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Stuart Greenbaum/CA Dept.
of Justice

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Further information is available from the National Institute of Justice, U.S. Department of Justice.



Remembering Forgotten Victims

CRIME PREVENTION CENTER
Office of the Attorney General
George Deukmejian, Attorney General

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Remembering Forgotten Victims

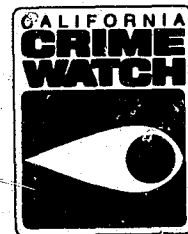
CRIME PREVENTION CENTER
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George Deukmejian, Attorney General

REMEMBERING FORGOTTEN VICTIMS

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April 1980
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PREFACE

"I thought I'd died," declares Annette Carlson. "When I woke up in the hospital I thought I was blind because my eyes were swollen shut."

Mrs. Carlson still sees a therapist. "When I brush my hair I can't help seeing the scars on my face and scalp. It's with me. It won't go away."

The personal torture the foregoing describes is the legacy of a night of terror more than six years ago and the mental and physical anguish which the intervening years have failed to diminish.

On that night of terror, Mrs. Carlson watched as Angelo Pavageau murdered her husband with a hammer, a chopping block and vases. If that wasn't enough, Pavageau raped and beat her with a rocking chair until she appeared dead and then set the couple on fire.

Anticipating Pavageau's April 1980 parole hearing, Mrs. Carlson, expressing shock and dismay, wrote parole authorities, "I have not yet rebuilt my life and the one who took it all away is having a parole hearing! Good God, is there no justice left on Earth!"

That is a good question to ponder as we survey the six years of grief faced by Mrs. Carlson in the context of three decades of public, private and judicial indifference to the plight of crime victims. That survey makes it painfully evident the period can be accurately called the era of forgotten victims and forgiven crimes.

Fortunately, there are recent developments which tend to indicate this regrettable chapter in the history of criminal justice may be drawing to a close.

Prominent among these developments has been the increased attention paid to crime victims. For too long, the administration of criminal justice has been virtually transfixed by legal technicalities and largely preoccupied with criminals and their rights.

It appeared government had forgotten or ignored its duty to protect the rights of life, liberty and property of innocent citizens against those who would commit crimes against them.

Finally, however, public officials, community organizations, governmental agencies and some judges have discovered that crime victims are essential parties to the criminal justice process. As a direct result, steps are being taken to make the criminal justice system more sensitive and responsive to the views and needs of crime victims.

The duty to recognize crime victims and to provide them with justice was aptly expressed more than 40 years ago by United States Supreme Court Justice Benjamin N. Cardozo who declared, "Justice, though due the accused, is due the accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true."

Society has a long way to go before balance between criminals and their victims is restored. At the very least, however, progress is being made in the search for fair, just and humane treatment of crime victims.

A principle catalyst for advancing the cause of crime victims has been "California's Forgotten Victims Week" which was first observed in 1977. Originally conceived by the California District Attorneys Association, the "Week" has received national, state and local support. The "Week" provides the framework for a multi-faceted, statewide effort to focus attention on crime victims and to improve society's treatment of those who, through no fault of their own, are victimized by the criminal acts of others and who thus become entangled in the criminal justice system. The Attorney General's Office joined in founding it and has been active in "California's Forgotten Victims Week" since its inception.

For the fourth year now, the California Legislature has adopted a resolution proclaiming the last week in April as "California's Forgotten Victims Week." Almost 100 legislators from all over the state have again signed on as coauthors of the resolution. Principal coauthors were Assemblymen Alister McAlister, D-San Jose, and Dave Stirling, R-Wittier, and Senators Robert Presley, D-Riverside, and Jim Nielsen, R-Woodland.

Dramatic and positive responses by public agencies, private individuals, civic groups and the news media to "California's Forgotten Victims Week" have demonstrated the widespread concern about the directions being taken by our criminal justice system and a reawakened belief that a just society must provide concern for crime victims that is at least equal to that given to criminals.

Each year, the "Week's" activities have emphasized forgotten victims are everyone; that forgotten victims are the potential victims of crime as well as those who have already suffered loss, harm, pain or death at the hands of criminals.

Perhaps "California's Forgotten Victims Week" will promote a sufficient public interest and an adequate governmental response so that, in time, we may put the current, tragic era of forgotten victims and forgiven crimes behind us. The sooner we can do that, the better will be the quality of life for all law-abiding Californians.

George Deukmejian
Attorney General
State of California

California Legislature Resolution

BY ASSEMBLYMEN ALISTEN McALISTER, ART AGNOS, RICHARD ALATORNI, PAUL T. BARNAL, ASSEMBLYWOMAN MANIAN BERGESON, ASSEMBLYMEN HOWARD L. BERMAN, DENNIS BROWN, VICTOR CALVO, LILH R. CHAGUN, RICHARD C. CLINE, JIM COSTA, WADIE P. DEDDEN, ASSEMBLYWOMAN LYONA H. EGELAND, ASSEMBLYMEN DAVE ELLER, JIM ELLIS, GERALD N. FELANDE, JACK R. FENTON, WILLIAM J. FILANIL, ROBERT C. FRAZEE, LARRY F. GRILINI, ASSEMBLYWOMAN CAROL HALLETT, ASSEMBLYMEN ELIHO M. HARRIS, RICHARD D. HAYIN, J. ROBERT HAYLS, ASSEMBLYWOMAN TENESA P. HUGHES, ASSEMBLYMAN CHARLES IMBICHI, WALTER M. INGALLS, WILLIAM H. IVERS, ROSS JOHNSON, LAWRENCE KAPLOFF, JAVID G. KILLEY, BILL LANCASTER, WILLIAM R. LEONARD, MEL LEVINE, DENNIS MANGERS, LEO T. MCCARTHY, HENRY J. MILLO, ASSEMBLYWOMAN JEAN MOORHEAD, ASSEMBLYMEN S. FLOYD MOH, RICHARD MURPHY, ROBERT W. NAVLON, BRUCE WILSTANDL, PATRICK J. NOLAN, RICHARD ROBINSON, DON ROGERS, MICHAEL L. ROOS, ASSEMBLYWOMAN MARIEN RYAN, ASSEMBLYMEN STAN STATHAM, DAVE STIRLING, ART TORRES, JOHN VASCONCELLOS, CHESTER B. WRAY, PHILIP D. WYMAN, AND BRUCE YOUNG

SENATORS ALFRED E. ALQUIST, ROBERT G. BLIVENLY, JOHN V. BRIGGS, WILLIAM CAMPBELL, PAUL CAMPINILE, RALPH C. DILLS, JOHN GARAMENDI, ALIX P. GANCIA, RAY JOHNSON, JOHN A. NEILDY, JIM NIELSEN, ROBERT NIMMO, ROBERT B. PRESLEY, OMER L. RAINS, H. L. RICHARDSON, ALAN ROBBINS, NEWTON R. RUSSELL, JOHN SCHMITZ, ALAN SIEROTY, OLLIE SHERAW, DIANE WATSON, AND BOB WILSON

RELATIVE TO "CALIFORNIA'S FORGOTTEN VICTIMS WEEK"

WHEREAS, THERE HAS BEEN INSUFFICIENT ATTENTION TO THE RIGHTS OF VICTIMS AND WITNESSES IN OUR SOCIETY, AND

WHEREAS, IT IS THE DUTY OF ALL CITIZENS AND INSTITUTIONS TO PLAY POSITIVE ROLES IN IMPROVING THE PLIGHT OF VICTIMS OF VIOLENT CRIME AND THEIR SURVIVORS, AND TO RESTORE EFFECTIVENESS TO THE ADMINISTRATION OF CRIMINAL JUSTICE; AND

WHEREAS, BETTER REPORTING OF CRIME AND GREATER WILLINGNESS OF PERSONS TO TESTIFY ARE ESSENTIAL TO THE CONTROL OF CRIME AND THE IMPROVEMENT OF JUSTICE; AND

WHEREAS, CREATING A BETTER UNDERSTANDING OF THE RIGHTS OF VICTIMS AND WITNESSES AND THE NATURE OF OUR CRIMINAL JUSTICE SYSTEM WILL HELP TO ACHIEVE THE GOALS OF CRIME REDUCTION, AND THE RESTORATION OF FAIRNESS AND EFFECTIVENESS TO THE ADMINISTRATION OF CRIMINAL JUSTICE, NOW, THEREFORE, BE IT


RESOLVED BY THE JOINT RULES COMMITTEE OF THE SENATE AND THE ASSEMBLY, THAT THE MEMBERS HEREBY TAKE THIS OPPORTUNITY TO ENCOURAGE THE HONORABLE EDMUND G. BROWN JR., GOVERNOR OF THE STATE OF CALIFORNIA, TO OFFICIALLY ACKNOWLEDGE APRIL 21ST THROUGH 15TH, 1980, AS "CALIFORNIA'S FORGOTTEN VICTIMS WEEK", AND BE IT FURTHER


RESOLVED, THAT SUITABLY PREPARED COPIES OF THIS RESOLUTION BE TRANSMITTED TO GOVERNOR EDMUND G. BROWN JR., AND TO EACH OF THE OTHER 49 STATE GOVERNORS.

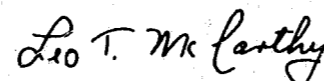
RESOLUTION No. 87
APPROVED BY THE JOINT RULES COMMITTEE

SUBSCRIBED THIS 8TH DAY OF MARCH, 1980


JAMES R. MILLS, CHAIRMAN
SENATE RULES COMMITTEE


LOUIS J. PAPAN, CHAIRMAN
ASSEMBLY RULES COMMITTEE


MIKE CURB
PRESIDENT OF THE SENATE


LEO T. MCCARTHY
SPEAKER OF THE ASSEMBLY

REMEMBERING FORGOTTEN VICTIMS

"It's a question of proportion," says Court of Appeal Justice Macklin Fleming. "Certainly we need civil rights. But civil rights are secondary to personal rights. Personal rights -- our rights to life and to personal movement -- come first. Madison said if men were angels we wouldn't need government. But they aren't, so we need government. And then the need arises for civil rights to restrain government abuses.

"But personal rights came first, civil rights second, and if we let the protection of civil rights derogate from the protection of personal rights, we're letting the tail wag the dog. I think that's one of the difficulties we've had in the last 20 years. We've lost sight of the supremacy of personal rights over civil rights."

One of the most promising recent developments in the field of criminal justice has been an increased attention for crime victims. This is just as Justice Fleming would have it. For too many years, the administration of criminal justice has been increasingly bogged down in a complex mire of legal processes, preoccupied with criminals and their "civil rights." It appeared that government had lost sight of its primary reason for existence -- to protect the "personal rights" of life, liberty and property of innocent citizens against those who would commit crimes against them.

Finally, however, public officials, community organizations and governmental agencies have discovered that crime victims are essential parties to the criminal justice process. As a direct result, steps are being taken to make the criminal justice system more sensitive and responsive to the views and needs of crime victims.

Principal partners in the effort to advance the cause of crime victims have been the California District Attorneys Association (CDA) and the Attorney General's Office, which, in 1977 jointly inaugurated "California's Forgotten Victims Week." The "Week" quickly obtained broad-based national, state and local support.

A multi-faceted, statewide program was conducted to focus attention on crime victims and to improve society's treatment of those persons who, through no fault of their own, are victimized by the criminal acts of others and who thus become enmeshed in the criminal justice system.

In 1978, "California's Forgotten Victims Week" was observed by the distribution of ten original art works by San Francisco artist Jim Kirwan and a series of articles on a variety of subjects related to the plight of crime victims. (Those ten art works are reproduced in the back of this handbook.) Among the subjects covered were crime victims' rights litigation, crime and

the elderly, child abuse, rape, terrorism, crime and business, violence and youth, recidivism and career criminals.

The third annual "California's Forgotten Victims Week," conducted in 1979, was marked by more original art and crime victim-oriented articles.

This year, the fourth annual "California's Forgotten Victims Week" was observed during the last week in April. The Attorney General, through a busy schedule of daily events, again worked with the California District Attorneys Association to promote public dialogue and to set positive crime victim assistance programs in motion.

The dramatic response of public officials and agencies, private individuals and groups and the news media to "California's Forgotten Victims Week" demonstrates the widespread concern about the fairness and effectiveness of our criminal justice system and a reawakened belief that a just society must provide concern for crime victims that is at least equal to that given criminals.

Each year, the "Week's" activities have emphasized forgotten victims are everyone; that forgotten victims are the potential victims of crime, as well as the actual victims who have already suffered loss, harm, pain or death at the hands of criminals.

As one indication of the growing concern for crime victims, Assemblyman Floyd Mori, D-Pleasanton, has introduced Assembly Bill 3015 to require notice and opportunity to be heard for crime victims in sentencing proceedings. If AB 3015 becomes law, sentencing judges would have to consider crime victims' views before disposing of criminal cases. The bill is still pending. Another somewhat similar measure, Assembly Bill 1532, authored by Assemblyman Ross Johnson, R-Orange County, is also pending.

In addition, the improved climate surrounding crime victims has resulted in progress in five other major areas: (1) broadened legislative and judicial initiatives; (2) strengthened crime prevention efforts; (3) expanded crime victims compensation; (4) improved crime victim/witness assistance programs; and (5) evolving crime victims' rights litigation.

BROADENED LEGISLATIVE AND JUDICIAL INITIATIVES

In an effort to better protect the public, the Legislature abolished indeterminate sentencing in 1976. It became immediately apparent the new determinate sentencing structure was woefully inadequate in many respects. Consequently, three major amendments were passed in subsequent years.

In 1977, there was Assembly Bill 476, authored by Assemblyman Daniel Boatright, D-Concord, to improve procedures in the new determinate sentencing law. In 1978, there was Senate Bill 709, authored by Senator Robert Presley, D-Riverside, to strengthen state prison terms for a variety of violent crimes. In 1979, there was Senate Bill 13, authored by Senator H. L. Richardson, R-Arcadia, to strengthen state prison terms for a variety of sexual abuse crimes.

Laws to improve peace officers' and prosecutors' ability to locate, prosecute and imprison career criminals were adopted in 1977, by Senate Bill 683, authored by then-Senator George Deukmejian, R-Long Beach, and in 1978, by Senate Bill 2039, authored by Senator John Holmdahl, D-Oakland.

The importance of actively pursuing career criminals was made very clear in April 1980, when a study of 624 felons in five California prisons was released. That study, "Doing Crime: A Survey of California Prison Inmates," conducted by the Rand Corporation during a two-year period, was financed by the National Institute of Justice.

Results showed that a quarter of the prisoners are career criminals. They began serious crime as children, are psychologically attuned to it and expect to continue their lives of crime after prison.

They identify themselves as criminals, see crime as a safe and enjoyable way to the good life, take pride in their proficiency and typically don't worry about getting caught.

Several laws authored by then-Senator Deukmejian to require mandatory state prison terms for certain violent criminal offenses were also adopted. Among them were Senate Bill 278, relative to the "use a gun, go to prison" law in 1975; Senate Bill 370, relative to criminals who inflict great bodily injury on the blind, elderly or handicapped in 1977; and Senate Bill 1479, relative to forcible rape in 1979.

By another of then-Senator Deukmejian's bills, Senate Bill 1640 in 1978, sexual assaults with foreign objects or instruments are now classified as forcible rapes.

Once again, in 1977, the death penalty was restored to law by Senate Bill 155, authored by then-Senator Deukmejian. This was made necessary by the California Supreme Court's second attempt in five years to judicially abolish it.

Still being pursued are legislative proposals which will: (1) restore the M'Naghten Rule relative to the criminal defense of insanity; (2) abolish or narrowly restrict diminished capacity such as that used in the Dan White murder case in San Francisco; (3) require judges to consider public safety when bails are set for those accused of violent or serious repeat criminal offenses; (4) improve societal control of mentally disordered sex offenders and mentally disordered violent offenders; (5) permit judicially-monitored wiretapping in organized crime investigations; and (6) open all criminal court proceedings.

In the judicial sphere of the administration of justice, the Attorney General has taken a page from the American Civil Liberties Union's appellate practice book and created an Appellate Action Group to seek out key test cases in their earliest stages, to carefully nurture them through the trial and appellate courts so that they may most effectively help achieve much needed reforms to enhance the ability of peace officers to build legally sound cases and prosecutors to convict criminals, particularly violent ones.

STRENGTHENED CRIME PREVENTION EFFORTS

Statistics for 1979 show an overall increase in serious crimes. Among the most promising means available to diminish that increase and reduce the growing number of crime victims is citizen involvement. This is particularly true with reference to crime prevention programs. There is no question that an adequately informed and responsibly motivated citizenry can help restore public safety in the 1980's.

Consequently, the Attorney General's Crime Prevention Center has begun work on a statewide Plan to Restore Public Safety in the 80's. It is called CALIFORNIA CRIME WATCH. The goal of this plan is to conduct a coordinated, vigorous and effective statewide crime prevention crusade to reduce crime and violence during the next decade. Crime prevention is a major component from among the several criminal justice programs which are necessary to complete this monumental task.

This goal can be achieved if governmental and private sector leaders throughout California work together to:

1. Promote an informed public which will support retention and expansion of effective crime prevention programs;
2. Educate actual and potential crime victims how to better protect themselves, their homes, means of transportation, businesses, schools, parks and other recreation areas;
3. Develop a more responsible administration of criminal justice to vigorously and effectively apprehend, promptly convict and severely punish violent criminals; and thereafter
4. Deter actual and potential criminals, violent ones in particular, by warning them of the increased possibility of apprehension and conviction and of the enhanced probability of grave punishment should those warnings be ignored.

To begin this important effort requires a uniform statewide declaration of will. Such a declaration has been forthcoming. During recent months, the California Legislature has overwhelmingly adopted a formal resolution endorsing and supporting CALIFORNIA CRIME WATCH. The Legislature has been joined by hundreds of other governmental entities, school, business and labor groups, fraternal, civic and women's associations which have adopted similar resolutions. It is upon that loud and clear declaration of will that this very necessary effort to restore public safety in the 80's has been commenced.

As a part of CALIFORNIA CRIME WATCH, The Advertising Council's national crime prevention media campaign, TAKE A BITE OUT OF CRIME, is being implemented.

California Legislature Resolution

BY ASSEMBLYMEN ALISTER McALISTER, ART AGNOS, RICHARD ALATORRE, TOM BANE, PAUL T. BANNA, ASSEMBLYWOMAN MARIAN BERGESON, ASSEMBLYMEN DANIEL E. BOATWRIGHT, DENNIS BROWN, VICTOR CALVO, EUGENE A. CHAFFIE, ROBERT C. CLINE, JIM COSTA, WADIE P. DEDDEN, ASSEMBLYWOMAN LEONA H. EGELAND, ASSEMBLYMEN DAVE ELDER, JIM ELLIS, GERALD N. FELANCO, JACK R. FENTON, WILLIAM J. FILANTE, ROBERT C. FRAZEE, LEROY F. GREENE, ASSEMBLYWOMAN CAROL HALLETT, ASSEMBLYMEN THOMAS M. HANNIGAN, ELIHU M. HARRIS, GARY K. HART, RICHARD D. HAYDEN, J. ROBERT HAYES, ASSEMBLYWOMAN TERESA P. HUGHES, ASSEMBLYMEN CHARLES IMBRECHT, WALTER M. INGALLS, WILLIAM H. IVERS, ROSS JOHNSON, DAVID G. KELLEY, BILL LANCASTER, RICHARD LEHMAN, WILLIAM R. LEONARD, BILL LOCKYER, DENNIS MANGERS, BILL McVITTIE, ASSEMBLYWOMEN GWEN MOORE, JEAN MOORHEAD, ASSEMBLYMEN S. FLOYD MORI, RICHARD MOUNTJOY, ROBERT W. NAYLOR, BRUCE NESTANDE, PATRICK J. NOLAN, LOUIS J. PAPAN, CARMEN PERRO, RICHARD ROBINSON, DON ROGERS, HERSCHEL ROSENTHAL, ASSEMBLYWOMAN MARILYN RYAN, ASSEMBLYMEN STAN STATHAM, DAVE STIRLING, ASSEMBLYWOMAN SALLY TANNER, ASSEMBLYMEN JOHN E. THUNMAN, ART TORRES, JOHN VASCONCELLOS, ASSEMBLYWOMAN MAXINE WATERS, ASSEMBLYMEN CHESTER B. WRAY, PHILLIP D. WYMAN, AND BRUCE YOUNG

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RELATIVE TO CALIFORNIA CRIME WATCH

WHEREAS, ONE UNITED STATES HOUSEHOLD IN FIVE HAS BEEN HIT BY CRIME AT LEAST ONCE IN THE LAST 12 MONTHS, WITH EITHER PROPERTY STOLEN OR A MEMBER OF THE HOUSEHOLD THE VICTIM OF A PHYSICAL ASSAULT, ACCORDING TO THE FINDINGS OF A GALLUP POLL RELEASED IN DECEMBER 1979; AND

WHEREAS, THE GALLUP SURVEY FINDINGS PARALLEL THE UPTURN IN CRIMES REPORTED BY THE FEDERAL BUREAU OF INVESTIGATION WHICH REPORTED INCREASES IN EVERY KIND OF MAJOR CRIME FOR THE FIRST SIX MONTHS OF 1979; AND

WHEREAS, THE BUREAU OF CRIMINAL STATISTICS OF THE CALIFORNIA DEPARTMENT OF JUSTICE HAS DOCUMENTED SIMILAR RESULTS; AND

WHEREAS, THERE HAS BEEN INSUFFICIENT PUBLIC ATTENTION TO THE RIGHTS AND FEIGHT OF CRIME VICTIMS IN OUR SOCIETY AND TO EFFECTIVE CRIME PREVENTION PROGRAMS TO REDUCE THE NUMBERS OF CRIME VICTIMS; AND

WHEREAS, IT IS ESSENTIAL TO INFORM THE PUBLIC OF, AND BROADEN THE AVAILABILITY AND MERIT OF, EFFECTIVE METHODS OF CRIME PREVENTION TO HELP MINIMIZE FURTHER DISRUPTION IN THE LIVES OF CRIME VICTIMS, NOW, THEREFORE, BE IT

RESOLVED BY THE JOINT RULES COMMITTEE OF THE SENATE AND THE ASSEMBLY, THAT IN RECOGNITION OF THE FOREGOING AND THE MANDATE CONTAINED IN ARTICLE V, SECTION 11 OF THE CALIFORNIA CONSTITUTION, WHICH PROCLAIMS THE ATTORNEY GENERAL TO BE CALIFORNIA'S CHIEF LAW OFFICER, THE MEMBERS HEREBY TAKE THIS OPPORTUNITY TO ENDORSE AND SUPPORT CALIFORNIA CRIME WATCH AND THE ATTORNEY GENERAL'S PLAN TO RESTORE PUBLIC SAFETY IN THE 80'S; AND BE IT FURTHER

RESOLVED, THAT SUITABLY PREPARED COPIES OF THIS RESOLUTION BE TRANSMITTED TO THE AUTHORS FOR DISTRIBUTION.

RESOLUTION NO. 31
APPROVED BY THE JOINT RULES COMMITTEE

SUBSCRIBED THIS 11TH DAY OF FEBRUARY, 1980

James R. Mills
JAMES R. MILLS, CHAIRMAN
SENATE RULES COMMITTEE

Louis J. Papan
LOUIS J. PAPAN, CHAIRMAN
ASSEMBLY RULES COMMITTEE

Mike Curb
MIKE CURB
PRESIDENT OF THE SENATE

Leo T. McCarthy
LEO T. MCCARTHY
SPEAKER OF THE ASSEMBLY



The Advertising Council Inc

825 Third Avenue
New York, N.Y. 10022



**The Gilstraps aren't moving.
They're being robbed.**

These moving men aren't movers - they're crooks. They know the Gilstraps are out of town. What the crooks don't know is that right now the neighbors are calling the cops. Find out what you can do to help. Write to: Attorney General's Crime Prevention Center, Suite 290, Capitol Mall, Sacramento, CA 95814. You can help.

**TAKE A BITE OUT OF
CRIME**



**The Gilstraps aren't moving.
They're being robbed.**

The Gilstraps aren't home today. They're on vacation. And these moving men, about as smart as they are crooks, they think they will notice they're wrong.

Across the street, the neighbors are calling the cops. Because the neighbors know if they don't see the moving men, the crooks will have to wait until later.

That neighborly dog has started to help prevent crime. Find out what you can do to help. Write to: Attorney General's Crime Prevention Center, Suite 290, Capitol Mall, Sacramento, CA 95814. That'll help.



**TAKE A BITE OUT OF
CRIME**


'Scuse me, senior citizen, but the con man wants you.

Con man, Swindler Crook. They all want the same thing. Your money. As a senior citizen, you're a likely target for tricky crooks. Take for instance, the so-called "bank examiner". He calls and asks for your help in catching a "dishonest bank employee". You're supposed to withdraw money from your bank account and give it to him. Don't. He's a crook. This is just the way to get cheated. There are lots more. Find out about them. Write to: Attorney General's Crime Prevention Center, Suite 290, Capitol Mall, Sacramento, CA 95814. Beware the con man. Protect yourself, and report them. That's a good way to help.

**TAKE A BITE OUT OF
CRIME**

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A message from the Crime Prevention Coalition, this publication and The Ad Council



**TAKE A BITE OUT OF
CRIME**

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A message from the Crime Prevention Coalition, this publication and The Ad Council

The Advertising Council, a nonprofit organization which conducts public service advertising campaigns, has created this outstanding series of television, radio and print media advertising spots on crime prevention. These spots are of the same superior quality as are the other national programs conducted by The Ad Council. The American Red Cross, United Way and those programs opposing child abuse, inflation and environmental pollution are all Ad Council campaigns. Another of The Ad Council's programs, Smokey the Bear's fight against forest fires, is now 39 years old.

A Columbo-like hound dog is the narrator of The Ad Council's crime prevention series. That hound may, The Ad Council hopes, eventually achieve Smokey's 98 percent recognition factor with the American public because the crime prevention campaign is being actively waged in every state in the union.

California's role in this effort, however, is unique. Its citizens are being directed by The Ad Council's media blitz to contact the Attorney General's Crime Prevention Center in Sacramento for assistance. Other states are expected to follow this lead eventually. In the meantime, citizens in every one of the other 49 states must seek distant assistance from the Crime Prevention Coalition in Rockville, Maryland.

As the program progresses, a reference service is planned to permit citizens who contact the Attorney General's Crime Prevention Center for information to be referred back to their local law enforcement agencies, crime victim/witness assistance centers, rape crisis centers and domestic violence shelters for more information about ongoing community law enforcement, crime prevention and crime victim programs.

This most ambitious nationwide program, developed for the National Council on Crime and Delinquency and the Law Enforcement Assistance Administration, will utilize television, radio and the print media to stimulate citizen involvement in crime prevention to help reduce crime and violence during the decade of the 80's.

The potential value a conscientious crime prevention education program may provide was clearly documented by a federal study released in February, 1980.

The study, entitled "The Cost of Negligence: Losses from Preventable Household Burglaries," was prepared by the Census Bureau of the U.S. Department of Justice's Bureau of Justice Statistics. It is based on personal interviews in 60,000 households across the nation during 1972-1975. It deals with both reported and unreported burglaries.

More than 2.98 million no-force residential burglaries occurred in 1975 alone and, according to the study, monetary losses to the victims exceeded \$400 million. Thus, an average of 8,200 homes were invaded every day during that year.

Over the full three years of the study, more than nine million no-force residential burglaries resulted in an estimated loss of more than \$1.2 billion.

In what has to be characterized as an understatement, Homer F. Broome, acting Director of the Bureau of Justice Statistics, declared no-force residential burglaries to be "a serious national problem." Broome added, "These are crimes that could be prevented with just a little more care. In some cases, that may be as simple as locking doors and windows before leaving home."

The statistics contained in the study seem to bear out Broome's statement. On the basis of a subsample, the study concluded that 66 percent of no-force burglary entries were made through an unlocked door or window. Remarkably, seven percent were made through the use of a key, often found under a doormat.

Another even more pervasive impact of residential burglary was documented by the study. That impact is described as "an unmeasured psychological cost through increased fear of crime."

Information on recoveries of stolen property was also part of the study. "If victims harbored any hope of seeing their stolen goods again they were apt to be disappointed, for recovery rarely took place," the study concluded. In fact, 82 percent resulted in no recovery of stolen goods nor compensation through insurance.

These are sobering national figures. If they fairly portray the no-force burglary picture in California, then a major fraction of this state's roughly half million annual burglary victims can reasonably be expected to help successfully prevent crimes against themselves, their homes, their neighbors' homes and their businesses.

To assist in deterring residential burglars, the Legislature, in March 1980, passed Senate Bill 1236, authored by Senator Robert Beverly, R-Manhattan Beach. Lieutenant Governor Mike Curb signed the bill into law. It is effective January 1, 1981. Senate Bill 1236 is written to virtually eliminate probation for all nighttime residential burglars and extend minimum state prison terms.

To focus attention of the need to prevent and deter residential burglary, September is being designated as "Stop Burglary Month." The Attorney General's Crime Prevention Center will conduct another broadbased, statewide public awareness program during that month to explain how to anticipate and prevent residential burglaries and to warn residential burglars that virtually mandatory state prison terms face them, beginning next January, if they persist in invading the homes of others.

Last year, the Legislature passed Assembly Bill 23, authored by Assemblyman John Vasconcellos, D-San Jose, creating the California Commission on Crime Control and Violence Prevention. The Commission is composed of 25 persons representing a broad variety of criminal justice perspectives. The Attorney General has assigned Chief Assistant Attorney General Robert H. Philibosian to actively participate in the Commission's search for the primary causes of crime and violence.

In the Final Report of the Ad Hoc Committee on the Prevention and Management of Conflict and Crime in the Schools, published under the joint auspices of the Department of Justice and the Department of Education in 1975, a specifically worded recommendation was made to require school districts to report on the nature and extent of school violence and crime.

Senator David Roberti, D-Los Angeles, thereafter introduced several bills to address this topic. In 1979, Senator Roberti's Senate Bills 72 and 73 passed both houses of the California Legislature and were sent to the Governor for his signature. SB 72 created a school violence, crime prevention and reporting structure very similar to that proposed in the Final Report of the Ad Hoc Committee. SB 73 created a state funding structure to defray the costs local school districts faced to implement SB 72. Both were to be effective January 1, 1980.

Then something very remarkable occurred. The Governor signed SB 72 into law, but vetoed SB 73. Thus, a school violence, crime prevention and reporting structure was created, but the state funds necessary for it to be locally implemented were whisked away with a stroke of the Governor's pen. Parenthetically, it is notable that Senator Roberti's SB 73 had two dozen legislative co-authors, passed the Senate by a 21-6 vote and the Assembly by a 53-24 vote, and still the Governor vetoed it.

Despite the Governor's veto, the Department of Education is doing everything it can to implement SB 72. It has created an SB 72 Implementation Committee chaired by Consultant Larry Harrington of the Department of Education. The committee consists of county schools personnel and district schools personnel. That committee met in February and March 1980, and is making plans to do what it can to make the mandate of SB 72 a reality.

Speaking of funding sources for crime prevention programs, there is one such resource, as yet largely untapped, created in 1977, through the efforts of Senator Newton Russell, R-Glendale. Senator Russell's Senate Bill 2063, which substantially altered methods of handling petty theft cases, is now law. Of particular interest is a provision in the bill (Section 490.5, Penal Code) which permits county boards of supervisors to allocate one-half of the fines paid by persons convicted of petty theft to county school superintendents. These funds would then be distributed to local school districts for programs to discourage shoplifting, theft and burglary.

One other crime prevention funding source bears mention. It is Assembly Bill 2233 authored in 1978 by Assemblywoman Teresa P. Hughes, D-Los Angeles. The bill directs the Attorney General's Office to conduct an inner city crime prevention education effort. The Hughes bill, which is now law, appropriated \$20,000 for use by the Attorney General's Office in conjunction with a federal grant. Assemblywoman Hughes has agreed the funds may be used with the LEAA grant, "Juveniles, Justice and Crime Prevention: A New Perspective," recently obtained by the Attorney General's Crime Prevention Center.

To receive a comprehensive crime prevention information packet and a booklet of valuable crime prevention tips, in either English or Spanish, write to:

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

Other important sources of crime prevention information include:

Crime Resistance Task Force
c/o Office of Criminal Justice Planning
7171 Bowling Drive
Sacramento, California 95823

Mayor Tom Bradley's Crime Prevention Office
200 North Spring Street
Los Angeles, California 90012

California Crime Prevention Officer's Association
Northern Chapter
910 Eaton Way
Sunnyvale, California 94087

California Crime Prevention Officers Association
Southern Chapter
P.O. Box 12429
Santa Ana, California 92712

California Peace Officers Association
Crime Prevention Committee
Forum Building
1107 9th Street, Suite 800
Sacramento, California 95814

EXPANDED CRIME VICTIM COMPENSATION

The financial, legal and emotional problems faced by an ever growing population of crime victims are so complex that basic governmental institutions should be reformed to meet their needs according to a two-year study conducted during the mid-1970s by a federally financed Crime Victims Consultation Project.

By analyzing the trauma criminals inflicted on their victims during a 20-month period in New York, the study determined crime victims should be treated in the same way and with the same compassion as are victims of natural disasters.

Project consultants made the argument that crime victims should be accorded "special status" so they may obtain emergency medical, financial and legal assistance during the significant periods of their dislocations immediately following their property losses or physical injuries.

Existing "token" crime victims compensation programs operated in New York and elsewhere, the study concluded, "Make a mockery of the philosophical argument that society owes compensation to crime victims because of its failure to protect them."

Despite the foregoing criticism about crime victims compensation programs elsewhere, California has been a pioneer in enacting laws designed to provide compensation, at state expense, for victims of violent crimes.

Initially, when first created in 1965, California's crime victims compensation program provided only minimal funding. It was administered by state welfare authorities. In 1967, the victim's compensation law was completely revised, a "victims of crime program" was established under the State Board of Control.

During the next 13 years, financial assistance totaling more than \$25 million was provided to 13,350 crime victims. Nevertheless, during that period more than 1.7 million violent crime victims were potentially eligible. Incredibly, there were also more than 25,000 homicides.

Recent statutory amendments have made California the first state to provide for funding the victim compensation program by utilizing a portion of the fines meted out against criminal offenders to compensate the financial losses suffered by violent crime victims.

In addition to providing fiscal assistance to victims of what are commonly defined as violent crimes, similar assistance is available to the victims of drunk and hit and run drivers. Also, crime victim compensation laws provide funding for job training and similar employment-oriented rehabilitation services. Cooperation is provided by the Department of Rehabilitation and the Employment Development Department.

Two pieces of pending legislation, one before Congress and one before the California Legislature should provide additional funding for crime victim compensation programs.

The federal proposal, HR 4257, coauthored by Congressmen Peter Rodino, D-New Jersey and Father Robert Drinan, D-Massachusetts, has been pending for some time. If passed, the bill would provide \$15 million this year, \$25 million next year and \$35 million the following year to all the states with \$1.5 million specifically earmarked for California during the first year alone.

The state proposal, Assembly Bill 203, authored by Assemblyman Meldon Levine, D-Los Angeles, would establish an emergency funding procedure to help violent crime victims cope with the problems which immediately follow and often impose totally unexpected burdens.

In addition to the state's crime victim's compensation program, the California Legislature has enacted laws and is considering additional legislation to provide full restitution by criminals to crime victims whenever possible. Judges are often encouraged to order criminal defendants to compensate crime victims for losses or damages suffered as a result of criminal acts. Such orders are now altogether too rarely imposed.

Another state legislative proposal, Assembly Bill 3129, authored by Assemblyman Charles Imbrecht, R-Ventura, will remove a roadblock to the orderly and expeditious processing of claims for violent crime victims compensation. It will encourage cooperation between the State Board of Control and local crime victim/witness assistance programs. According to Assemblyman Imbrecht, the primary goal of Assembly Bill 3129 is to simplify the claims process so that violent crime victims may obtain everything they are entitled to as quickly as possible.

IMPROVED CRIME VICTIM/WITNESS ASSISTANCE

Crime victim/witness assistance programs, a new, but growing, part of the criminal justice process, recognize two critical subjects: (1) the need of crime victims for consideration, understanding, information and guidance, as well as counseling services, financial aid and medical and psychological rehabilitation programs; and (2) the need for the criminal justice system to provide continuing cooperation and assistance for crime victims.

Too often when crimes are committed, attention and resources are actively directed to criminals and to governmental agencies involved in enforcing and administering the criminal law. Meanwhile crime victims, with their injuries, suffering, humiliation, personal loss, property damage and financial detriment, are virtually forgotten.

In fact, crime victims are often twice victimized, once by the criminal and once by the criminal justice system. Left unattended almost immediately following the crime, crime victims are subsequently and cryptically summoned to investigatory or court proceedings which are frequently not understood or explained, and which invariably involve time lost from employment, personal inconvenience and financial loss.

Crime witnesses, without having any other involvement, often suffer similar impositions, just as do actual crime victims, simply because they happen to be present at the wrong time or place. The burdens faced by both crime victims and witnesses, when they become involuntarily and unwillingly caught in the criminal justice process, create three primary negative results. They are: (1) personal dislocation and detriment; (2) hostile feelings toward the administration of criminal justice; and (3) reluctance to cooperate with the governmental authorities who investigate and prosecute criminals.

Indeed, both crime victims and witnesses often feel they suffer more than defendants in criminal cases, particularly when ultimate penalties so often involve probation or some other minimal punishment. Because of these

feelings, recent surveys have shown that as many as two out of three crime victims never report their cases, while in too many cases those who observe crimes or have information about criminals "refuse to get involved" and fail to inform or cooperate with law enforcement officials.

Perhaps the single most outrageous example of governmental insensitivity to the needs of crime victims originated in a 1966 California Supreme Court decision in a case called Ballard v. Superior Court. In that decision, Justice Mathew Tobriner, writing the majority opinion, declared rape victims are prone to have sexual fantasies and should, therefore, be subjected to psychiatric examinations to determine their credibility. In intervening years, the ruling was expanded to include child molestation victims. In January 1979, the Attorney General spoke out against the psychiatric examinations permitted by the Ballard decision and called them mental rape. After a year-long legislative battle, Ballard motions, both for women and children, were then outlawed.

This was achieved when Senate Bill 365, coauthored by Senators Alan Robbins, D-Los Angeles, and Diane Watson, D-Los Angeles, was signed into law by Lieutenant Governor Mike Curb earlier this year. Senate Bill 365 contained the basic components of the bill which was first introduced by Assemblyman Alister McAlister, D-San Jose, to abolish Ballard motions.

In a related matter, the California Supreme Court heard arguments in April 1980, in a case, People v. Pompa-Ortiz, involving the question of whether rape victims have the right to testify in closed preliminary hearings, just as do criminal defendants when they chose to do so. The court of appeal and the trial court agreed with the rape victim. It remains to be seen what the Supreme Court will do.

The Ballard motion abolition and closed rape preliminary hearings, according to some rape crisis center staff members, will enhance the likelihood that rape victims will report their tragedies. To also promote crime reporting, victim/witness assistance programs have been initiated by police departments, prosecutor offices, community organizations and a variety of governmental agencies. Through these programs, efforts are made to acquaint crime victims and witnesses with court procedures and the need for their participation, minimize disruption of their personal lives, facilitate their participation in the criminal justice process and assist in obtaining needed aid to mitigate the losses and damages caused by crime.

Specific efforts, in many areas, include establishment of crime victim assistance "hotlines" to provide 24-hour counseling and referral to the appropriate social, medical and emergency aid facilities. Simplified methods have been developed for contacting crime victims and witnesses, delivering subpoenas and arranging for their presence in court at appropriate times.

Additionally, crime victim/witness service centers, rape crisis centers and domestic violence shelters have been established which, by telephone or personal contact, provide advice, information on court proceedings, allow persons under subpoena to stay at work or at home on

telephone alert until they are actually needed, assist in obtaining the return of property used as evidence during court proceedings and help file claims for crime victims compensation.

Measures have been taken to protect crime victims and witnesses against intimidation and harrassment in connection with their testimony and to provide immediate assistance if threats or suspicious circumstances occur.

Special briefings and informative pamphlets have been prepared to acquaint crime victims and witnesses with their responsibilities and roles in criminal trials, and to advise them who to call if questions or problems arise.

Facilities have been provided to assist crime victims in applying for compensation either through governmental crime victim compensation programs or through their own insurance.

There are many experts on crime victimology and crime prevention throughout the state and nation. Among them are:

The Honorable Carl W. Anderson
Superior Court Judge
Alameda County
Chairman, The Attorney General's
Judicial Advisory Commission on
Victims of Crime
24405 Amador Street
Hayward, California 94544

Ms. Janet Barkas
Author of Victims
P.O. Box 31
Coopers Station
New York, New York 10003

Mr. Frank Carrington, Secretary-Treasurer
Crime Victim's Legal Advocacy Institute and
Author of The Victims
FM Building, Suite 9
210 Laskin Road
Virginia Beach, Virginia 23451

The Honorable William D. Curtis
District Attorney
Monterey County
Chairman, The Attorney General's
Citizens Advisory Commission on
Victims of Crime
P.O. Box 617
Salinas, California 93902

Professor John Dussich
Founder and Executive Director
National Organization of Victim Assistance
University of Mississippi
Box 9227, Southern Station
Hattiesburg, Mississippi 39401

Professor Gilbert Geis
University of California, Irvine
Department of Social Ecology
430 C. Computer Science
Irvine, California 92717

Professor Jack Goldsmith
Author of Crime and the Elderly
American University
Massachusetts and Nebraska Avenues
Washington, D.C. 20016

Mr. B. M. Gray, II
Director, Crime Prevention
National Council on Crime and Delinquency
20 Banta Place
Hackensack, New Jersey 07601

The Honorable D. Lowell Jensen
District Attorney
Alameda County
President, California District
Attorneys Association and
Commissioner, National District
Attorneys Association's Commission
on Victims and Witnesses
900 Courthouse
1225 Fallon Street
Oakland, California 94612

Professor Edwin Meese, III
Professor of Law
University of San Diego
Director, Center for Criminal Justice
Policy and Management
Alcala Park
San Diego, California 92110

Mr. Norman E. Pomrenke, Acting Director
National Crime Prevention Institute
9001 Shelbyville Road
Louisville, Kentucky 40222

Mr. James T. Reilly
Project Director
National District Attorney's Association
Victim Witness Assistance Project
666 North Lake Shore Drive
Chicago, Illinois 60611

Professor Emilio Viano
Director, National Victim/Witness Resource Center and
Editor of the journal Victimology
108A South Columbus Street
Alexandria, Virginia 22314

The Attorney General has appointed three advisory commissions: (a) The Citizens Advisory Commission on Victims of Crime; (b) The Judicial Advisory Commission on Victims of Crime; and (c) The Artists Advisory Commission on Victims of Crime. The chairmen of the Citizens and Judicial Commissions are listed above. Cochairmen of the Artists Commission are Los Angeles Times political cartoonist Paul Conrad and San Francisco artist Jim Kirwan.

The three advisory commissions will review and illustrate The Crime Victims' Book manuscript, then advise the Attorney General on the manuscript's substance and the means to simplify and make it quickly and easily understandable to lay readers when eventually published later this year. The purpose of The Crime Victims Book is to inform crime victims, and the governmental officials who deal with them, as to their rights, duties, how to cope with the criminal justice system, apply for violent crime victim compensation and avoid again being victimized by crime.

These and other services are being improved and expanded throughout California and the nation as various agencies directly involved with the criminal justice system and related support organizations seek to provide fairer and more humane treatment for crime victims and witnesses.

EVOLVING CRIME VICTIMS' RIGHTS LITIGATION

Another area of recent development, which might be described as a "new frontier" in providing justice to crime victims, is the emergence of crime victims' rights litigation.

The Crime Victims Legal Advocacy Institute in Virginia is a leading force behind this new social experiment. The Institute provides information and assistance throughout the nation.

As described by Frank Carrington, the Institute's Secretary-Treasurer, a lawyer who takes a case into civil court on behalf of a crime victim-plaintiff is saying to criminal defendants, or other responsible parties, "You injured my client, or . . . by your willful or negligent conduct, my client was injured by another, and, therefore, you should respond

in damages. Such litigation, if successful, vindicates the rights of the immediate crime victim, but, perhaps more importantly, if a body of crime victims' rights law is developed, it will have the preventative aspect of putting would-be criminals and third parties who are responsible for crime victimizations on notice that the law works to aid crime victims, in addition to punishing wrongdoers."

The right of crime victims to sue criminals has always existed, but few such suits have been initiated because of the improbability of enforcing a judgment. Most violent crimes are committed by people who are too irresponsible to have earned or accumulated much money.

Thus, crime victims who go through the effort and expense of civil court proceedings, which require them to "relive" the terrible moments of their crime victimizations, are likely to get judgments which prove worthless when collection efforts against criminals are pursued.

However, such lawsuits are being filed in increasing numbers, often by lawyers willing to provide their services with little hope of adequate compensation, on the possibility that the defendants may, at some future time, obtain financial resources (perhaps even by writing a book about their criminal escapades). Such public spirited lawyers may even use the threat of civil action to deter other criminals or to focus public attention upon the enormity of the immediate criminal offense and the plight of its victims.

A more fruitful area for civil litigation is being explored in various parts of the country. It focuses on those who, through negligence or improper handling of their responsibilities, allow criminals to roam at large or otherwise contribute to the circumstances resulting in the commission of crimes against victim-litigants.

These cases involve two principle types of conduct: (1) the failure to warn potential crime victims of particular dangers posed by known criminals or psychopaths; and (2) the failure to exercise proper care by custodial or correctional officials concerning the release, placement or supervision of institutionalized youths, hospitalized psychopaths and convicted criminals.

In the first type, California generally supports the right of crime victims (or too often, unfortunately, crime victims' survivors) to obtain recovery when warnings of potential danger should have been provided, but were not. Thus, in Morgan v. The County of Yuba, Johnson v. State of California and Tarasoff v. Regents of the University of California, appellate courts have held that a cause of action existed: (1) when a deputy sheriff failed to give a promised warning of a dangerous prisoner's release from custody; (2) when a California Youth Authority parole officer failed to warn foster parents of the homicidal tendencies of a teenage parolee placed in their home; and (3) when a psychotherapist failed to warn a victim of threats from a dangerous patient who had confided his intentions to kill that victim.

A more difficult problem is involved in situations in which correctional officials or others charged with the custody of convicted criminals exhibit gross negligence and fail in their duty to properly protect the public

from the persons entrusted to their control. Many of these law suits have been blocked by invocation of the governmental immunity statutes that normally preclude recovery against public officials and agencies for some mistakes made in the exercise of their discretion concerning prisoners and other inmates of correctional institutions.

In some cases, however, imaginative attorneys have proved special circumstances exist, such as a special relationship between the victim and those who contributed to his injuries, or that public officials were engaged in "ministerial" rather than "discretionary" actions.

On such example occurred in 1974, in Valeu v. California, when a Southern California appeals court held that a cause of action existed against the California Youth Authority when a parole agent negligently failed to effectively supervise a teenage parolee, known to be violent, who brutally beat and permanently disabled an innocent, ten-year-old boy.

The court declared that once a service such as parole is undertaken, the government is held to the same standard of care in performing that service as the law requires of private citizens who render services. However, that decision was unpublished and, therefore, provides no binding precedent on future cases.

On the other hand, a Northern California appeals court held the opposite way in Whitcombe v. Yolo County. In the Whitcombe case, a man on probation, known to be highly dangerous, committed a theft and, when apprehended, returned to attack the theft victim and his employee because he resented their cooperation with the police in tracking him down. He crushed the skull of one man and attempted to kill the second by strangulation.

Both victims brought suit against the probation department for its failure to properly investigate the theft and to obtain revocation of the criminal's probation, which would have kept him in jail and thus prevented the attacks.

The appellate court determined that such an action should be dismissed because, in the language of the court, ". . . of paramount concern is the detrimental effect a finding of liability would have on prisoner release and rehabilitation programs. Were we to find a cause of action stated, we would, in effect, be encouraging the detention of prisoners in disregard of their rights and society's needs."

The court failed to explain what "prisoners' rights and society's needs" were involved that could be fairly balanced against the crushed skull and other severe injuries that resulted from the probation officer's negligence.

The most recent California decisions in this category of third-party liability are:

(1) O'Hara v. Western Seven Trees Corp., which involved the rape of a female renter allegedly due to her corporate landlord's negligence in failing

to provide security and for misrepresentation in failing to warn of dangerous conditions in the apartment building. A San Francisco appeals court declared the corporate landlord had the duty to secure common areas of its building and to warn of known dangers. The court also permitted the victim to sue for punitive damages.

(2) Meyers v. Los Angeles County, which involved a \$100,000 theft by an employee who was on probation for embezzlement. The loss was allegedly due to the probation department's willful concealment and deliberate failure to warn the employer of the fact the embezzler was on probation. A Los Angeles appeals court rejected the company's suit and declared it would have been self-defeating had the probation department "hung the leper's bell" on the embezzler's neck by warning his employer he needed watching.

(3) Anderson v. California, which involved the rape of the wife of a prison employee, in front of her three minor children and three neighborhood children, by a prisoner seeking revenge against the rape victim's husband. The crime was allegedly due to a prison official's failure to warn of the prisoner's temporary release. A San Bernardino appeals court rejected the victim's suit and declared the state, at most, was on notice that the rapist was one who had a violent past and could be expected to repeat the violence in the future. This decision was subsequently ordered unpublished by the California Supreme Court. The legal effect is the same as in the Valeu decision.

(4) Duarte v. California, which involved the rape/murder of a female dormitory resident allegedly due to her state university landlord's failure to provide security and warn of dangerous conditions in the dormitory. A San Diego appeals court declared the state university had a duty to warn and protect the female dormitory resident from foreseeable injury by others. This decision was also ordered unpublished by the California Supreme Court.

(5) Beauchene v. Synanon Foundation, which involved an attempted murder by a convicted first-degree burglar after his placement on probation and into Synanon's custody. The attempted murder was allegedly due to the foundation's failure to retain the burglar within its "private rehabilitation program." A San Francisco appeals court denied the victim's cause of action declaring all citizens assume the risk "innovative rehabilitation programs" will fail.

(6) Thompson v. Alameda County, which involved the sexual assault/murder of a five-year-old boy by a confessed, repeat child molester allegedly due to a negligent release of the latter on a weekend pass by the Alameda County Probation Department. A San Francisco appeals court upheld the victim's family right to sue and declared the county had a duty to warn potential victims of the child molester's release. The California Supreme Court has jurisdiction of this case. It will almost certainly become the landmark case on the subject of victims' rights litigation in California.

(7) Martinez v. California, which involved the sexual assault/murder of a 15-year-old girl by a convicted sexual psychopath allegedly due to a negligent release of the latter to an "outpatient" clinic by California parole

authorities. The trial court's denial of the victim's family's right to sue parole authorities has very recently been upheld by the United States Supreme Court.

The dimensions of crime victims' rights litigation are evolving in California and throughout the country on a case-by-case basis. In other jurisdictions, recovery by crime victims has been upheld by the appellate courts. In California, this new potential basis for recovery by crime victims may expand or contract as specific legislation or appellate court decisions take place.

The field provides an opportunity for attorneys, in appropriate cases, to initiate such litigation, both to vindicate the rights of victims who have been injured and to encourage more responsible actions on the part of the public officials responsible for prisoners, probationees and parolees, so as to better protect the rights of potential crime victims.

Through: (1) broadened legislative and judicial initiatives; (2) strengthened crime prevention efforts; (3) expanded crime victim compensation schemes; (4) improved crime victim/witness assistance programs; and (5) evolving crime victims' rights litigation; new advances are being made in recognizing and responding to the needs of crime victims. Thus, we may be seeing the beginnings of a shift toward a more even balance between criminal defendants and existing and potential victims of their crimes.

CONCLUSION

The time has come to ask hard questions and seek responsible answers to the dilemma posed for a democratic society about how best to remember forgotten victims.

It won't do for the Legislature to defer to the courts. It won't do for the courts to remain in isolated, anonymous and undemocratic shadows which serve not to protect the integrity of the courts, but to promote a loss of faith by the public in the fairness and effectiveness of the judiciary.

It is time to expose for all to see, to paraphrase United States Supreme Court Justice Robert N. Jackson, that supreme court justices are not final because they are infallible, but that they are infallible only because they are final.

While no one idea or individual will be able to provide all the answers we, as a people, seek. Nevertheless, Court of Appeal Justice Macklin Fleming, in his latest book, Of Crimes and Rights, provides some major insight into where we ought to be headed.

Justice Fleming concludes:

"In essential respects, the present situation of criminal law is comparable to that of the Enlightenment. Criminal procedure has been complicated to a point of glacial slowness. Substantive criminal law is dominated by the mystical principle that factual guilt is not legal guilt, a notion as sophisticated as would be its counterpart that factual innocence is not legal innocence.

"Different courts and different court systems stumble over one another in assuming jurisdiction in the same cause. Criminal judgment has lost its solemnity and acquired the character of a provisional determination, always subject to further modification, further revision, further review.

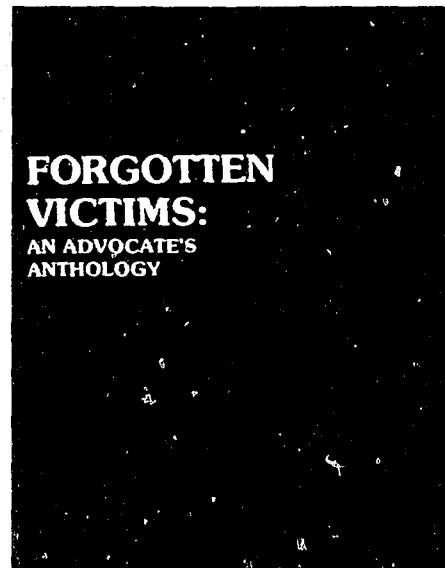
"These developments have made criminal adjudication of even the simplest cause inordinately difficult. Fewer criminals are brought to justice. Fewer crimes are solved.

"The legislative response to criminal law's inability to suppress crime has been the shop-worn response of increased punishment. Predictably, results have been no more satisfactory than in the past. The time has come to heed Beccaria's and Bentham's counsel -- to soften substance and harden procedure and thus bring crime and sanction into balance.

"Our inability to make criminal law effective has its roots in a criminal law theory that focuses on the criminal in much the way medicine focuses on the sick. It sees its principal function as the criminal's reformation through programs that treat his sickness to effect his cure. In centering on the criminal we have lost sight of the deterrent and incapacitative ends of criminal law and its ultimate end of protection of primary right.

"Along with this loss of vision of our true objective we have to some extent lost belief in the legitimacy of criminal law and become ashamed to recognize it as an instrument of necessary force."

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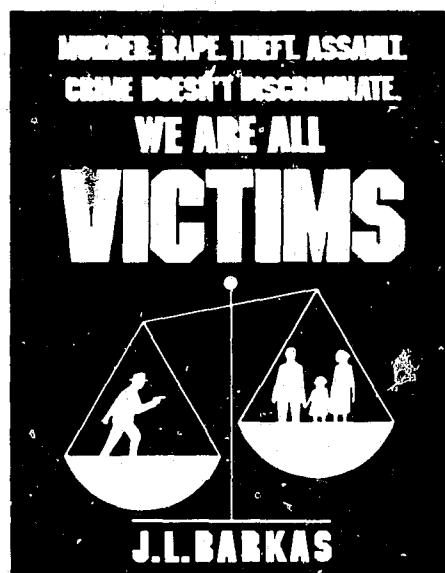


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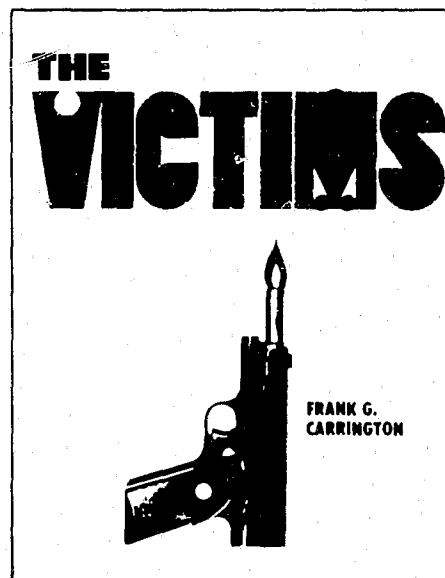
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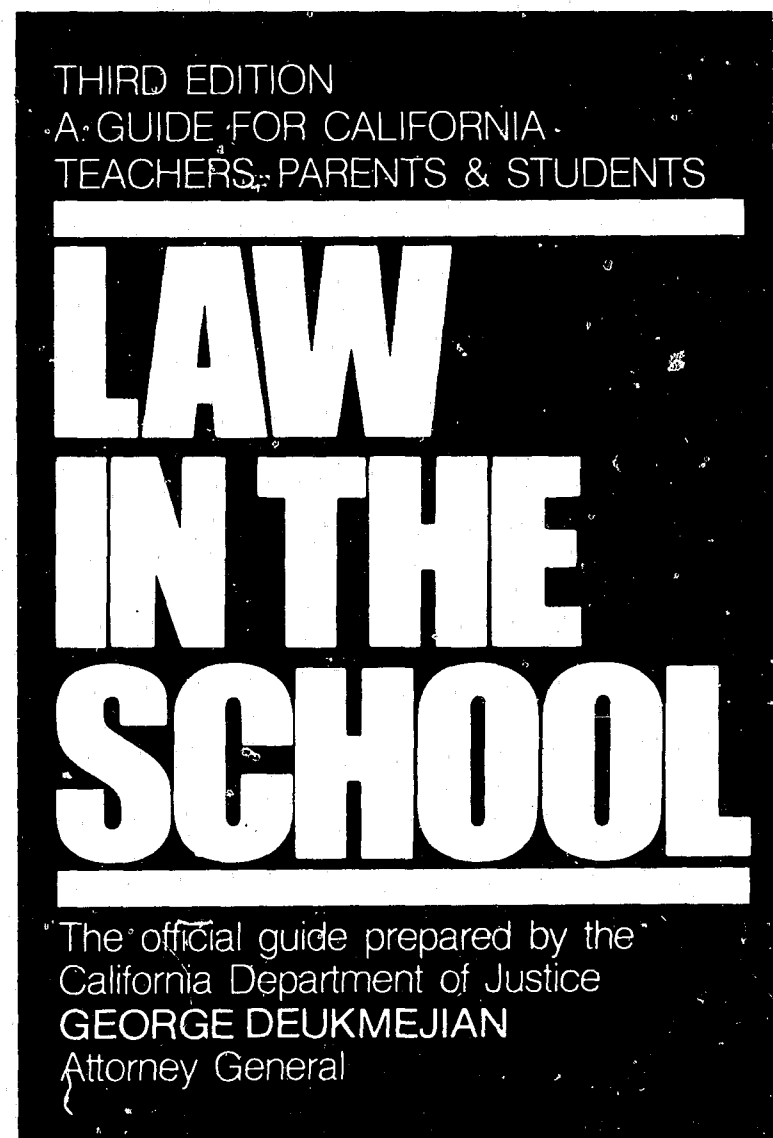
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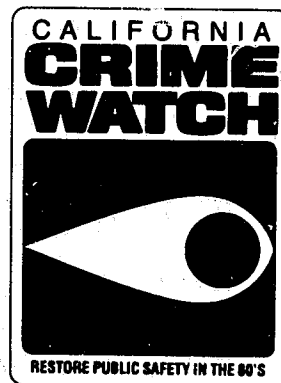
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Is it a crime for a student to
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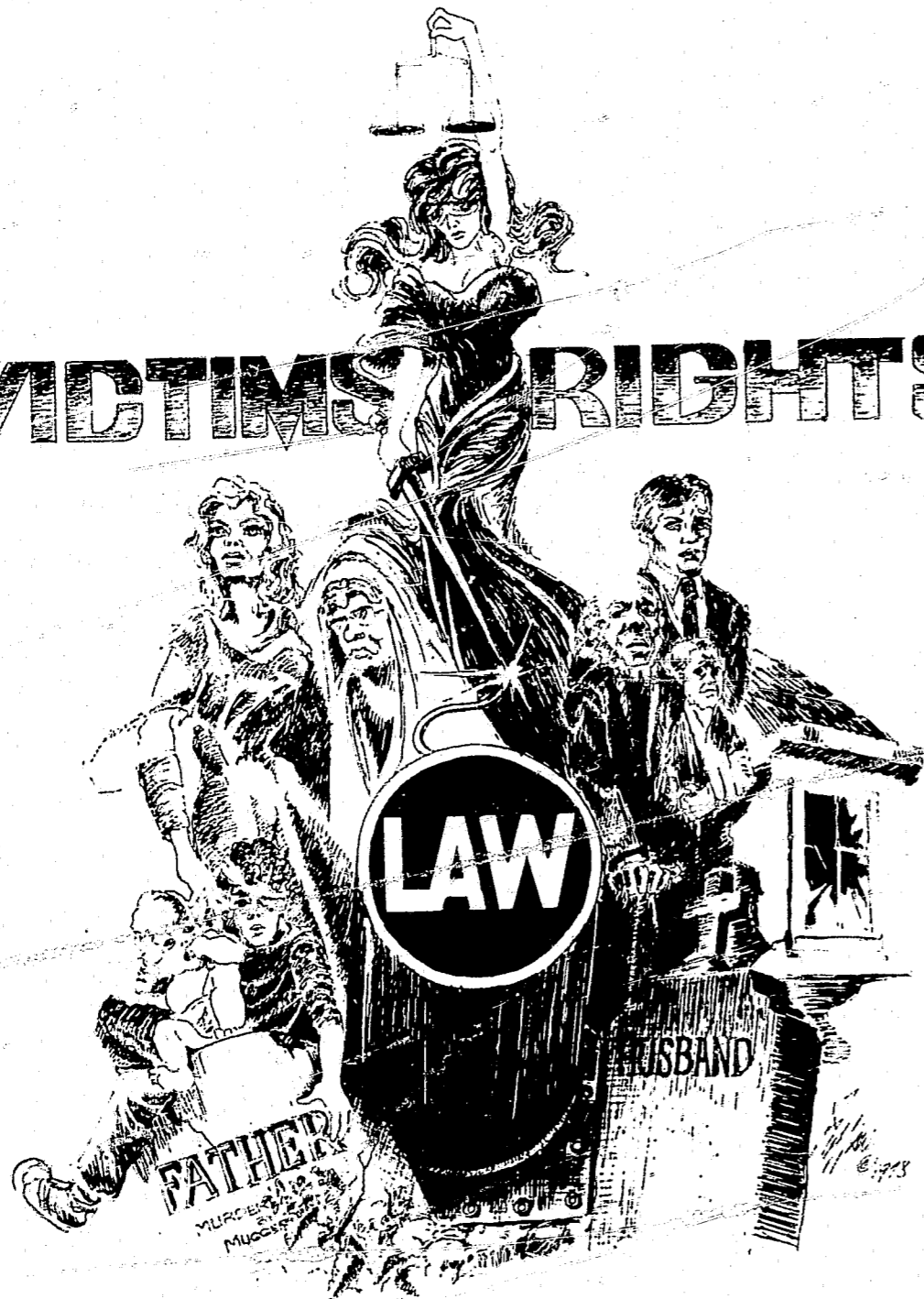
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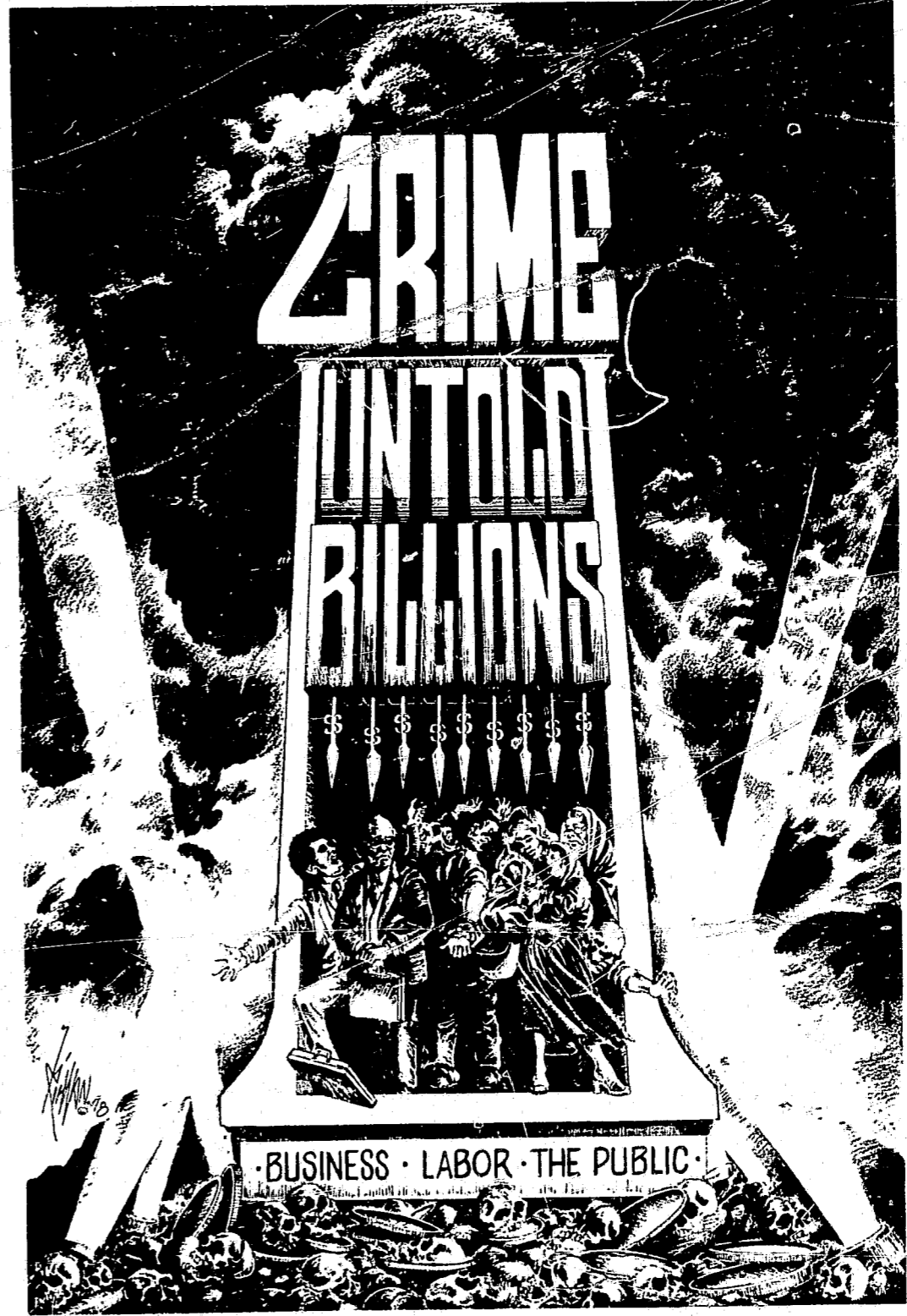
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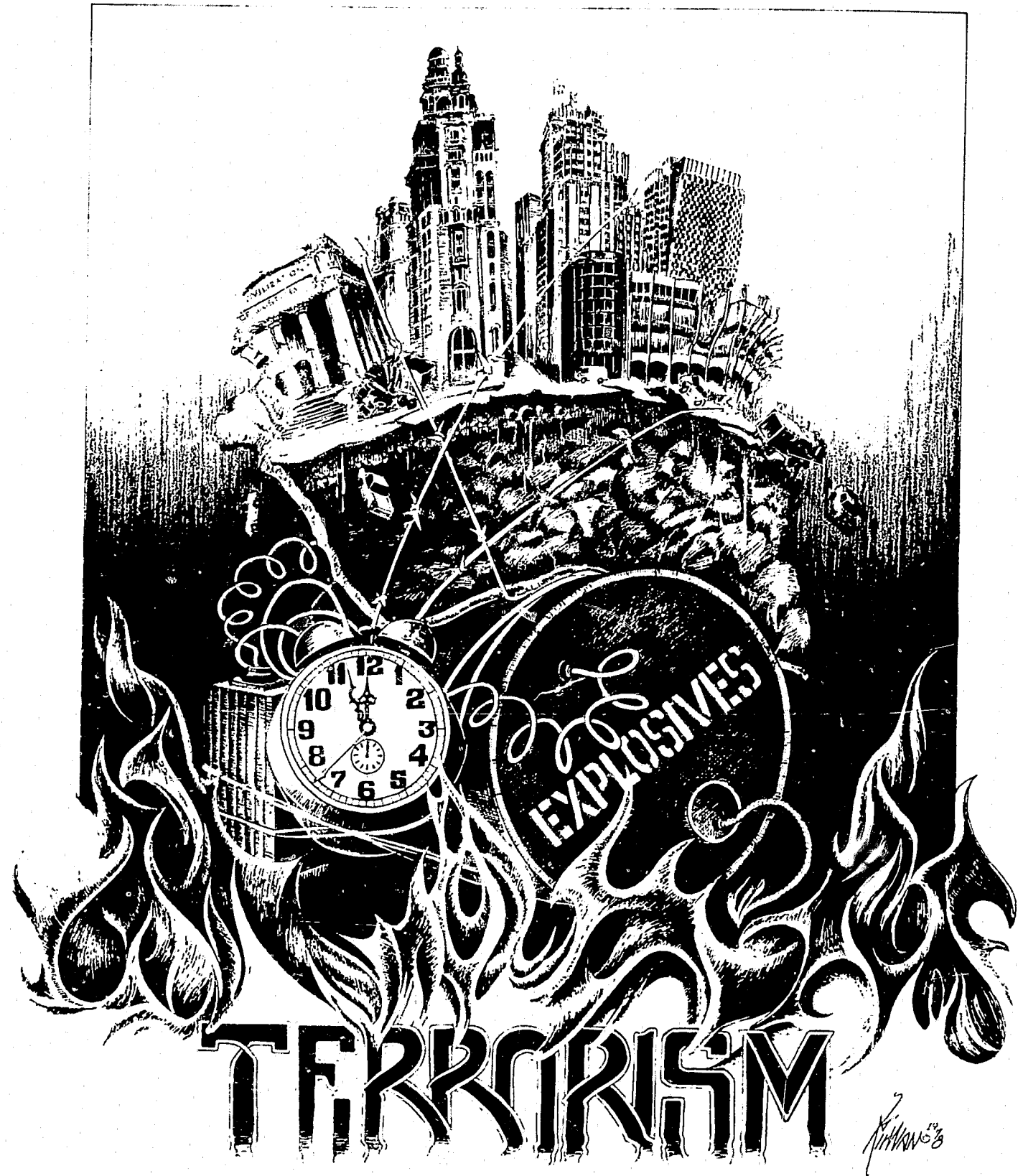


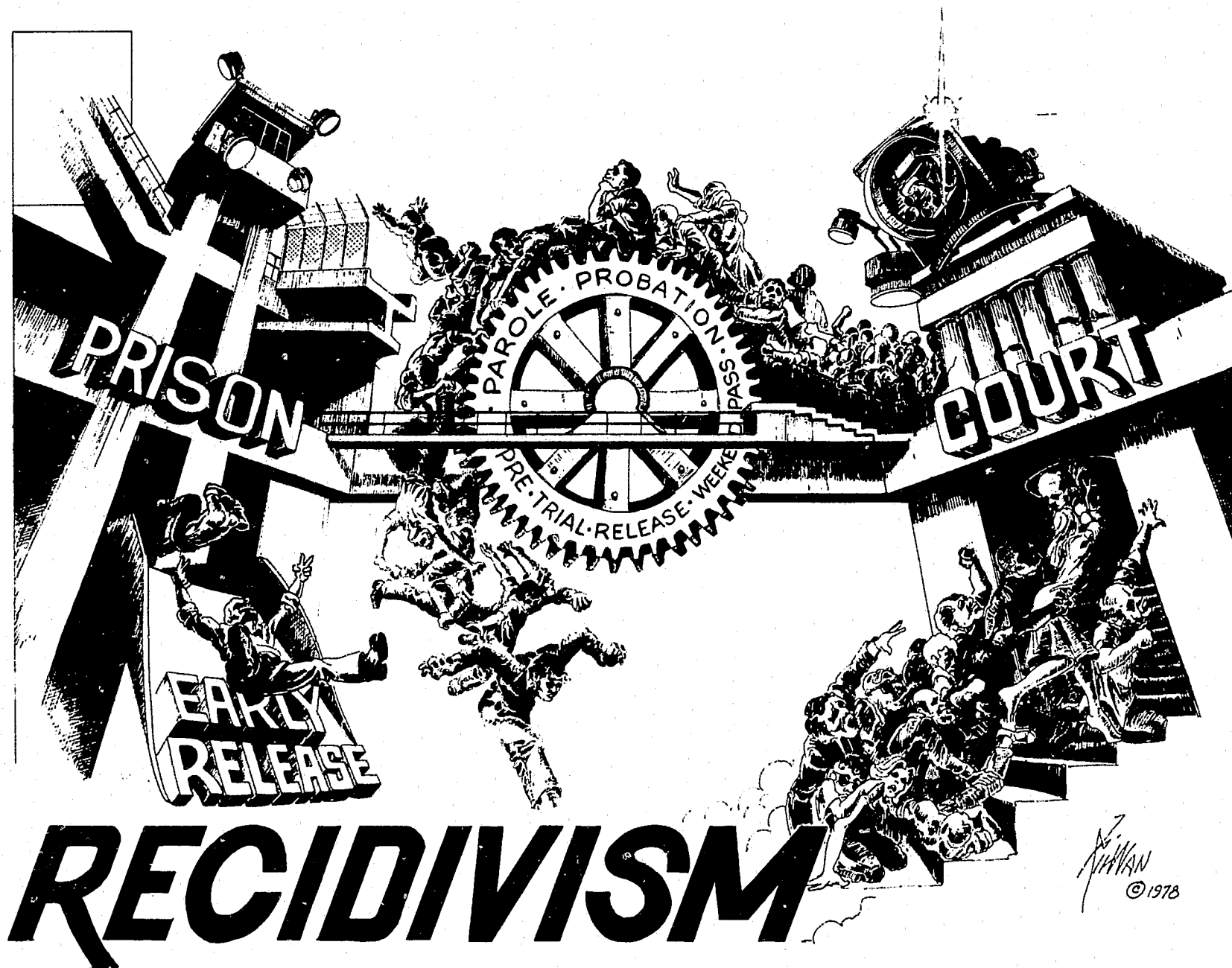
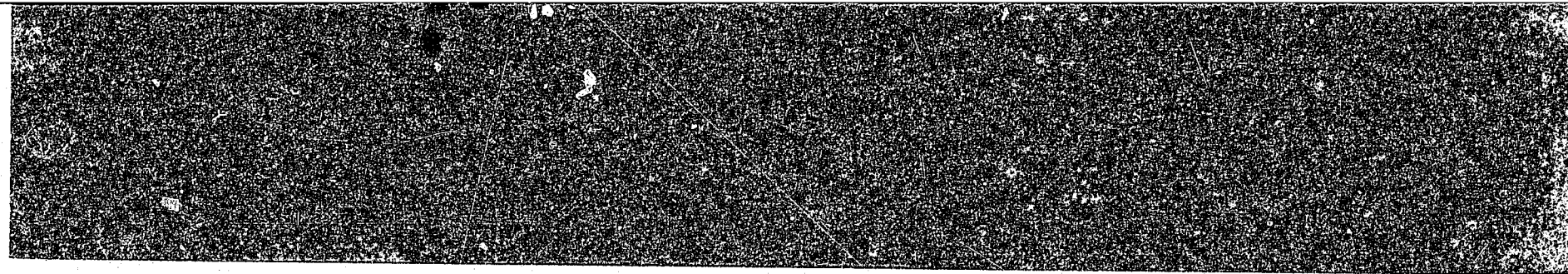
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