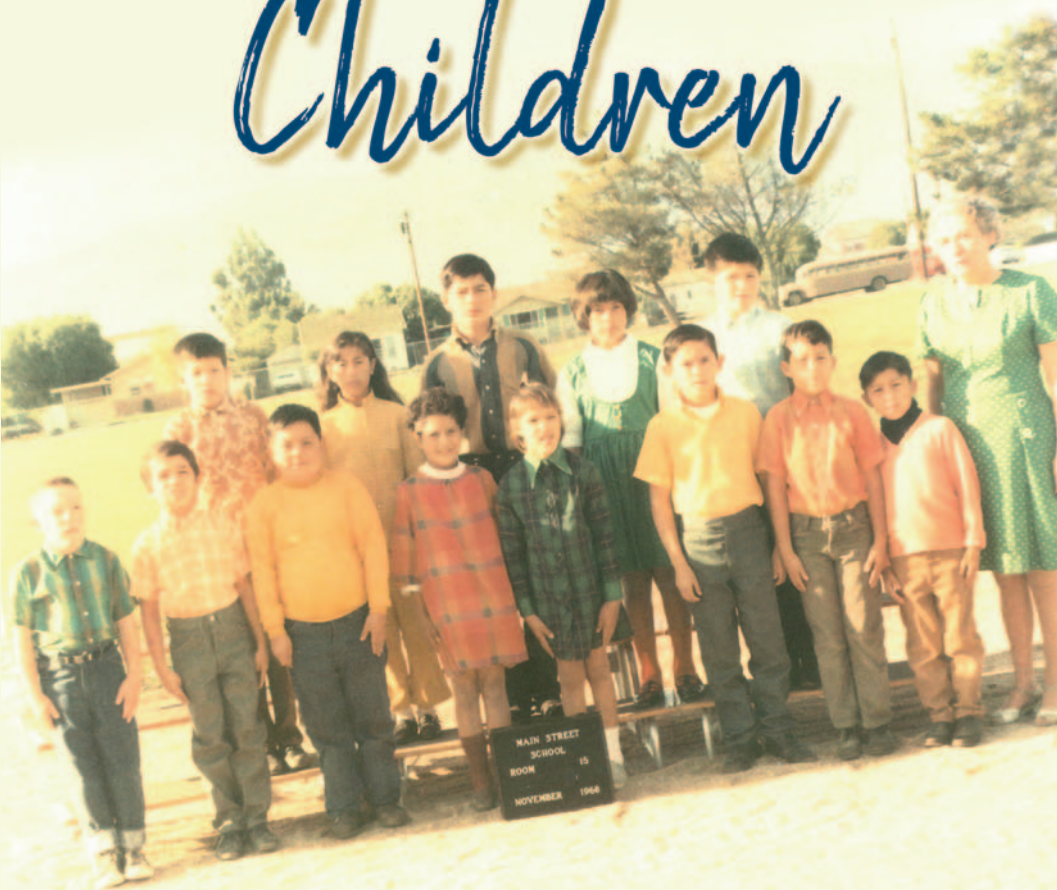


# The Soledad Children



The Fight to End  
Discriminatory IQ Tests

Marty Glick + Maurice Jourdane

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*Recovering the past, creating the future*

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*To the determined and fearless parents of Arturo, Diana,  
Manuel Jr., María, Ramón, Margarita, Armando,  
Rachel and Ernesto—The Soledad Children.*

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## AUTHOR'S NOTE

We commenced writing and documenting the events portrayed and discussed in *The Soledad Children* in 2005 and it was, on and off in the years that followed, a labor of both diligence and love until we completed it in 2018. Fortunately, in retelling the important events described in our book, we had access to the entire court file for the *Diana and Larry P.* cases. We also had contemporaneous notes, summaries and files from the 1960s as well as newspaper accounts from the time that we had saved. CRLA back at the time published an in-house newsletter—*Noticiarios*—four times a year, and those gave accounts of major cases. Of course we have our own recollections, some vivid, and we were fortunate to be able to interview several others who were involved in the events at the time. The words used in conversations from some five decades ago are as we recall them. While they may not be precise, they reflect our recollections of the tenor and substance. The events presented all occurred and did so in the order we present them. (Thanks also to search engines that are invaluable for establishing chronology and yielding such gems as old newspaper accounts and dates of relevant history.) We, very occasionally and deliberately, changed a name or ascribed a comment in a way to respect privacy. Otherwise, we diligently presented the facts to be as accurate as possible to the best of our ability.

## PROLOGUE

Arturo Velázquez, born and raised in a farm labor camp in the small, wind-blown town of Soledad, California, turned ten in the Fall of 1968. The labor camp was bleak; its decaying small houses had served during World War II as a prison camp for captured German soldiers shipped to Soledad from the European theatre to provide convict labor for the growers. The chain link fence that had contained the German POWs still surrounded the camp, except where it had worn through or been cut to make a shortcut.

Arturo was bright, gregarious and energetic. He watched the San Francisco 49ers play on the family's second-hand, RCA Victor twelve-inch television and learned the players' names. He loved listening to his father talk with pride about *El Tri* (the three colors of the flag), the Mexican national soccer team that had bested both Columbia and Spain at the 1968 summer Olympics. Arturo practiced his kicks into a makeshift goal in the camp. He had never been further from home than Salinas, thirty miles away to the north. He was raised speaking only Spanish. School for Arturo was as suppressive as the woven wire fence around his labor camp home.

Arturo's parents, Francisco and Viviente, both born in Veracruz, Mexico, had labored since they were children as farmworkers in the United States. The Velázquez family had traveled from field to field in Texas, Arizona and California; like hundreds of thousands of other migrants they weeded, thinned, irrigated and harvested for low wages the fruits and vegetables that are the basis of California's \$40 billion-a-year agricultural industry. It is an industry that produces, sells and ships two-thirds of the country's fruit and nuts and one-third of its vegetables.

In the early 1950s, Francisco and Viviente had applied for and obtained Green Cards and, in 1955, they settled in Soledad. Francisco could no longer handle the rigors of farm labor but had

found a job as a tractor mechanic. Viviente and the five older children in the family still spent hot days weeding and thinning in the summer and picking and boxing green lettuce and broccoli in the fields during the fall harvest. The Velázquez family spoke Spanish at home, on the job and in their labor camp community. They taught their children the only language they spoke.

Arturo was actually looking forward to starting school. When he entered the first grade, he neither spoke nor understood any English. His teachers at the elementary school in East Soledad spoke only English in their classes. As far as Arturo could tell, none of his teachers or their occasional class assistants spoke or comprehended Spanish, except for a few common words. Thus, Arturo understood little of his first two years of instruction, but began to pick up English from some of his classmates and from his books. Over the summer, when not working at chores and helping out in the fields, Arturo worked to learn more English from television programs and from his second-hand reading book. Sometimes he practiced in front of a mirror. Arturo knew he would do better in his third year. It had been difficult, and he knew he was well behind the Anglo kids.

Arturo had never learned grammar or spelling, not even in Spanish. Arturo liked arithmetic but was shy. Like most migrant farmworker children, he was assigned a seat in the very back of the classroom. He never raised his hand nor spoke up, even when he thought he knew the answer to a question. His teachers simply ignored him, as well the other children of Mexican-American farmworkers.

When Arturo arrived at the Soledad Main Street Elementary School on an early September morning for the third grade, he joined the other children streaming past the solitary tree in the front yard into the white stucco, one-story elementary schoolhouse. At that time, the Main Street School housed students from kindergarten through eighth grade. Arturo and his friends exchanged *holas*, and he went down the long hallway to his classroom. When he got there, a teacher taking attendance stopped him.

“Hello, Arthur. Please head down the hall to Room 7. We need to give you a little test before you go to school today.”

“A test? Now?” Arturo said. “But we have no classes yet.”

“It is only to see what you have learned. Don’t worry,” the teacher said as she turned to check off the name of the next child.

Arturo found Room 7, a classroom with no other students. Sitting in front was an Anglo man with a white beard. The man was looking down at papers on his desk and had not yet noticed the small boy.

Arturo cleared his voice, "Hello, I am Arturo. They tell me to come here."

The school psychologist looked up and gestured at a seat in the second row. "Oh, yes. You must be Arthur Velázquez. I'll be with you in a minute. Sit here." The man continued making marks on some papers, ignoring Arturo for what seemed like a long time.

Arturo sat there, getting more nervous as time passed in silence.

Finally, the man came over and asked, "Arthur, you speak English?"

"My name is Arturo. I am learning English."

"Good to hear that, Arthur," said the man briskly. "We have a special test for you to take today. It will help you out. Do your best."

Then the stranger handed Arturo what turned out to be the Weschler IQ test, but did not explain what the test was or why it was being given to him. He gave Arturo two pencils and looked at his watch.

"Arthur, you must open this test and start when I say 'go,'" he said. "Do you understand? *Comprenday?*"

Arturo said, "Excuse me, *señor*. *Por favor*, do you speak Spanish . . . in case I need *ayuda*, some help with this?"

The man said, "Sorry, *no hablah espanyol*, and I am not allowed to help anyway." He looked down at the second hand on his watch and then said, "Go now." Then the man turned away.

Arturo opened the test paper and began answering. He had trouble reading many of the words and questions in the test. Many parts asked about things he did not understand, such as, "Who was Genghis Khan?" and "Why is it better to pay bills by check than cash," and "What color are rubies?"

The first half of the test was very hard. The second half was made up of numbers and puzzles and shapes. Arturo thought he did better on that.

Before Arturo could finish the last page, the man announced, "Time to stop."

Arturo was surprised. The man had not warned him that there was a time limit, and Arturo had no way to keep track of time anyway.

The man picked up the test paper. “You can go out to play and then go home for today. Come back here tomorrow, and we will tell you what classroom you should go to.”

When Arturo came back the next day, he was told to go to Classroom 15. He knew that was not where most of the other third graders were sitting. When he got to the new classroom, there were about a dozen children, all Mexican except for one Anglo boy off in a corner. The teacher was nice. She handed out coloring books and pencils. Day after day, the class was coloring, cutting out pictures, doing a little bit of very easy addition and subtraction and recess.

With Arturo were Diana, María, Manuel, Rachel, Ramón, Armando, Margarita and Ernesto. They ranged in age from seven to thirteen but were in the same classroom together all day. Diana, who with her twin brother Armando was the youngest, spoke hardly any English. She was absent on many days because, she told Arturo, “*Hay que ayudar en casa cuidando a los babies mientras mamá y papá trabajan.*” [I need to help at home to take care of the babies while my mother and father are working.] She asked Arturo to help her learn English, and he was glad to teach her as best he could.

Arturo asked María, “Why are we in this place instead of *real* school?”

María replied, “This is the room for kids they think are dummies. They never give us anything to do but baby stuff. I hate it.”

A year later, Arturo was still in the same room. Other children on the playground both shunned and teased Diana, Arturo, María and the others, calling them “retard” and “*tonto*” and laughing at them.

Arturo, Diana and María didn’t know it then but they were among the more than 13,000 Mexican-American children wrongfully placed in California’s Educable Mentally Retarded (EMR) classes before 1979. And all of them had been relegated to these classes based on culturally biased IQ tests given in a language the children did not read or understand. (The term “retarded,” now considered pejorative, has been dropped from use by professionals and others and replaced with terms such as “mentally impaired” or “intellectually disabled.” But “retarded” and/or “EMR” were the terms used when the events in this book occurred, they were part of the name-



calling the affected children were subjected to and thus they are used herein to present an accurate picture of the times.)

The children in the class had complained to their parents, but the parents did not know what they could do. María's mother had gone to the school and asked, with the little English she knew, why the children were not learning more with the little English she knew. The teacher had smiled indulgently and said, "Don't worry. They are in a 'special class.' It will be fine and it is better here for them." No teacher, psychologist or anyone else from the school ever visited the labor camp to see how the children fared in their home environment.

The idea of mounting a legal challenge was completely foreign to the Soledad labor camp parents. They had no understanding of the justice system, did not know any attorneys or have the ability to afford them. While a small minority of Mexican-American school psychologists in California had railed against the use of biased IQ tests, the California Department of Education had blithely ignored them.

In 1964, Lyndon Johnson launched the "Great Society" and the "War on Poverty" initiative, which established social services, and included the creation of the national Legal Services Program. One of the programs initiated with Legal Services Program funds was California Rural Legal Assistance (CRLA). In late 1966, CRLA opened offices across rural California to provide legal representation for farmworkers and other rural low-income individuals. At that time, this was a revolutionary development.

In mid-1969, CRLA attorneys Marty Glick and Mo Jourdane became counsel for Diana, Arturo, María, and the other Soledad children. Eventually they came to represent the 13,000 children across California improperly labeled mentally retarded in a class action lawsuit, as well as at least 100,000 other such children who were on the threshold of a similar fate. Working with dedicated members of the Association of Chicano Psychologists, they filed a class action case known as *Diana v. State Board of Education* to challenge the use of English-only and culturally biased IQ tests to justify the placement and retention of the Mexican-American children in classes for the mentally retarded. The battle raged for a decade. This is the story of CRLA's and its early work in reversing the course of events for the Soledad Children.

—Marty Glick and Mo Jourdane

PART ONE  
**1964–1966**  
**BEGINNING AND ORGANIZING**



## Chapter 1

# THE BIRTH OF THE LEGAL SERVICES PROGRAM

In the face of massive resistance from his southern colleagues, Lyndon Johnson successfully piloted into law the Civil Rights Act of 1964 and the Voting Rights Act of 1965. These were just the beginning as he turned next to his “Great Society” and ambitious “War on Poverty.” Four different acts of Congress made up the foundation of Johnson’s “War”: The Social Security Act of 1965 (which established Medicare and Medicaid), the Food Stamp Act of 1964, The Elementary and Secondary Education Act and the Economic Opportunity Act of 1964.

The Office of Economic Opportunity (OEO) was the agency established to implement the Act of 1964. Former Peace Corps director Sargent Shriver was appointed on October 16, 1964 to be the first director of the OEO, which provided low-income individuals and families “opportunity” through access to better schooling, job training, decent housing and health and human services. The agency had the goal of helping poor people achieve “economic” self-sufficiency. Pioneer programs created by the OEO included Head Start, Job Corps, Upward Bound, Community Action and Vista.

The first two Presidents of the OEO, Clint Bamberger and Earl Johnson, Jr., recognized that a significant obstacle was the inability of recipients to enforce their right to the benefits offered by the new programs. There were no trained legal advocates to reform unfair and repressive policies and practices preventing equal opportunity for low-income clients.

In an influential article published in the *Yale Law Journal* in 1964, “The War on Poverty: A Civilian Perspective,” authors Edgar and Jean Kahn made the case for the establishment of a nationwide network of independent, full-time civil lawyers. Traditional legal aid, usually managed by county bar associations, provided limited assistance to indigents, and individual private attorneys, especially in rural areas, lacked the resources to mount sustained and expensive litigation aimed at major issues or local businesses. As an example of the limited resources available, annual funds appropriated or otherwise raised in the mid-1960s for volunteer Los Angeles legal aid lawyers to serve that entire county totaled only \$120,000.

To address this deficit, in 1966, the OEO Legal Services Program (LSP) was created to establish local offices across the nation staffed by attorneys whose practice would be devoted to representation of qualified low-income individuals. In a sense, these offices were to provide on the civil side the same sort of representation that public defenders provided to indigents accused of criminal misconduct. A critical advocate for the program’s creation was the president of the American Bar Association (who would later become a United States Supreme Court justice), Lewis Powell. Powell, Sargent Shriver and other leaders insisted that the LSP be independent of local governments, state and local bar associations and local community action programs.

At the outset, LSP established client eligibility standards that placed ceilings on income earned and assets owned to qualify for free legal services to ensure that grantees would not compete with local bar members. The programs could not undertake cases seeking money damages nor could they take on fee-generating cases, such as contingency cases, unless they were able to show that the private bar had refused, after at least three referrals, to take on particular cases that could result in damages or fee awards.

In 1966, the OEO invited applications from organizations and groups interested in forming local law offices to carry out the mandates of the program. Between 1966 and 1971, 157 legal assistance programs were funded in 49 states with an appropriation that was initially \$25 million and went up to \$72 million by 1972.

Earl Johnson had taken over the OEO by 1967 and announced that dedication to “law reform” would be a top priority in OEO consideration of those applications. Neither the millions of previously unrepresented poor nor those routinely taking advantage of them had any idea what was on the horizon with the launch of these new programs.



Map of California showing CRLA offices