan Luevano and I met with this man. He told me he had been a supporter of the governor, had given thousands [of dollars] over the years, that he didn't understand why he wasn't given special recognition for that by being awarded this contract instead of it giving to somebody else who had submitted a lower bid.

When he was all through, he said, "Now, I want you to tell the governor that tomorrow I will announce that I'm supporting Nixon, will pour all my money into his campaign, denounce the governor, and criticize him for things that I have seen and heard about him." I said, "Are you

completely through?" He said, "Yes." I said, "I'm not going to tell the governor that. And I'm not going to interfere with the decision that was made by the people who accepted the lowest bid. You do what you have to do. Please tell your lawyer that I said that." And we left.

Now, I didn't tell the governor. I didn't get his permission to do that. I didn't go see him afterwards and say, "I have just talked to this man who is threatening. . . ." It was political blackmail, at least. I didn't tell the governor that, because the governor was very busy with other things. I didn't think it was something that he would disapprove [of], so I handled it on my own. A footnote: The man did not publicly do the next day what he threatened to do. I hope that he's now an ethical businessman.

VASQUEZ: Who is that individual?

ALARCON: The man who came to see me?

VASQUEZ: Yes.

ALARCON: I can't remember his name. I wouldn't have any way of reproducing that. It would be on my calendars of twenty-three years ago, which are long lost.

VASQUEZ: So you had to use your own judgment?

ALARCON: I used my own judgment. But knowing that the governor was a lawyer, had been a prosecutor and attorney general, was fully aware of the law, was fully aware that this was almost a criminal proposal, I felt that he would have done what I did. And maybe more so.

I felt that I might [be able to] diffuse the problem by hearing the man out, telling him that we had to go with the lowest bidder, that we couldn't recognize faithful party contractors in this fashion. That would violate the law, and if it came out, it would defeat a man that he claimed he had supported in the past.

There were other kinds of things like that that one did. Hopefully, one is doing it consistent with the law. I don't want to carry the parallel with [Lieutenant Colonel Oliver] Ollie North too far, [Laughter] because I think that Ollie North was aware that there were laws he was violating while doing what he felt was carrying out the general mandate of the president to help the Contras.

Is There a "Higher Law" in Public Service?

VASQUEZ: Well, there is a question there that is, I think, fundamental to our system of law. He felt he was following a "higher law," and I think that kind of language was even used in some of the hearings. Is there a higher law in protecting a leader when not to protect him might undermine constitutional, existing law? Am I making myself clear? As executive secretary, especially, I would imagine that that came up.

ALARCON: No, there is no "higher law." I think the only people who can really say that are priests and rabbis, members of organized religions. Even they can't use that as a defense in court. I think of the Catholic priests in Germany who had a terrible dilemma when they hid Jewish people on church grounds. When there was a knock on the door and they were asked, "Are there any Jews in your church?" they answered, "No." They immediately went to their bishops and said, "I have sinned. I have lied." Even under those circumstances, the bishops recognized that they had committed a sin, but forgave them because of the terrible dilemma they were put in.

Well, politicians and government officials cannot do that. They cannot lie, they cannot violate any statute. That totally destroys our whole concept of government. It is not Ollie North's government, it is not President Reagan's government, it's the people's government. It's in the [United States] Constitution. You cannot ignore that because you have a higher purpose or you think you have a higher purpose. The way to do that is to go to court, challenge the law.

That's the problem in the Contra case. They disagree with the fact that Congress can interfere with foreign policy decisions, and I think they have a pretty good argument. I think that the War Powers Act may be wrong. But you cannot ignore it as an executive secretary or a chief of staff or the head of the National Security Agency because you think that helping the Contras is a worthy goal. You cannot violate the law.

VASQUEZ: Such as it stands?

ALARCON: That's right. You challenge the law in court. You don't violate the law.

The Power of the Executive Secretary

VASQUEZ: By inference from the quote with which I began today's session, Governor Brown, I think, is saying that the executive secretary position is an important one, but it's also a powerful one.

ALARCON: Absolutely.

VASQUEZ: In what did your power lay?

ALARCON: Well, in this respect: The executive secretary, at least during the time I was there, is the person that was contacted by department heads who might say, "I have a tough call to make. I'm not sure what to do about this. I know it's within the law. We know we can do it." Or, "We don't have to do it. We can delay it." Or, "We can proceed now. What do I do? I can't get through to the governor. He's out of town." Or what have you. And I would say, "Well, I think this is what the governor would want you to do."

So there were judgment calls that were made on a daily basis that affected the lives of the people who were involved in those decisions, mental health, education, freeways being run through certain parts of the state, and so forth. The exercise of the governor's power--it's really

the governor's, not the executive assistant's-- the exercise of it without checking ahead of time, makes the executive secretary very powerful in terms of the effect on the lives of the people.

If you combine the political adviser aspect with the judgment call aspect, then it's even more powerful. Because thrown into the mix, then, is not only what is good for the people in Santa Cruz County in terms of running through a freeway, but is it going to affect Democrats or Republicans depending on where we run the freeway? And where are our votes? I didn't have to fool with that part of it. I didn't envy those who did, because that complicates life.

Access to the Governor in the Brown Administration

VASQUEZ: How much of the power of the executive secretary lies in the control of access to the governor, specifically in your case?

ALARCON: Well, the way that it was actually done during my time as executive assistant. . . . I inherited a system where the governor's personal secretary, Adrienne Sausset, knew his political friends, knew his cronies, knew the people he went to

Lowell High School with in San Francisco, knew his heavy contributors, the loyal group who were many. So when they called, it had been already developed before I got there that the governor wanted to talk to them whenever they called. That part of his calendar--phone calls, meetings, luncheons, dinners, what have you--I had nothing to do with.

VASQUEZ: This was different when Hale Champion was there, is that correct?

ALARCON: My guess is that's the system that Hale Champion and Fred Dutton put together, that that's why Adrienne Sausset was very close to the governor over the years as his personal secretary, through his various jobs. She knew that's why she was there. She had a sense that this call should now be put through.

The other part of her decision making was-- and I used get these calls every evening-- Adrienne would come in to me and say, "Here's someone who's trying to get to the governor. He's very close to the governor. But the governor can't possibly handle the problem or can't talk to him. You talk to him, please, and see if you

can either let him down easily or see if you can work out what he wants consistent with what is appropriate." So I would come in on the tail end, not at the beginning. Those calls from political friends, from old friends that she felt shouldn't go through to him, I got and took care of.

Now, a second category of contacts with the governor were totally political. Those were controlled by people like Hale Champion. If [Senator Robert F.] Bobby Kennedy was coming to the West Coast, Hale Champion would say, "Block off a time for the governor to go to San Francisco to meet him," or "Have Bobby Kennedy see the governor when he comes to Sacramento." That was something that I did not take any part in, Democratic, national, state, and political visits, political consumption of the governor's time:

A third category [of contacts] would be what I call state business. Those would be representatives of interest groups who wanted to see the governor. The state bar is a good example. Those I controlled, and I made the decision whether they should go to him or first go to me and have me hear the problem. If I could not handle it,

then [I would] discuss with him whether he should handle it or not. So that took away a great deal of the governor's calendar which filtered through my office.

Very often we were able to either dispose of it to the satisfaction of the individual, given what he wanted and what he deserved under the law, or point out to him that there was no way the governor could help him. One reason for that also is that when you work as a chief of staff, if you have to disappoint people, one of the roles you serve is to be the no-sayer, to say, "I'm sorry, we can't."

At that time, for example, the problem of personalized license plates came up. Before it became official, people wanted to have the governor take care of them by getting a certain combination of letters. I would say, "We can't do that. We can't play favorites like that. If I did it for you, I would have to put something in the L.A. Times, 'If you want your name on your license plate, call Arthur Alarcón.'" I said, "We can't do that. We're all equal here. We can't play games like that." I knew that was the

law, but I didn't want to put the governor in the position of having to say that or, worse, maybe be tempted to bring that about.

So I protected the governor from having to worry about that by saying no to the individual. The next time that individual saw the governor, he may well have said, "Gee, that Alarcón is mean." Or, "He is very difficult to deal with. I asked him for something very simple, and he turned me down coldly and abruptly." That's part of the job, to take that kind of heat.

VASQUEZ: What kind of people would ask for such a thing? On the face of it, it seems so frivolous.

ALARCON: It's surprising. What is frivolous to you and me might not be frivolous to someone else. They may think there's nothing wrong with it and it would be kind of fun to have it. Maybe because of all the contributions that individual had made socially, charitably, politically, they felt that it was a very little thing to ask, that instead of having six jumbled letters, it could say, "MANNY" on his license plate. They couldn't see how that might hurt anyone. So they saw no problem in requesting that.

Alarcón as Brown's "Hatchet Man"

VASQUEZ: As a no-sayer, is that the way you got the reputation among some Latino groups as the "hatchet man" of Governor Brown?

ALARCON: Probably. Surely. That's a good point. I can't even remember the issue, but I remember being called by someone who had been an active Democrat, who was also Hispanic, from, I think, Contra Costa County, an old-time leader over there whose name has faded.

VASQUEZ: Flores?

ALARCON: Maybe. Anyway, he called and said, "We want to come to the governor's office. We want to see him to protest something." I said, "Gee, I'm sorry, I can't schedule that appointment for you. But why don't I talk to you and maybe we can work it out?" "Well, we want the governor to make more appointments in a certain area."

And I'd say, "Well, why don't you send the resumés of those people for that position? Are you aware that to be a superior court judge you have to have practiced law for ten years? Is the person that you have in mind someone who has practiced law for ten years?" He said, "Well,

no." I said, "Well then, you're going to have to wait or else you're going to have to come up with someone else. But there's nothing he can do for you at the present time. So, I'm sorry, I will not schedule a meeting. You can meet with me. I'd love to have a margarita with you. I'd love to come to your area. Next time I'm there, let's chat." And I would.

But it was my job to say no, and I felt I had to say no. There's only so much time in a day that a governor can devote to his various constituents that want to see him. So many of them--most of them--I said no to. I tried to do it as gently as I could, but no one likes "no."

Assessing the Office of Executive Secretary

VASQUEZ: What was your impression or what's your impression having served in that capacity of how the executive secretary position functioned in the Brown administration? What were the strengths and the weaknesses?

ALARCON: Well, I would say that the strengths were that the governor was willing to let me do without interference the things that I've described. He was a very marvelous person to work with. He

trusted me. He was generous with his praise when he would hear from department heads about the service that they got from me. So I would say that one of the strengths was that the governor gave me the support that I needed to carry out my function. He did not interfere with it and did not permit the political side of his life or those persons who advised him politically to interfere.

Now, it may well have been. . . . I don't want to say something that leaves a wrong impression. I think I said earlier that Hale Champion never clashed with me, never interfered with what I was doing. It may be because he felt it was inappropriate to do so, not that the governor said, "Don't do so." So I don't know the answer to that. All I know is that my relationship with Hale was good. I was supported by the governor and was not blocked by the governor or anyone else in trying to carry out my responsibilities.

The weakness of the position was that the governor liked the model that was created when he came into office. He liked the fact that the

original people he brought in with him had helped his career, had given him the advice that had made him governor, [advice] that was able to attract a majority of the people in California. So he continued to rely upon them, not only for day-to-day operations but for all kinds of advice, including political. So I think he missed that. I think he liked that model.

I think he would have been more comfortable with that model. When I left, Winslow Christian came in. I think Winslow was closer to what he perceived to be an executive secretary, someone who was first a manager, but, also, a close adviser on all things, including politics.

VASQUEZ: He says as much in his interview, actually. You had, didn't you, a rather unique relationship and position there, being relieved of political responsibilities? That's a rare situation for a chief of staff, isn't it?

ALARCON: Yes. Nobody's ever sat down and talked to me about this, but I would imagine that this caused him some problems with his political advisers. Like, "Why are you wasting that position? You should have a Fred Dutton there, or a Hale

Champion there, who could better serve you than someone who disavows some of your views, who doesn't want to have anything to do with the political side of your governance."

VASQUEZ: You were there from '62 to '64?

ALARCON: No, it was '61 until '64.

VASQUEZ: And there was a campaign during that period?

ALARCON: Yes.

Dealing with Civil Rights Issues as Executive Secretary

VASQUEZ: There were rumblings about civil rights issues and free speech issues, so there were a few crises that you rode out in that position.

ALARCON: The problems then were not the problems that developed in the late sixties and the seventies. They were much easier to diffuse. I've indicated to you that I stayed out of all political decisions. There were a couple of areas that I was, I'm sure, able to help the governor with on the political side. But that was not my purpose. For example, when he defeated Nixon, on the day of his inauguration, the governor's office received word from a very prominent black man in San Francisco named Carlton Goodlett. Goodlett,

I believe, had a newspaper. He may have also been a minister. He had quite a following in the Bay Area. He announced to the press that he was going to come to Sacramento with a group of prominent black Democrats. They were going to picket the inauguration ceremonies. When I found out about that. . . . I was in charge of preparing the inauguration ceremonies--the ceremonial side, not the political--and the dinner dance to follow.

VASQUEZ: Speeches and that sort of thing?

ALARCON: Yes. The swearing-in [ceremony] and the speeches and so on. I was in charge of that. I was working with the state police in that part of it. So when I found out that Goodlett was coming with his group, I phoned him. First, I tried to talk him out of it. I first listened to his grievances.

VASQUEZ: Which were?

ALARCON: There was not enough recognition of the black community in political appointments. I pointed out to him that there certainly were more than there had ever been, collectively, all the way back to 1850, that more blacks had been appointed during Brown's administration than all the

governors prior to that. He said, "Well, that's not satisfactory." And I said, "I'm sorry you feel that way, but why do you want to spoil his parade?" He said, "Well, this is the way we'll get media attention."

I said, "Okay, I can't talk you out of it?" He said, "No." I said, "Fine. Lieutenant Smith [of the state police] is going to be assigned to you when you come with your picketers. He will be near you on your march. If anything happens which you feel is an abuse by anyone in government or any of the state police, you tell him. I will be nearby, and he will tell me. He's my liaison. We will take care of it, because we do not want an incident to interfere with your right to protest, because you have a First Amendment right to do so. Furthermore, we will have donuts and coffee for you and will set up chairs for your picketers in case they get tired during their picketing. I want you to have your opportunity to protest, but I don't want an incident."

He said, "Well, I agree with that." I said, "Fine." Well, what happened was [that] when the inaugural ceremonies began, Mr. Goodlett showed

up, looked around, and, in fact, did not picket. He talked to me, talked to my lieutenant, and the whole thing kind of fell apart. I felt that that might happen. So instead of challenging him or fighting him, I made it easy for him to conduct his protest, if he insisted on doing so, without incident.

VASQUEZ: You co-opted him?

ALARCON: Yes.

The Quality of the Governor's Staff

VASQUEZ: What is your assessment, or what was it at the time, of the quality of the staff that you had to administer?

ALARCON: I thought the quality of staff was good. We had a fairly young staff. We had a mix, primarily of lawyers and people from the media. I was impressed with their work, the work of the lawyers and the work of the press staff.

There were a couple of people with whom I was not impressed, and I was finally able to get them out of the office. Although Governor Brown is a wonderful, warm-hearted human being, and it was very difficult to get him to remove someone from his office. Even after I documented my

grievances about the individual, it took time because he was concerned about the individual's future.

VASQUEZ: I think we went over this, but in case we haven't, who was that individual?

ALARCON: One of them was a fellow named Richard [A.] Kline, who, I think, during the Nixon campaign against Governor Brown, had been his travel secretary. He had travelled with the governor at all political activities.

[End Tape 8, Side A]

[Begin Tape 8, Side B]

The Difficulty of Removing Inappropriate
Appointees

ALARCON: Although he wasn't a lawyer, I gave Kline the responsibility of taking over my old office, temporarily, to handle prison correspondence and problems with the prison staff or the administration of the corrections and parole systems. I found out--actually because a staff member came to me and brought me to his office--that instead of answering the mail he was throwing it away in his wastebasket, hundreds of letters a day. Which certainly made the job very easy. [Laughter]

I couldn't get the governor to remove him, until I finally walked in one evening when the governor was there, I took the wastebasket, emptied it on the governor's desk, and said, "This is what I found in the office." So we were finally able to remove him.

There was one other employee that was a similar problem. I might point out that both of them were people that we were asked to absorb into the staff but whose functions had primarily been political. It's like the Peter principle. I think that they probably were outstanding people and superb in their professions as politicians or running and managing campaigns, but [they were] not good being put in the position as administrators in a nonpartisan manner.

VASQUEZ: The cost of patronage?

ALARCON: Yes. The governor, I think, thought that they could function as well within a government office as they did for him in a political role. These two did not. Now, some of the others in the office were able to do both jobs and do them well. Some of the press people moved in and out of the office, off the government payroll during

campaign and then back on the payroll. I thought they did well in their governmental function.

Observing the Rise of Television in California
Politics

VASQUEZ: You were there during a transition in politics, generally in the country, where television became all-important as a medium from leader to constituency. I believe Jack Burby and Lou Haas ran the shop at that point. What's your assessment of that transition?

ALARCON: Well, I'm going to give you an unprofessional opinion, [unprofessional] in the sense that I know nothing about the political impact of television or the role of media in a politician's life. From a personal standpoint and from someone who is a great admirer of Pat Brown, the man, I think that television was a problem for him.

Why Governor Brown had Troubles with the Media

VASQUEZ: Why?

ALARCON: Because I don't think he was comfortable on camera. I don't think he came across on camera. I don't think he comes across on camera as well as he does in a political speech or in a conversation. I think that we now see the kinds of

candidates, like [Senator] Gary [W.] Hart, who are of the television age, who do better than Pat Brown could have done.

I think that a Pat Brown running in the nineties might not make it. Pat Brown was a little overweight. He smoked cigars. He was not a natty dresser. His hair blew. (It was before the day of mousse and blow-dried hair.) He was not of the television era. He was an orator, a very outstanding orator of the old school working with a mike and with a crowd but, I don't think, comfortable with a camera.

VASQUEZ: He says in his interview, although he doesn't mention which of his press secretaries, but one of them complained to him that he "talked too much."

ALARCON: [Laughter] We had a problem with him. Because we would talk to him about what he wanted, what his ideas were, and then we would draft a speech for him. We'd give it to him, he'd make changes, and then we'd do the final draft. Then we would sit around biting our fingernails as he read the speech to see if he stayed with the speech.

We coined the phrase for him that he was the

"textual deviate," because of the fact that he often would get into the first paragraph and then put it aside and just talk. Sometimes, I must say, what he just talked about was better than what we said, because it came from the heart. But, sometimes, he got himself into problems in discussing things. The way he really felt [often meant] the timing was wrong.

I think we've discussed boxing, where we asked him not to talk about his belief that boxing should be abolished. A camera or a microphone was thrust into his face, the camera started clicking, and he felt he had to say something. [Laughter] Instead of saying, "No comment," he proceeded to tell the world what he thought about boxing. It was a very moving speech. I used to be a boxer, and I think I have come around to his point of view about boxing. I did not share that view until, I think, he deviated from what we told him to do.

One Last Assignment from Governor Brown before
Going on the Bench

VASQUEZ: When you left the governor's office, what did you go on to do?

ALARCON: I left the governor's office in March of 1964. There was a problem in the Adult Authority. The media had begun a campaign saying that the parole policies were very, very weak and people were being released too soon, dangerous people were running around in our cities. There had been some incidents where paroled murderers had gone out and killed other people or raped again. So he [Brown] asked me to go to the Adult Authority and become chairman of the parole board for adult male felons.

Becoming Chairman of the Parole Board

VASQUEZ: That's why you left the [executive secretary] position?

ALARCON: He asked me if I would go over and take that job for a short period of time, restructure it, see what the problems were, and see if I could make a change. Again, I said, "I'd rather not do that. If I'm not going to go on the bench after I leave the office, I would rather go into private practice and make some money." Because I had been in public service for many years and had accumulated nothing.

So he said, "Well, after you do this for me,

I intend to put you on the superior court." I said, "When?" And he said, "All right. You want a commitment, don't you?" I said, "Well, it would be kind of nice." He said, "How about July 1?" And I said, "Delightful." So between March 15 and July 1, 1964, I was chairman of the parole board.

I walked in and found out that they didn't have any written policies and procedures, that they had kind of operated in a folkloric way. "Well, this is what we do in this kind of a case."

VASQUEZ: Shouldn't you have already known that as the executive secretary who oversaw problems with that area? In fact, I think you had sent somebody to step into the Department of Corrections before.

ALARCON: There was a difference between the parole board and Corrections. The parole board was an independent body, independent of Corrections. Corrections was responsible for the prisons and for persons placed on parole by the board. But the [parole] board, itself, was autonomous.

VASQUEZ: Was it an oversight board?

ALARCON: No, they were like a court. They had the responsibility under the indeterminate sentence law of fixing the sentences. So they would go into the prison, they would listen to the recommendations of prison authorities, would listen to the prisoner, and then make a decision whether the individual was ready to be released.

VASQUEZ: So they were to adjudicate on a case-by-case basis?

ALARCON: Right. They were not a part of the Department of Corrections. They were independent. When I was executive assistant to the governor, I did not supervise their work, as it would have been almost like supervising a supreme court. They were independent. And, I think, under our constitution, they were intended to be free to release or not release people independent of whatever the director of Corrections said to them.

Developing Guidelines for the Parole Board

VASQUEZ: It was supposed to be a very apolitical position?

ALARCON: Yes. Well, the appointments were staggered, but they were political appointments. It was supposed to be free of direct influence from the governor

or the Department of Corrections once the appointment was made. That is an explanation for my not understanding that they did not have written policies or procedures. I assumed they did. I assumed that any well-run organization has written policies and procedures. That's not true, by the way.

When I walked in, I found out that they didn't have any. They couldn't point to any standards when the media [asked] why this person was released or not released. So the first thing I did was to grab the brightest hearing representatives, people who sat with the politically appointed board members. I grabbed a number of them, pulled them off their regular duty, and we proceeded during the next two months to draft a policy and procedure manual. I hope they're using it or an improved version. But we put it through. Then, as chairman of the board, I got it through the board unanimously.

VASQUEZ: Was there resistance?

XII. ALARCON'S JUDICIAL APPOINTMENTS

Appointment to the Los Angeles Superior Court

ALARCON: No. In fact, they were relieved that they could now have something they could point to, to assist them in explaining to the media what happened. I served in that position until June 30, and then on July 1, I began serving as superior court judge. I served as a superior court judge from July 1, 1964, until about June 8, 1978.

VASQUEZ: Here in Los Angeles?

Governor "Jerry" Brown Appoints Alarcón to the Court of Appeal

ALARCON: Here in Los Angeles, on the Los Angeles Superior Court. On June 8, '78, I was sworn in as an associate justice of the California Court of Appeal. I was appointed to that position by Governor [Edmund G.] Jerry Brown [Jr.]. I served with the California Court of Appeal from June '78, until November 1979. On November 21, 1979, I was sworn in as a member of the United States Court of Appeals, which is now my present position.

Why a Democrat Would Appoint a Republican to the Bench

- VASQUEZ: Why would a Democratic governor appoint a Republican to such a prestigious court?
- ALARCON: To the superior court or to the court of appeal?
- VASQUEZ: The superior court, that makes sense. But Jerry Brown's appointment to the court of appeal?
- ALARCON: I would hope the reason that he appointed me to the California Court of Appeal is that I was, on merit, the best person available at that time for that position. I hope it was based on my quality and service as a trial judge. What political considerations went into his decision, I don't know.

When the governor called me and asked me if I wanted to accept the position as an associate justice of the California Court of Appeal, my answer to him was, "I've been hoping you'd make this call for. . . ." Whatever it was then, four years or however long he'd been governor by that time. He laughed and said, "People say that I'm very slow in making appointments."

I had been hoping to be a member of that court since I was twenty-five years old. I had

tried to produce a record that would attract a governor's attention sometime in the future, starting at age twenty-five when I made up my mind that I wanted to be a judge rather than wealthy. So my hope is that it was because it was a merit appointment.

Appointing Mexican-Americans to the Bench in California

VASQUEZ: Why do you think Governor Reagan never made that appointment? There is a very limited commodity of Mexican-Americans who are Republicans.

[Laughter]

ALARCON: I think my answer to you has to be that, probably--to go back to your first question--there were some political considerations in making the appointment, although belatedly, in my view. I think that my appointment came about because Jerry Brown was very concerned about diversity on the bench. At the time that he called me, there was only one other member of the California appellate court who was Hispanic, and that was Cruz Reynoso, who was then sitting in Sacramento on the California Court of Appeal.

I was Jerry Brown's second Hispanic appoint-

ment to an appellate court. There were none in Los Angeles. Obviously, Los Angeles has the heaviest Hispanic population. Sacramento is more thinly populated. So I don't doubt that that was some part of his consideration, that this fine, meritorious superior court judge should get the appointment because he deserved it and, "It won't hurt that I'm also recognizing an Hispanic and bringing diversity to that court."

The Partisan Nature of the Appointment Process

Now, why didn't Ronald Reagan make that appointment? I think I may have mentioned to you in the past. . . . Unfortunately, I think--and I think it's quite wrong--the way judges are appointed nationally by the president and in the state of California by governors has a very heavy political aspect to it. If you look at the national statistics, for example, about 90 percent of the people appointed during any president's administration are members of his own party.

It may not be surprising to you, but it was surprising to me that the most political [appointer] in recent history was Jack Kennedy, who appointed about 95 percent Democrats. The

least political [appointer] was Richard Nixon, whose score was closer to 80 percent. What has happened, unfortunately, is there's a catch-up. Let's assume that Dukakis becomes president of the United States. For the last eight years, over 90 percent of the people appointed to federal judgeships have been Republicans. So guess what's going to happen during the next eight years? Somewhere near 90 percent of the people appointed in the next eight years are going to be Democrats.

When Reagan came into office as governor, he was looking at the same phenomenon. He was looking at the fact that his predecessor had appointed mostly Democrats. So there was a pent-up set of emotions among lawyers who had been overlooked for eight years during Pat Brown's administration, [lawyers] who were Republicans and who said, "I am merited, and I am a Republican. Appoint me." So if there's a choice between a Republican who has merit and a Democrat who has merit, and if it's a Republican, nine times out of ten the Republican is going to get it.

VASQUEZ: But you were a Republican.

ALARCON: I am a Republican. And I create problems wherever I go because of that. I think one of the political realities is that while I am a Republican, I am also Hispanic, and I also am qualified. So when governors and presidents are looking for someone to make a political statement [such as] "I appoint people of the highest quality and I don't discriminate. I've appointed Arthur Alarcón, although he's a Republican." I have been available for that.

VASQUEZ: You've done better under Democrats than you seem to have under Republicans.

Why All of Alarcón's Appointments Have Come from Democrats

ALARCON: I've never been appointed to anything by a Republican.

VASQUEZ: Why do you think that is?

ALARCON: I think that Reagan as governor and as president has followed a philosophy that, "I want people who reflect my views."

VASQUEZ: "My kind of Republicanism"?

ALARCON: "My kind of Republicanism, my kind of conservatism." And I was suspect. You see, to a

Reagan, I am a turncoat. I worked for Pat Brown, so my views are suspect. You see, to a Reagan adviser, I'm certainly not a Republican in good standing. They may feel that I, in fact, may really be a liberal and a Democrat at heart. So my feeling is that that's the reason he has never been interested in my merit, because he not only wants Republicans, he wants "real" Republicans.

Merit Versus Partisanship in Judicial Appointments

In answering your question, I'm making an assumption that he cares or knows about me and my views. If somebody submitted my name, and if it was considered, faced with a Republican who worked for Pat Brown who had merit and a Republican who worked for Reagan's campaign and had merit, there is little doubt which one would be appointed. That's reality.

I think my political career has been, to a great extent, the product of luck. A Pat Brown was there who wanted and needed someone to come up there who had my law enforcement experience and rapport with the police. His son wanted to have a court with diversity, and I was there. And when it came to [President James E.] Jimmy

Carter, he was interested in merit and had merit selection groups go around and try to find candidates. I was lucky that was going on at that time. President Reagan does not have merit selection commissions for the selection of appellate judges. He has publicly expressed his interest in having people who have a certain view of the responsibility of a judge.

VASQUEZ: It's interesting, isn't it? Because it's his administration that has talked so much about moving people through the ranks through merit, especially teachers and such.

ALARCON: Yes.

Why Alarcón Remains a Republican

VASQUEZ: So why have you remained a Republican?

ALARCON: I think that my views, my economic views and my social views, are closer to that party than to the Democratic party. The reason I became a Republican, I think I mentioned, is that I discovered that if I registered as a Democrat and voted for a Democratic congressman in Los Angeles, I ensured that someone awful became the chairman of a committee in Congress whose views I didn't share. Particularly when I first registered in

the forties, all the major committees in Congress were headed by senators whose views on civil rights were terrible.

So I decided that I would work within the Republican party to bring them back to [Abraham] Lincoln's views. Because, after all, he was our first Republican president. I still feel that we need a Republican party that is concerned about the rights of the poor and minorities, as Lincoln was. Our work is far from done.

VASQUEZ: What is it that you've done in the Republican party to try and bring that about?

ALARCON: Well, my problem, after I registered [as a Republican] and had this starry-eyed, twenty-one-year-old's view of the world, is that four years later I became a deputy district attorney and could not for years be involved in politics under the Hatch Act.

Now, as a judge I am not permitted to use my office in any partisan way. So I am a Republican on the books, but it is something that I can't do anything about in terms of bringing about any change, because I can't be active in either party.

My remaining a Republican is similar to my youthful, philosophical decision that it is in a sense a protest, it is to make both parties aware of the problems of civil rights. If people like me who have my name and my position are Republicans, maybe people like me should be there to balance and to bring both parties into line. I don't think the Democratic party's record has been good on civil rights, obviously. Nor do I think that the Republican party has made that a platform, flag-waving issue when they could have. After all, [Dwight D.] Eisenhower was president at the time of Little Rock [school desegregation battles]. Eisenhower was president when the army was desegregated. So they [the Republicans] could talk about those things, but they were [not talked about] enough. I can't say anything publicly because I am a judge. I am silenced. It's obviously appropriate.

VASQUEZ: It must be frustrating.

ALARCON: It's frustrating, but it's also appropriate that judges should not be involved in politics.

How Service in Governor Brown's Office Prepared
Alarcón for the Bench

VASQUEZ: What did your tenure first as clemency secretary and then as executive secretary in the Brown administration do in preparing you for your judicial career?

ALARCON: Oh, I look upon that as a marvelous background for being a judge. My work as clemency secretary got me involved on an hourly basis with the problems of the justice system, the problems of the police, the problems of the courts, the problems of the corrections system, the problems of parole and probation. Because all those kinds of problems crossed my desk: reviewing death penalty cases, reviewing criticisms about what was going on in Corrections, working on the budget for the Department of Corrections, hearing from them as to what they needed and where they were not getting funded, being able to make a difference in the kinds of people that came aboard. It gave me insights about what kinds of people go to prison. That helped me later as a judge in looking at probation reports and listening to testimony.

Working as executive secretary taught me about the executive branch of government and the legislative branch of government: what ethical administrators are supposed to do, what motivates the legislature. [It taught me] the difference between a law that came from the legislature after listening to interest groups on both sides and making value judgments and compromises [versus] trying to come up with a law that may not satisfy both groups but tries to resolve the problem in the best way possible to meet the needs. This is totally removed from the role of a judge, who has one case at a time and only hears the narrow, selfish interests of the parties to that lawsuit. It's given me an understanding, really, of the separation of powers, of how far I can go or should go as a judge, what is the role of the executive, what is the special role of the legislature, and that as a judge I cannot blur that distinction. So it was a marvelous opportunity for me to understand government.

Comparing the Executive and Judicial Branches of
Government

VASQUEZ: Having served in both the executive and judicial branches of government, which of the two have you found most fulfilling for public service?

ALARCON: Oh, I'm very partial to the judicial branch. I think it's the best branch of government. I think it is the most important branch of government.

VASQUEZ: Why?

ALARCON: Because we are independent of politics. We are independent of public passion or prejudice. We must not be concerned about the public clamor about newspaper headlines. We are required to follow the constitution, applied equally to all persons regardless of how we may be criticized for the decision we make. Particularly, in the role I have now as a federal judge, I am a life-time appointee. There is nothing that any president, any senator, any publisher can do that will affect my position. I'm here for life. I can affect my position if I commit a crime, but no one else can affect my position. That was part of the wisdom of the way our U.S. Constitu-

tion was drafted, to give us independence for life.

The Politicization of the Bench

VASQUEZ: You must be distressed then by recent efforts to politicize what judges do or don't do. I offer the recent case of the California Supreme Court.¹

ALARCON: Well, I am distressed when there is an attempt to politicize a court. But I think under our present California constitution that is precisely what the people asked for. Under our present California constitution, every member of the supreme court and of any appellate court in California must present his record to the people, and the people must decide whether that person should continue in office or not. The people have no direct control over who gets appointed to the supreme court under our present California constitution.

An appointment to the supreme court of California, for example, can and usually does reflect the political views of the governor. If the political views of the governor are, for

1. In a highly charged political campaign in 1986, Chief Justice Rose Bird and two of her liberal associates on the state's highest court were removed from the bench.

example, against capital punishment and he appoints to the supreme court persons who are against capital punishment while capital punishment is the law of the state of California, then under our present California constitution, when that person appears on the ballot it is understandable that an intelligent voter might want to take into consideration whether that person who is against capital punishment should be retained in that position. So our constitution lends itself to judicial elections being politicized. It is political by putting retention up to the electorate. Whenever you have the electorate involved, it is political. It may not be partisan, but it's clearly political.

The Alaska Alternative

Now, in Alaska they have solved this problem. In Alaska the selection for the supreme court and for the trial court is done by a merit selection commission. That commission initiates the creation of a pool of names of potential judicial appointees. They then send those names to the governor. The governor must appoint one of the persons nominated by the commission. If

he refuses to, the chief justice of the supreme court will make the selection.

But Alaska has a better system than any other state that has merit selection. Alaska also has merit retention. In their system, the same commission follows up on the judge who is appointed on merit. In six years that judge has to be on the ballot. When that judge's name comes on the ballot, the commission sends a report to every voter with the ballot. That report says, for example, "This judge has disappointed us. He is a drunk. He doesn't work every day. He abuses lawyers and clients. His decisions are irrational."

So then the electorate can make an informed vote based on the record of the individual. In Alaska, the individual is selected for his political views, as is the case in California, but on [his] merit [as well]. The retention report is based on how he has performed his job in office. It has nothing to do with the popularity of his decisions.

VASQUEZ: So what is it about federal judges that places them above all of that?

ALARCON: We do not have the best system. Going back to your politicizing question, my court is politicized on the intake side. I've given you the statistics. The next president, if he's a Democrat, will give us 90 percent Democrats. That's political to me, very political. Since we are retained for life, the citizens of the United States are stuck with whatever choices our next president's going to make for eight years.

So we lack what Alaska has. We lack merit selection and merit retention. All we have is independence. I have independence. So as to your question to me about which branch is my favorite, the executive or the judicial, my answer to you is the judicial, because I am independent and because I can say what I want to say in a decision without fear.

I don't care what the Los Angeles Times prints. Well, I do care. I'd like my children to read only good things about me. But it doesn't affect my career if the Los Angeles Times says something critical about something that I wrote. To me, I find that more comfortable. If I were in the executive branch, I would be subject to

criticism for my political choices. I am not
political.

[End Tape 8, Side B]