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For further information or additional copies of The Crime Victims Handbook, write:

Crime Prevention Center Office of the Attorney General 555 Capitol Mall, Suite 290 Sacramento, CA 95814

April 1981

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"The criminal justice calendar" by Paul Duginski



Dear Californian:

For most of the past thirty years, the administration of criminal justice has been unreasonably tilted in favor of criminals and against their innocent victims. This tragic era can fairly be described as a period when victims were forgotten and crimes were ignored.

We hope that things are now beginning to change for the better. By publication of the <u>Crime Victims Handbook</u>, Attorney General George Deukmejian, his <u>Citizens</u>, Judges and Artists Advisory Commissions on Victims of Crime, and the California Department of Justice are significantly helping to promote that beginning.

The Crime Victims Handbook is written to advise crime victims on their rights, identify national, state and local services available to diminish their plight and help them cope with the criminal justice system. It more than succeeds on all points.

We must also continue through other means, in both the public and the private sector, to improve society's ability to protect itself and to help all victims -- actual and potential.

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THE WHITE HOUSE WASHINGTON 6 March 1981

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ACQUISITIONS

Sincerely,

Roald Riagan

Foreword

For the first time in history, California suffered more than one million serious crimes in 1979. That number was well exceeded in 1980.

Also for the first time in history, California suffered more than 3,000 unlawful homicides in 1980. That is up from roughly 650 unlawful homicides in 1963, the last year the courts effectively permitted the death penalty. Los Angeles County accounts for about two-thirds — roughly 2,000 — of these slavings.

The city of Los Angeles, by recording a 25 percent increase from 1979, soared past Chicago to become second in the nation (New York is first) in total slayings. New York and Los Angeles are the only two cities in the nation to have each suffered more than 1,000 homicides in 1980.

Not only have the gross numbers of unlawful homicides escalated dramatically, but the rates per 100,000 population have also skyrocketed. While the national rate is approximately 10 unlawful homicides per 100,000 population, California's is roughly 15 per 100,000, Los Angeles County's is roughly 20 per 100,000 and the city of Los Angeles' is roughly 30 per 100,000.

Unlawful homicides are not the only crimes which have substantially increased in recent years. Virtually all categories of serious crime, particularly residential burglary and forcible rape, have also leaped catastrophically. The victims of all three crimes are largely forgotten in the criminal justice shuffle.

What can be done for forgotten victims? Fortunately, many people have begun asking this question and there is a sensitive and growing response.

The Crime Victims Handbook is intended to provide you — California's crime victims and witnesses --- with information regarding your roles in the administration of justice and to advise you of your rights and the state and local services which may be available.

Because cities and counties may offer different programs for crime victims and witnesses, parts of this information may not be relevant for your area. Consequently, you are encouraged to contact your local prosecutor, sheriff, police department or community service groups to learn which specific programs exist in your area.

William D. Curtis, Chairman Citizens' Advisory Commission on Victims of Crime

Carl West Anderson, Chairman Judicial Advisory Commission on Victims of Crime

Paul Conrad, Cochairman Artists' Advisory Commission on Victims of Crime

Jim Kirwan, Cochairman Artists' Advisory Commission on Victims of Crime

The complete list of members on each of the Attorney General's Advisory Commissions on Victims of Crime appears on pages 20 through 24.

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Introduction

A most promising recent development in the administration of criminal justice has been increased sensitivity to the needs and rights of crime victims. For too long, the administration of criminal justice has been bogged down in a myriad of legal technicalities created by the courts to enforce new and substantially broadened rights for criminal defendants. Now marks the beginning of your turn.

At last, public officials, community organizations and governmental agencies are taking steps to make the administration of justice more sensitive and responsive to crime victims and witnesses. This is not to suggest a desire to trample on basic rights properly due criminal defendants.

Because of expanded judicial definitions of those basic rights, however, key evidence is often suppressed and criminal cases dismissed. As a result, the administration of criminal justice owes a particular obligation to protect the needs and interests of crime victims and to maintain a constant vigilance on public safetv.

There is a new emphasis on the right of the innocent public to be free from crime, particularly violent crime, and the special obligation a free and just society owes to you, as a past, present or potential victim.

To find out what specific crime victim and witness assistance services are available in your community, contact your local prosecutor, sheriff, police department or community service groups. Information may also be obtained by contacting the Crime Prevention Center, Office of the Attorney General, 555 Capitol Mall, Suite 290, Sacramento, California 95814.

Your active cooperation in reporting crime and testifying in court is vital to insure criminals, particularly violent ones, are quickly apprehended, fairly convicted and appropriately punished. It is my hope The Crime Victims Handbook will make those tasks easier.

George Deukmejian Attorney General State of California

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Victim/witness assistance

Victim/witness assistance programs are established to provide various kinds of direct services and assistance to crime victims and witnesses. Immediate person-to-person assistance in a time of crisis serves an important rehabilitative function for crime victims and witnesses. Determining eligibility for violent crime victims' compensation and the arrest, prosecution and conviction of criminal defendants are longer range needs.

Studies have shown that many crime victims lose their homes, their financial independence and are affected for the rest of their lives - sometimes due to the criminal justice system's lack of initial responsiveness. Local programs, whether governmentally or privately sponsored, such as crime victim/witness assistance centers, rape crisis centers, domestic violence shelters or other programs, may provide timely assistance (such as the Red Cross provides in times of natural disasters). Such assistance may give an individual or family the extra attention needed during a crime victimization crisis.

Recent legislation has permanently established a statewide network of more than two dozen crime victim/witness assistance centers and rape victim counseling centers. Further information about these centers and their locations can be obtained by calling or writing the California Victim/Witness Assistance Network. This network, which is responsible for coordinating the funding for the centers, is located at 9719 Lincoln Village Drive, Suite 600, Sacramento, California 95827, 916/366-5377.

Information referral and court facilities services

Because each community differs in the degree to which it provides crime victim/witness assistance, you should contact your local prosecutor, sheriff, police department or community service groups to determine what services are available.

- violence.
- Medical treatment and services.
- Housing.
- Legal services
- Escort services
- Transportation services.
- Compensation benefits.
- Child care.
- Scheduled court appearances.
- Explanation of court procedures.
- Other related personal services.

Crime victim/witness assistance services usually consist of: - Counseling services for crisis situations, for example, rape or domestic

- Mechanics of attending court proceedings. - Witness and property protection or recovery.

The criminal justice system

Role of law enforcement

After a crime is reported to a law enforcement agency, the peace officer arriving first on the scene has the duty to find out as much as possible about the crime, the criminal and all potential witnesses. It is important for you to tell that peace officer everything you know. This information may help him identify and catch the criminal.

If the crime committed is a misdemeanor and you make a citizen's arrest, ask the peace officer where and when you can file the complaint. If in doubt, call the prosecutor's office the following day.

After the first officer writes the report, the case may be turned over to an investigator for further work. You may be interviewed again for additional information.

Be sure to remember the name of the investigator so you can obtain answers to later questions and seek any additional information you may need.

If there is enough evidence to arrest a suspect, that suspect may be arrested at the scene or a warrant of arrest may be issued by a judge, the suspect apprehended and the case turned over to the prosecutor. If a felony has been committed, the case will be prosecuted by the district attorney. If the crime is not a felony, the case will be prosecuted by the district attorney or the city attorney, depending upon your jurisdiction.

If there is not enough evidence to make an arrest and additional evidence is not discovered within a reasonable period of time, the case may be dropped.

Role of the prosecutor

When the criminal investigation has been completed, the case goes to the prosecutor's office. If the criminal is over the age of 18, the case will be handled in adult court. If the criminal is under the age of 18, the case may be handled in the juvenile court.

The prosecutor is responsible for reviewing all cases to insure the innocent are protected. After reviewing the facts and evidence surrounding each case, the prosecutor will prepare and file a formal complaint and prosecute if appropriate.

If the prosecutor proceeds with the case, the crime victim becomes the complaining witness. This does not mean the crime victim needs to hire a private attorney.

Although you may be contacted by someone, such as a public defender, private lawyer or investigator, working on behalf of the defendant, you are under no legal obligation to talk with anyone concerning the crime. If you choose to talk to the defendant's representative, it is vital to tell the truth. Please inform the investigating officer or prosecutor before such an interview.

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Return of property

Easily identifiable items, such as automobiles, are usually returned shortly after they have been recovered. If your automobile is stolen and later recovered, there may be towing and storage payments which you must pay before the car can be returned. Many items, however, must be held for the trial as they may be necessary to prove the crime. Once property has been received as evidence in court, it may be a long while before it can be returned. However, in some cases, you may successfully request your property be photographed and returned to you. In such situations, photographs will be substituted as evidence in court proceedings.

Types of criminal offenses

There are three types of criminal offenses: infractions, misdemeanors and felonies. An "infraction" is a public offense for which an offender can be fined but not sentenced to jail. A "misdemeanor" is a crime which is punishable by imprisonment in the county jail for not more than one year, by fine or by both. A "felony" is a crime which may be punishable by imprisonment in the county jail as a condition of probation or state prison. Fines are possible but uncommon sanctions in most felony cases. Certain felonies, such as most first-degree murders, are punishable by death or life imprisonment.

Persons under the age of 18 prosecuted in juvenile court may be sent to the Youth Authority or receive a variety of local dispositions. Persons under the age of 21 prosecuted in adult court may also be sent to the Youth Authority. Terms in the Youth Authority are usually considerably shorter than those in state prison.

Types of courts

There are trial courts and appellate courts. Trials for infractions and misdemeanors take place in justice or municipal courts. Initial proceedings for felonies take place in justice or municipal courts, but felony trials are held in superior courts.

Felony criminal convictions, whether obtained by trials or guilty pleas, may be appealed by defendants to the courts of appeal. After decisions by the courts of appeal, either the prosecution or the defense may request a hearing before the California Supreme Court. If a court of appeal or the California Supreme Court reverses a conviction, there may be a new trial and crime victims and witnesses may have to appear and testify again.

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Court appearances

If a criminal defendant is charged with a misdemeanor, the only court appearance you will usually be required to make is at the trial. Preliminary hearings are not held for misdemeanor offenses.

If a criminal defendant is charged with a felony, you may be required to attend court more than once. Generally, your first court appearance will be for a preliminary hearing held in justice or municipal court.

The preliminary hearing is held to determine if a crime has been committed and if there is sufficient cause to believe the defendant committed it. If so, the defendant will be ordered to stand trial in superior court.

Preliminary hearings must be closed to the public upon request by criminal defendants. Crime victims, particularly sexual assault victims, are entitled to have the attendance in court and moral support of a person of their choice in all closed preliminary hearings.

Confidential communications between sexual assault victims, even those who must testify in court, and their sexual assault counselors are protected and private because the law now provides a "sexual assault counselor-assault victim privilege" similar to those provided by law to "doctor-patient" and "lawyerclient" relationships.

It is a crime to dissuade or prevent, or attempt to dissuade or prevent, a crime victim or witness from: (1) assisting law enforcement agencies or prosecutors: or (2) attending or giving testimony at any trial or any proceeding authorized by law or inquiry. If any such efforts involve coercion, threats or force, it is a felony, otherwise it is a misdemeanor.

Criminal defendants have a statutory right to test the legality of police conduct, especially searches and seizures, before their trials. Criminal defendants also have a right to test the reliability of identifications made by crime victims or witnesses prior to trials. Therefore, crime victims or witnesses may be required to attend both types of these evidence suppression hearings, several of which may be conducted.

During preliminary or evidence suppression hearings and during the trial, you will be questioned by the prosecutor and then the defense attorney. The prosecutor may discuss courtroom rules and testimony with you just before any of your court appearances.

The following are some suggestions for becoming a good witness:

- 1. Be truthful. Never exaggerate or shade your testimony. Just tell the facts, simply and concisely, as you know them.
- 2. Be attentive. Listen carefully to the questions. If you do not understand a question, ask that it be explained.
- 3. Answer only the question asked. Do not try to say everything at once or volunteer information that is not asked.

- permit you to explain after first answering "yes" or "no."
- knowledge and memory.
- recall relevant facts.

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- enforcement officials, your family or others.
- direction.
- it may diminish the impact of your testimony.
- head for a "no."
- 11. Dress neatly. Present a proper appearance.
- sincerity.

Generally, your last court appearance will be at the trial in front of a jury, unless both sides give up their rights to a jury trial, in which case the trial will be before a judge.

If the defendant is found guilty, you may be contacted by the county probation department. The probation department will use your information in its report to the judge for use in sentencing the defendant. Your views should only be communicated to the judge through the probation officer or the prosecutor. Do not hesitate to express your views of the defendant, the crime or other relevant facts or circumstances if you so desire. You do not have to be present at the sentencing proceedings. You may, nevertheless, attend if you desire. You may call the prosecutor or court clerk to find out the sentencing date.

4. Explain your answer, if necessary. If a question cannot be answered truthfully and fully with a "yes" or "no," you have the right to ask the judge to

5. Do not guess. Give positive, definite answers whenever possible. If you do not know an answer, do not be afraid to say so. Do not quess. Do not stop to figure out whether your answers will help or hurt your testimony for either the prosecution or the defense. Just answer questions to the best of your

6. Be prepared. Do not try to memorize what you are going to say, just try to

7. "Have you talked to anyone about the case?" Do not forget your conversation with the prosecutor or staff or with the defense attorney or staff. Answer very frankly if you have talked with either side's attorneys, law

8. When counsel objects to a question. Do not answer such a question until the judge rules on the objection. If you are confused, ask the judge for

9. Remain calm and courteous. Do not lose your temper or become angry as

10. Speak clearly and loudly. Always face the person questioning you, speak clearly enough to be heard by the jury. Do not nod for a "yes" or shake your

12. Be yourself. The judge, jurors and attorneys are human also and appreciate



Victims' compensation

Violent crime victims' compensation

A subject of growing concern for crime victims involves violent crime victims' compensation. How can violent crime victims be compensated for the financial, emotional and physical losses they may have suffered?

Crime Victims' compensation program

Several years ago, by law, California established a fund to assist victims of violent crimes. This fund provides money to persons who have, as the direct result of a violent crime, suffered a monetary loss. The law requires law enforcement agencies to inform victims of violent crime about the availability of state funds and how to file claims.

Who is eligible?

Any California resident who: (1) has sustained an injury as a direct result of violent crime; (2) is legally dependent upon such an injured party for support; or (3) is responsible for medical or burial expenses of a deceased violent crime victim, is eligible for violent crime victims' compensation.

Compensation amount

Depending on the circumstances, a person who qualifies as a violent crime victim may be entitled to receive:

- Up to \$10,000 for unreimbursed medical and hospital expenses.
- Up to \$10,000 for loss of wages or support.
- Up to \$3,000 for participation in job-oriented rehabilitation or retraining programs.
- Up to \$500 for attorney fees.

Application

To apply for compensation, you must submit a claim within one year after the crime and must cooperate in the investigation and prosecution of the criminal.

Applications and further information are available from your local prosecutor, sheriff or police department or the State Board of Control. The State Board of Control, which is responsible for administering the violent crime victim compensation fund, is located at 926 J Street, Suite 300, Sacramento, California 95814, 916/322-4426.

Prior to payment, the State Board of Control will investigate and verify the claim. This may take up to a full year. Awards are made from funds, amounting to several millions, appropriated annually by the Legislature.

Restitution

If a judge grants a criminal defendant probation, that judge may order the defendant to pay you for damages caused by the crime. (It is helpful to the county probation department and judge if you have kept records of your personal injuries and monetary or property losses.) If a defendant is sentenced to state prison, however, the judge does not have this authority.

But, if you have suffered a monetary or property loss or personal injury, regardless of the criminal case outcome, you have the right to file a civil suit against the defendant to attempt to recover for your losses or injuries (for example, medical bills, loss of wages and general damages).

Victims' rights litigation

In some circumstances, certain third parties, other than criminal defendants, may be liable for your crime losses or injuries. You should check with the local prosecutor for information regarding restitution and with a private lawyer for information regarding possible civil litigation involving either a criminal defendant or third parties.

Virginia Beach, Virginia 23451.

For general information on crime victims' civil litigation, contact the Crime Victims Legal Advocacy Institute, F & M Building, Suite 9, 210 Laskin Road,

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Crime prevention

Preventing crime prevents crime victimization.

Since you have become either a crime victim or witness, try hard not to let it happen again. Do not depend on the police to protect you or your property - it is your responsibility first.

Crime prevention is simple. It means locking your doors and windows, being more cautious and attentive when you are out alone, being alert to your surroundings and learning techniques by which you can avoid or deter would-be criminals.

To find out what crime prevention techniques and resources are available in your community, contact your local prosecutor, sheriff or police department. Crime prevention information may also be obtained from the Crime Prevention Center, Office of the Attorney General, 555 Capitol Mall, Suite 290, Sacramento, California 95814.

To find out what public school crime prevention techniques and resources are available in your community, contact your local superintendent of schools, prosecutor, sheriff or police department. Public school crime prevention information may also be obtained from the School Safety Center, Office of the Attorney General, 555 Capitol Mall, Suite 655, Sacramento, California 95814.

Glossary of legal terms

Acquittal:

A final judgment by a judge or jury that the prosecution has not proven a criminal defendant's quilt beyond a reasonable doubt. This is a "not guilty" verdict.

Bail:

The deposit, money, property or bond that is put up by or on behalf of an arrested person to get out of jail before or after court proceedings begin. The state Constitution declares all arrested persons, other than those charged with a death penalty offense, are entitled to reasonable bail.

Calendar:

The list of cases set in the same court on the same date.

Complaint:

A written accusation, filed by a prosecutor in a justice or municipal court, which accuses one or more persons of committing one or more crimes.

Continuance: A delay of court proceedings.

Conviction:

A judgment, based either on the verdict of a jury or of a judge or on the plea of "guilty" or "nolo contendere" (no contest) by a criminal defendant, that the defendant is quilty of the offense(s) then pending.

Cross-examination:

The questioning of a witness by an attorney following direct examination by the attorney who first called the witness.

Defendant:

A person against whom a criminal case is pending.

Direct examination:

The questioning of a witness by the attorney who first called the witness.

Discovery:

The pretrial procedure in which the defense receives evidence in the possession of the prosecution, including witness statements, police reports, scientific examinations, etc. This is to permit the defense attorney to prepare the defense. The prosecution is not usually entitled to "discover" defense evidence.

Dismissal:

A decision by a judge to end the prosecution of a case without deciding whether or not the defendant is guilty or innocent.



Evidence:

Testimony, documents, material objects or anything presented to human senses, which are offered to prove or disprove any fact relevant to a case.

Expert witness:

A person who has training, education or experience beyond that of an average citizen on a particular subject and who is formally found to be qualified as an expert by a judge. The expert witness may then give opinions in court on matters to which his expertise is relevant. Nonexpert witnesses normally cannot give opinions in response to questions in court.

Felony:

A crime which may be punishable by imprisonment in a state prison and/or fine or death. Probation, with or without county jail time, is also usually a possible disposition.

Holding order:

A decision ordering one or more persons to stand trial made by a justice or municipal court judge after a preliminary hearing based on findings that one or more crimes have been committed and that there is sufficient cause to believe one or more persons committed the crime.

Hung jury:

Occurs when jurors cannot unanimously agree on a verdict of either guilty or not guilty followed by a judge declaring a mistrial. The case may then be retried at the discretion of the prosecutor.

Indictment:

A written accusation, returned by a grand jury and filed in superior court, which accuses one or more persons of committing one or more crimes.

Information:

A written accusation filed in a superior court by a prosecutor following a preliminary hearing in a justice or municipal court. An information accuses one or more persons of committing one or more crimes.

Lower courts:

Justice and municipal courts.

Misdemeanor:

A crime punishable by imprisonment in the county jail for not more than one year, by fine or by both.

Mistrial:

Occurs when a trial must be stopped for any reason at some time after starting or, as by a hung jury, when jurors cannot unanimously agree on a verdict. The case may then be retried at the discretion of the prosecutor.

Motion:

The formal request, by either prosecution or defense, for a judge to hear and decide a disputed issue.

"Overruled":

A judge's ruling that an attorney's objection is improper.

Own recognizance:

The release, without bail, of a criminal defendant who promises a judge to appear at future court proceedings. This is possible in all cases in which a defendant is entitled to post bail because the judge in such cases also has statutory discretion to release a defendant on his own "recognizance" or "responsibility," without posting bail, for subsequent court appearances. Failure by a defendant to later appear in such a case is, itself, a crime. Crimes which are punishable by death, such as most first-degree murders, are not bailable.

Parole:

Usually the status of a formally supervised person at large in the community after release from a state or county correctional institution.

Plea:

The response by a defendant to formal charge(s) in court. Such pleas include "guilty," "not guilty," "nolo contendere" (no contest) or "not guilty by reason of insanity."

Plea Bargain:

Usually involves a criminal defendant pleading guilty or nolo contendere (no contest) to a lesser offense or to only one of several charged offenses in return for an agreed upon disposition.

Probation:

A status judicially imposed on a criminal defendant who agrees to be supervised, usually formally, by a county probation department under specified conditions. Conditions of probation may include county jail, a fine, restitution to the victim, community work, counseling, "good conduct," etc.

Restitution:

Something a criminal defendant pays a crime victim for fiscal losses or personal injuries caused by the relevant crime.

Sentence:

The penalty imposed by a judge upon a convicted criminal.

Subpena:

A mandatory legal notice to appear in court.

"Sustained": A judge's ruling that an attorney's objection is proper.

Witness: A person sworn to testify in court.

Citizens' Advisory Commission on Victims of Crime

William D. Curtis, Chairman District Attorney Monterey County

Walter Adair Victims Committee California Peace Officers Association

Robert L. Allen Chief of Police Capitola

Janet Barkas Author, The Victims New York

Harold O. Boscovich, Jr. Project Director, Crime Victims Program District Attorney's Office Alameda County

Walter Brown Senior Trial Deputy District Attorney Alameda County

Frank Carrington Executive Director Crime Victims Legal Advocacy Institute Virgina Beach, Virgina

N.A. Chaderjian California Board of Prison Terms

Herbert D. Clough, Jr. Special Agent in Charge, Retired Federal Bureau of Investigation

Carlos Cruz President Latino Peace Officers Association

Gerald W. Doyle California Peace Officers Association John G. Edmonds California Crime Prevention Officers Association (Northern Chapter)

Herbert E. Ellingwood Attorney at Law, Caldwell and Toms Sacramento

Marilyn Ettl Yuba City

Pamela Faust Executive Director California Commission on the Staus of Women

Art Finley Talk Show Host Radio Station CJOR Vancouver, British Columbia

Timothy L. Fitzharris Executive Director California Probation, Parole Correctional Association

Howard M. Gilbert Special Prosecutor Lassen County

Frederic Hanelt Attorney at Law Sacramento

Margaret Hartman Women Peace Officers Association of California

Bob Helton California Crime Prevention Officers Association (Southern Chapter)

Katherine Hickman Director Victim/Witness Service Center Fresno County **G. William Hunter** U.S. Attorney San Francisco

Donald G. Ingraham Senior Trial Deputy District Attorney Alameda County

Albert M. Leddy District Attorney Kern County

Duane H. Lowe Sheriff Sacramento County

Patricia J. MacChesney Office of the Mayor Los Angeles

Ronald Markman, M.D. Ventura

Gerald Martin Director Professional Standards Bureau Compton

Alister McAlister Assemblyman California State Legislature

Allan B. McNie, M.D. Director Institute of Forensic Sciences Oakland

John J. Meehan Chief Assistant District Attorney Alameda Country

Edwin Meese III Counsellor to President Ronald Reagan

Marteen J. Miller Public Defender Sonoma County

Lincoln N. Mintz Attorney at Law Oakland Robert T. Monagan President California Manufacturers Association

Christopher G. Money District Attorney San Luis Obispo County

Ralph D. Morrell Dixon

Jim Nielsen Senator California State Legislature

Andrea Sheridan Ordin U.S. Attorney Los Angeles

Carol Wendelin Pollack Deputy Attorney General State of California

Norman E. Pomrenke Director Southern Police Institute Louisville, Kentucky

Marlene Young Rifai President National Organization for Victim Assistance Washington, D.C.

Robert B. Presley Senator California State Legislature

Wilson C. Riles Superintendent of Public Instruction State of California

James Rowland Chief Probation Officer Probation Department Fresno County

Ruth Rushen Director Department of Corrections State of California

Mike Rushford Director, Anti-Crime Department California Chamber of Commerce Harry W. Schloetter Chief U.S. Probation Officer (Northern District) San Francisco

Kenneth Frederick Smith Attorney at Law Oakland

Harry Sondheim Head Deputy, Appellate Division District Attorney's Office Los Angeles County

Allan Sonin Committee on Crimes Against Elderly California Commission on Aging

Robert Tannenbaum Attorney at Law Los Angeles

William Tell Thomas Vice President, Marketing Kwikset — Division of Emhart Industries Anaheim

George P. Tielsch Chief or Police Anaheim

A. Ruric Todd Hillsborough

Denzil R. Verardo President California State Park Rangers Association

E. Richard Walker Federal Defender Sacramento **Howard Way** Secretary Youth and Adult Correctional Agency State of California

William F. Wenke Former President State Bar of California

Pearl West Director Department of Youth Authority State of California

Byron Wong Asian Peace Officers Association

Christine Yee Director, Improving Police Services Police Department San Francisco

John Young, M.D. Sacramento

Jay Ziskin Author, Coping with Psychiatric and Psychological Evidence

Ronald Zumbrun President Pacific Legal Foundation

*William E. James Senior Assistant Attorney General State of California

*We are deeply saddened that Bill James passed away while serving as a member of the Citizens' Advisory Commission on Victims of Crime. To recognize and honor the substantial and numerous contributions he made, not only to **The Crime Victims Handbook**, but to the Attorney General's Office and the citizens of California during his 35 years of public service, his name is retained among those on the Commission.

Judicial Advisory Commission on Victims of Crime

Carl West Anderson, Chairman Judge, Superior Court Alameda County

Armand Arabian Judge, Superior Court Los Angeles County

Stanley Barnes Senior Judge, U.S. Court of Appeals Ninth Circuit Los Angeles

M. Ross Bigelow Judge, Superior Court Los Angeles County

David N. Eagleson Judge, Superior Court Los Angeles County

Ronald M. George Judge, Superior Court Los Angeles County

L. Thaxton Hanson Justice, Court of Appeal Los Angeles

Donald R. Kennedy Judge, Municipal Court Redding

Campbell M. Lucas Judge, Superior Court Los Angeles County

Malcolm M. Lucas (I.S. District Judge (Central District) Los Angeles **Robert Z. Mardikian** Judge, Superior Court Fresno County

Kathleen Parker Judge, Superior Court Los Angeles County

Robert Quall Judge, Municipal Court Merced

Edward J. Schwartz Chief Judge, U.S. District Court (Southern District) San Diego

Howard L. Schwartz Judge, Superior Court Alameda County

Ronald Tochterman Judge, Municipal Court Sacramento

Donald Walberg Judge, Justice Court Marysville

Philip C. Wilkins Chief (J.S. District Judge (Eastern District) Sacramento

Eric Younger Judge, Superior Court Los Angeles County



Artists' Advisory Commission on Victims of Crime

Paul Conrad, Cochairman Editorial Cartoonist Los Angeles Times

Jim Kirwan, Cochairman San Francisco

Paul A. Duginski Sacramento Terry Flanigan Sacramento

Lee Judge San Diego

Francis Woodcock San Rafael

Lois Wallace, senior consultant with the Crime Prevention Center, is the staff support coordinator for the Attorney General's Advisory Commissions on Victims of Crime

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