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THE WHITE HOUSE  
WASHINGTON

*of Police*  
Capt James Damos  
University City  
6801 Delmar  
Blvd

U. City Mo  
63130  
314 862-4555

306 Pres. Leo F. Callahan  
13 Firstfield Rd  
Guthrieburg Md.  
20878

To Merton  
Date 2/26 Time 5:45

**WHILE YOU WERE OUT**

M. Connie Francis  
of \_\_\_\_\_  
Phone 305 458-0009  
Area Code Number Extension

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CALLED TO SEE YOU		WILL CALL AGAIN	
WANTS TO SEE YOU		URGENT	

RETURNED YOUR CALL

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Operator

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To Ed

Draft  
nice note  
of thanks  
I'm delighted  
this IACP  
effort will be  
so widely  
circulated

12th April, 1983

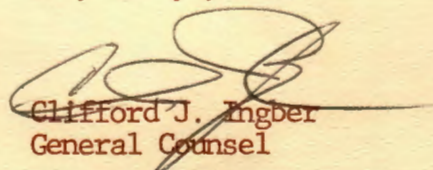
Mr. Morton Blackwell  
The White House  
1600 Pennsylvania Avenue  
Washington, D.C.

Dear Mr. Blackwell,

As per my telephone conversation with Connie Francis, I am enclosing herewith a copy of the "Victims Bill of Rights" adopted by the International Association of Chiefs of Police.

Should you have any questions, please contact the undersigned.

Very truly yours,



Clifford J. Ingber  
General Counsel

CJI:smd  
Encl.

P.S. The 25,000 copies  
will be mailed in tubes,  
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NORTON BLACKWELL  
SPECIAL ASSISTANT TO THE PRESIDENT  
FOR PUBLIC LIASON  
WHITE HOUSE  
WASHINGTON DC 20500

*add to key file*

CONNIE FRANCIS AND NEW JERSEY STATE GOVERNOR THOMAS KEAN WOULD LIKE TO HAVE YOU JOIN THEM NEXT TUESDAY, APRIL 19 AT 1130AM AT THE GOVERNOR'S OFFICE IN TRENTON, NEW JERSEY FOR THE NATIONAL ANNOUNCEMENT OF THE CRIME VICTIMS BILL OF RIGHTS WHICH CONNIE COMPOSED 12 MONTHS AGO, WHICH WILL BE POSTED IN EVERY POLICE PRECINCT THROUGHOUT THE NATION IN COMMEMORATION OF NATIONAL CRIME VICTIMS WEEK APRIL 17TH THROUGH 23. JOINING CONNIE AND THE GOVERNOR WILL BE A REPRESENTATIVE OF THE NEW JERSEY STATE ATTORNEY GENERAL'S OFFICE; JIM DAMOS, PRESIDENT OF THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE; HOWARD RUNYON, REPRESENTATIVE OF NEW JERSEY STATION CHIEFS OF POLICE AND FIRST VICE PRESIDENT OF THE IACP; A REPRESENTATIVE OF "NOVA", THE NATIONAL ORGANIZATION OF VICTIMS ASSISTANCE; MR BOB ANGRASANI, LEGAL COUNSEL FOR THE IACP; MR CLIFFORD INGBER, LEGAL COUNSEL FOR KO-REC-TYPE CORPORATION; AND A REPRESENTATIVE OF THE FEDERAL BUREAU OF INVESTIGATION. KINDLY RSVP MARK GOLDSTAUB PUBLIC RELATIONS, CONNIE FRANCIS NATIONAL PRESS REP 212-575-0404.

LOIS PROKOCIMER ASSISTANT TO CONNIE FRANCIS

13:52 EST

MGMCCMP

5241 (R 7/82)



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WESTERN UNION

THE WHITE HOUSE  
WASHINGTON

Connie Francis

Murphy's Heptate

901 761-1234

2602

THE WHITE HOUSE  
WASHINGTON

January 28, 1983

TO: Morton Blackwell

FROM: **MARK D. WEINBERG**  
Assistant Press Secretary  
to the President

*M.D.W.*

Connie Francis called me about this and in our conversation, mentioned she had talked to you about this.

I think this fits more in your area than mine. Let me know if I can be helpful.



"VICTIMS' BILL OF RIGHTS"

EDITORIAL

KABC-TV regularly presents editorials on topics of public interest which are delivered by Vice President and General Manager, John C. Severino. Your comments on these editorials are appreciated and the station welcomes requests for broadcast time from responsible representatives of contrasting views.

Gene Webster  
Editorial Director

It's now official. The "Victim's Bill of Rights" will appear on the June Ballot as Proposition 8. By a 4-to-3 vote, the California Supreme Court issued the order.

Through weeks of haggling over whether the anti-crime initiative should be put before the voter the real story has been overlooked.

The fact is that approximately 665,000 Californians signed the initiative demanding stronger action against criminals. If Sacramento lawmakers had been more responsive to the public's outrage against crime, that initiative wouldn't have been necessary.

More and more citizens, unhappy with lack of legislative action, have been turning to the initiative process. In the last ten years, 23 initiatives have been qualified through voter signatures and placed on the ballot. Six have been voted into law. According to the California Secretary of State's office, 18 official initiatives are right now being circulated.

Sacramento officials are often not pleased with initiatives. Even if the "Victims' Bill of Rights" is approved by voters in June, it will be challenged in court. A group of California attorneys claim it violates a rule limiting initiatives to a single subject. The backers claim it is limited to one.

Some criminal lawyers may well have a personal interest in seeing the measure defeated because it makes certain penalties mandatory.

We think Proposition 8 deserves your "yes" vote in June.

I'm Tom Van Amburg.

AN ABC OWNED TELEVISION STATION

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The above editorial was telecast on April 13, 14 and 15, 1982.



To be disseminated to 50,000 police stations throughout U.S.  
Formally adopted by Interm. Assoc. of Chiefs of Police  
Capt. Dan Norman Demaris -  
Past Pres. - Jim Demaris

VICTIMS BILL OF RIGHTS

- (1) THE RIGHT OF THE VICTIM OR EYEWITNESS TO BE TREATED WITH DIGNITY AND TO BE QUESTIONED IN A PRIVATE ROOM WITHOUT INTERRUPTIONS.
- (2) THE RIGHT FOR A VICTIM'S FAMILY TO BE NOTIFIED IMMEDIATELY OF HOSPITALIZATION OR EMERGENCY ROOM TREATMENT AND TO HAVE HIS MEDICAL AND EMOTIONAL NEEDS TAKEN CARE OF BEFORE QUESTIONING.
- (3) THE RIGHT OF A VICTIM TO CALL IN HIS OWN COUNSEL.
- (4) THE RIGHT OF A VICTIM TO BE GIVEN INFORMATION AS TO ALL HIS RIGHTS, TO THE PROGRESS OF THE CASE FROM THE INITIAL POLICE INVESTIGATION TO THE FINAL DISPOSITION, TO CONFER WITH PROSECUTOR AND HAVE THE CASE EXPLAINED IN LAY LANGUAGE AND TO BE INFORMED OF ALL DECISIONS REGARDING THE CASE-- INCLUDING BAIL, PLEA-BARGAINING, SENTENCING OR RELEASE OF A CONVICTED FELON ON BAIL, PAROLE FROM PRISON, OR IF CASE IS MOVED TO INACTIVE STATUS.
- (5) THE RIGHT OF THE VICTIM TO BE NOTIFIED OF ANY DELAY OR POSTPONEMENT OF HIS APPEARANCE IN COURT WHENEVER POSSIBLE AND TO HAVE HIS EMPLOYER CONTACTED SO AS NOT TO LOSE A DAYS PAY OR HIS JOB.
- (6) THE RIGHT OF THE VICTIM TO BE NOTIFIED OF WHAT CRIME VICTIMS ADVOCATE GROUPS AND RAPE CRISIS CENTERS CAN HELP AND FOR THE POLICE TO WORK CLOSELY WITH THESE GROUPS AS SOON AS THE VICTIM IS BROUGHT INTO THE STATION, AND TO PROVIDE INFORMATION AS TO WHAT STATE COMPENSATION IS AVAILABLE TO THEM UNDER THE LAW.
- (7) ARRANGE FOR A FEMALE OFFICER TO INTERVIEW A VICTIM OF RAPE.

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## VICTIMS BILL OF RIGHTS

- (8) TO TRY TO ARRANGE TRANSPORTATION FOR THE VICTIM, IF NEEDED, TO THE POLICE STATION AND TO HAVE INVESTIGATORS AND FIELD OFFICERS FAMILIAR WITH THE CASE, LEAVE CALLING CARDS SO VICTIMS CAN CONTACT THEM EASILY -- 24 HOURS A DAY, IF NECESSARY- AN "ALERT SYSTEM" OF SOME SORT.
- (9) TO WORK WITH LOCAL PROSECUTORS AND/OR VICTIM-WITNESS SERVICES TO ESTABLISH A PROTECTION UNIT FOR VICTIMS AND WITNESSES IN CASES OF HARASSMENT OR INTIMIDATION, AND TO BE GIVEN MAXIMUM PROTECTION UNDER THE LAW FROM HARASSMENT.
- (10) THE RIGHT OF A VICTIM TO PROCEED IN CIVIL SUITS FOR RECOVERY OF DAMAGES - TO BE ABLE TO PLACE A LIEN ON ANY PROFITS RECEIVED BY HIS ASSAILANT AS A RESULT OF THE SALE OF HIS STORY TO THE MEDIA, OR TO BE INFORMED OF OTHER AVAILABLE RECOURSES- DUE TO NEGLIGENCE, ETC.
- (11) THE RIGHT OF A VICTIM THROUGH THE USE OF PHOTOGRAPHS AS EVIDENCE, TO HAVE HIS RECOVERED IDENTIFIABLE PROPERTY RETURNED TO HIM SPEEDILY- PROVIDED HE MAKES SUCH PROPERTY AVAILABLE FOR TRAIL, IF NECESSARY.
- (12) THE RIGHT OF A VICTIM TO HAVE A VICTIM IMPACT STATEMENT PRESENTED PRIOR TO SENTENCING BY THE JUDGE. JUST WHAT AFFECT HAS THIS CRIME HAD UPON THE VICTIM, HIS FAMILY OR SURVIVORS, HIS HEALTH (MENTAL AND PHYSICAL) HIS FINANCES AND/OR HIS LIFE'S WORK?
- (13) RAPE IS THE LEAST REPORTED CRIME IN AMERICA. WHY? BECAUSE WHAT SANE WOMEN WANTS TO UNDERGO THE HUMILIATION, THE DEHUMANIZATION, THE PUBLIC DISCLOSURE OF A SEXUAL CRIME, THE ORDEAL OF A TRIAL OF THIS SORT, ALONG WITH THE DISCLOSURE OF HER PAST, PERSONAL LIFE IN SOME JURISDICTIONS, THE EFFECTS ON HER PERSONAL RELATIONSHIPS OR MARRIAGE. (50% OF ALL RAPE VICTIMS EVENTUALLY DIVORCE) BECAUSE OF THE UNUSUAL AND DELICATE ASPECTS OF THIS CRIME, THIS VICTIM ABOVE ALL, SHOULD BE TREATED WITH DIGNITY AND SENSITIVITY AT A TIME WHEN SHE FEELS INTIMIDATED, VULNERABLE, VIOLATED, EMBARRASSED, AND OFTEN IN SHOCK.
- (14) FOR THE POLICE TO PRESENT THE VICTIM'S CONCERN IN CHARGING AND BAIL DECISIONS WHEN THE VICTIM CANNOT BE PRESENT.



INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure

CRIMINAL JUSTICE. INITIATIVE STATUTES AND CONSTITUTIONAL AMENDMENTS

Amends Constitution and enacts several statutes concerning procedural treatment, sentencing, release, other matters for accused and convicted persons. Includes provisions regarding restitution to victims of persons convicted of crimes, right to safe schools, exclusion of relevant evidence, bail, use of prior convictions for impeachment purposes or sentence enhancement, abolishing defense of diminished capacity, use of evidence regarding mental disorder, proof of insanity, notification and appearance of victim sentencing and parole hearings, restricting plea bargaining, Youth Authority commitments, resentencing persons previously committed as mentally disordered sex offenders, and other matters. Fiscal impacts on state and local governments: The proposed measure contains several provisions that would have impacts on state and local programs. The Legislative Analyst and Director of Finance advise that they are unable to determine the net costs at this time but indicate that the measure would result in substantial increases in state and local expenditures.

(b) Restitution - It is the unequivocal intention of the People of the State of California that all persons who suffer losses as a result of criminal activity shall have the right to restitution from the perpetrator of the crimes for losses they suffer.

Restitution shall be ordered from the convicted persons in every case, regardless of the sentence or disposition imposed, in which a crime victim suffers a loss, unless compelling and extraordinary reasons exist to the contrary. The Legislature shall adopt provisions to implement this section during the calendar year following adoption of this section.

(c) Right to Safe Schools - All students and staff of public primary, elementary, junior high and senior high schools have the inalienable right to attend campuses which are safe, secure and peaceful.

(d) Right to Truth in Evidence - Except as provided by Statute hereafter enacted by a two-thirds vote of the membership in each house of the Legislature, relevant evidence shall not be excluded in criminal proceedings, including pretrial and post conviction motions and hearings, or in any trial or hearing of a juvenile for a criminal offense, whether heard in juvenile or adult court. Nothing in this section shall affect any existing statutory rule of evidence, related to privilege of hearsay, or Evidence Code, Sections 352, 782 of 1103. Nothing in this section shall affect any existing statutory or constitutional provision of the press.

(e) Public Safety Bail - A person may be released on bail by sufficient sureties, except for capital crimes when the facts are evident or the presumption great. Excessive bail may not be required. In setting or denying bail, the judge or magistrate shall take into consideration the protection of the public, the seriousness of the offense charged, the previous criminal record of the defendant, a probability of his or her appearing at the trial or hearing of the case. Public Safety shall be the primary consideration.

A person may be released on his or her own recognizance in the court's discretion, subject to the same factors considered in setting bail. However, no person charged with the commission of any serious felony shall be released on his or her own recognizance.

Before any person arrested for a serious felony may be released on bail, a hearing may be held before the magistrate or judge, and the prosecuting attorney shall be given notice and reasonable opportunity to be heard on the matter.

When a judge or magistrate grants or denies bail or release on a person's own recognizance, the reasons for that decision shall be stated in the record and included in the court's minutes.

(f) Use of Prior Convictions - Any prior felony conviction of any person in any criminal proceeding, whether adult or juvenile, shall subsequently be used without limitation for purposes of impeachment or enhancement of sentence in any criminal proceeding. When a prior felony conviction is an element of any felony offense, it shall be proven to the trier of fact in open court.

(g) As used in this article, the term "serious felony" is any crime defined in Penal Code Section 1192.7(c).

SEC. 4. Diminished Capacity, Insanity - Section 25 is added to the Penal Code, to read:

25. (a) The defense of diminished capacity is hereby abolished in a criminal action, as well as any juvenile court proceeding, evidence concerning an accused person's intoxication, trauma, illness, disease, or defect shall not be admissible to show or negate capacity to form the particular purpose, intent, motive, malice aforethought, knowledge, or other mental state required for the commission of the crime charged.

(b) In any criminal proceeding, including any juvenile court proceeding, in which a plea of not guilty by reason of insanity is entered, this defense shall be found by the trier of fact only when the accused person proves by a preponderance of the evidence that he or she was incapable of knowing or understanding the nature and quality of his or her act and of distinguishing right from wrong at the time of the commission of the offense.

(c) Notwithstanding the foregoing, evidence of diminished capacity or of a mental disorder may be considered by the court only at the time of sentencing or other disposition or commitment. The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring. Statute that becomes effective only when approved by the electors.

SEC. 5. Habitual Criminals - Section 667 is added to the Penal Code, to read:

667. (a) Any person convicted of a serious felony who previously has been convicted of a serious felony in this state or of any offense committed in another jurisdiction which includes all elements of any serious felony shall receive, in addition to the sentence imposed by the court for the present offense, a five-year enhancement for each such prior conviction on charges brought on separately. The terms of the present offense and each enhancement shall run consecutively.

(b) This section shall not be applied when the punishment imposed under other provisions of law would result in a longer term of imprisonment. There is no requirement of prior incarceration commitment for this section to apply.

(c) The Legislature may increase the length of the enhancement of sentence provided in this section by a statute passed by majority vote of each house thereof.

(d) As used in this section, serious felony means a serious felony listed in subdivision (c) of Section 1192.7.

(e) The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring. Statute that becomes effective only when approved by the electors.

SEC. 6. Victim's Statements, Public Safety Determination -

Section 1191.1 is added to the Penal Code, to read:

1191.1. (a) In the prosecution of any crime, or the next of kin of the victim if the victim has died, has the right to attend all sentencing proceedings under this chapter and shall be given adequate notice prior to the sentencing proceedings. The victim or next of kin shall personally or by counsel, at the sentencing proceeding and to reasonably express his or her views concerning the crime, the person responsible for the crime, and the sentencing. The court shall consider the statements of victims and next of kin made pursuant to this section and shall state on the record its conclusion concerning whether releasing the person would pose a threat to public safety if released on parole.

The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring. Statute that becomes effective only when approved by the electors.

(b) Section 2042 is added to the Penal Code, to read:

2042. (a) The request for notice of any hearing to review or consider the parole eligibility or the setting of a parole date for any prisoner in a state prison shall be sent by the Board of Prison Terms at least 30 days before the hearing to any victim of a crime committed by the prisoner, or to the next of kin of the victim if the victim has died. The requesting party shall keep the board apprised of his or her current mailing address.

The victim or next of kin has the right to appear personally or by counsel at the hearing and to adequately and reasonably express his or her views concerning the crime and the person responsible for the crime, and to decide whether the release of the person on parole shall consider the statements of victims and next of kin made pursuant to this section and shall include in its report a statement of what the person would pose a threat to public safety if released on parole.

The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring. Statute that becomes effective only when approved by the electors.

(c) Section 1757 is added to the Welfare and Institutions Code, to read:

1757. (a) The release of any person under the control of the Youth Authority for the commission of a crime or committed to the authority or placed in Section 60 shall be subject to review by the Youthful Offender Parole Board at least 30 days before the hearing to any victim of a crime committed by the person, or to the next of kin of the victim if the victim has died. The requesting party shall keep the board apprised of his or her current mailing address.

The victim or next of kin has the right to appear personally or by counsel, at the hearing and to adequately and reasonably express his or her views concerning the crime and the person responsible for the crime, and to decide whether to release the person on parole. The board shall consider the statements of victims and next of kin made pursuant to this section and shall include in its report a statement of what the person would pose a threat to public safety if released on parole.

The provisions of this section shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring. Statute that becomes effective only when approved by the electors.

SEC. 7. Limitation of Plea Bargaining - Section 1192.7 is added to the Penal Code, to read:

1192.7. (a) Plea bargaining in any case in which the indictment or information charges any serious felony or any offense of driving while under the influence of alcohol, drugs, narcotics, or any intoxicating substance, or any combination thereof, is prohibited, unless there is insufficient evidence to prove the people's case, or testimony of a material witness cannot be obtained, or a verdict of acquittal would result in a substantial change to sentence.

(b) As used in this section, plea bargaining means any bargaining, negotiation, or discussion between a criminal defendant, or his or her counsel, and a prosecuting attorney or judge, where the defendant agrees to plead guilty or nolo contendere, in exchange for any promises, commitments, concessions, assurances, or consideration by the prosecuting attorney or judge relating to any charge against the defendant or to the sentencing of the defendant.

(c) As used in this section, serious felony means any of the following: (1) murder or voluntary manslaughter; (2) mayhem; (3) rape; (4) sodomy by force, violence, duress, menace, or threat of great bodily harm; (5) oral copulation by force, violence, duress, menace, or threat of great bodily harm; (6) lewd acts on a child under the age of 14 years; (7) a felony punishable by death or imprisonment in the state prison for life; (8) any other felony in which the defendant personally or by another person, or by a deadly weapon or instrument on a peace officer; (9) attempted murder; (10) assault with intent to commit rape or robbery; (11) assault with a deadly weapon or instrument on a peace officer; (12) assault by a prisoner on a nonprisoner; (13) assault with a deadly weapon on an inmate; (14) arson; (15) exploding a destructive device or any explosive with intent to murder, kidnap, or injure; (16) exploding a destructive device or any explosive causing great bodily injury; (17) exploding a destructive device or any explosive with intent to murder, kidnap, or injure; (18) exploding a destructive device or any explosive causing great bodily injury; (19) exploding a destructive device or any explosive with intent to murder, kidnap, or injure; (20) exploding a destructive device or any explosive causing great bodily injury; (21) exploding a destructive device or any explosive with intent to murder, kidnap, or injure; (22) attempt to commit a felony punishable by death or imprisonment in the state prison; (23) any felony in which the defendant personally used a dangerous or deadly weapon; (24) selling, furnishing, administering, or providing heroin, cocaine, or phencyclidine (PCP) to a minor; (25) attempt to commit a felony punishable by death or imprisonment in the state prison; (26) any felony in which the defendant personally used a dangerous or deadly weapon; (27) selling, furnishing, administering, or providing heroin, cocaine, or phencyclidine (PCP) to a minor; (28) attempt to commit a felony punishable by death or imprisonment in the state prison; 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**INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS**

The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure.

**CRIMINAL JUSTICE. INITIATIVE STATUTES AND CONSTITUTIONAL AMENDMENT**

Amends Constitution and enacts several statutes concerning procedural treatment, sentencing, release, other matters for accused and convicted persons. Includes provisions regarding restitution to victims of persons convicted of crimes, right to safe schools, exclusion of relevant evidence, bail, use of prior convictions for impeachment purposes or sentence enhancement, abolishing defense of diminished capacity, use of evidence regarding mental disorder, proof of insanity, notification and appearance of victim at sentencing and parole hearings, restricting plea bargaining, Youth Authority commitments, resentencing persons previously committed as mentally disordered sex offenders, and other matters. Fiscal impact on state and local governments: The proposed measure contains several provisions that would have significant impacts on state and local programs. The Legislative Analyst and Director of Finance advise that they are unable to determine the net costs at this time but indicate that the measure would result in substantial increases in state and local expenditures.

All signers of this petition must be registered in \_\_\_\_\_ County

This is an official document.

YOUR SIGNATURE AS REGISTERED TO VOTE	PRINT YOUR NAME
RESIDENCE ADDRESS	CITY ZIP
YOUR SIGNATURE AS REGISTERED TO VOTE	PRINT YOUR NAME
RESIDENCE ADDRESS	CITY ZIP
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RESIDENCE ADDRESS	CITY ZIP

**DECLARATION OF CIRCULATOR**

*(to be completed after above signatures have been obtained)*

I am registered to vote in the County (or City and County) of \_\_\_\_\_. Each of the signatures to this petition was signed in my presence. Each signature of this petition is, to the best of my knowledge and belief, the genuine signature of the person whose name it purports to be. All signatures to this document were obtained between \_\_\_\_\_ month, day, year and \_\_\_\_\_ month, day, year. I certify (or declare) under penalty of perjury that the foregoing is true and correct. Executed at \_\_\_\_\_ (county of signing), California on \_\_\_\_\_ (date of signing).

Signature of Petition Circulator	Registered Address	City (in full)	Zip
Print Name			

**To the Honorable Secretary of State of California:**

We, the undersigned, registered, qualified voters of California, residents of \_\_\_\_\_ County (or City and County), hereby propose amendments to the Constitution of California and to the Penal Code and Welfare and Institutions Code, relating to criminal justice, and petition the Secretary of State to submit the same to the voters of California at the next succeeding general election or, at any special statewide election held prior to the general election or otherwise provided by law. The proposed constitutional and statutory amendments (full title and text of the measure) read as follows:

- SEC. 1. This amendment shall be known as "The Victims' Bill of Rights."
- SEC. 2. Section 12 of Article I of the Constitution is amended to read:
- SEC. 3. Section 28 is added to Article I of the Constitution, to read:
- SEC. 29. (a). The People of the State of California find and declare that the enactment of comprehensive provisions and laws ensuring a bill of rights for victims of crime, including safe-guarding the criminal justice system to fully protect these rights, is a matter of grave statewide concern. The rights of victims pervade the criminal justice system, encompassing not only the right to restitution from the wrongdoers for financial losses suffered as a result of criminal acts, but also the expectation that persons who commit behavior acts causing injury to innocent victims will be appropriately detained in custody, tried by the courts, and sufficiently punished so that the public is protected and encouraged as a goal of highest importance.
- Such public safety extends to public primary, elementary, junior high, and senior high school campuses, where students and staff have the right to be safe and secure in their persons.
- To accomplish these goals, broad reforms in the procedural treatment of accused persons and the disposition and sentencing of convicted persons are necessary and proper as deterrents to future crime.



# CITIZEN'S COMMITTEE TO STOP CRIME

3385 Arden Way • Sacramento, CA 95825 • (916) 482-6220

PAUL GANN  
Chairman

## VICTIM'S BILL OF RIGHTS

### RESTITUTION

declares that convicted criminals will be held financially liable for their actions, and that victims will enjoy the right to restitution.

### SAFE SCHOOLS

declares that all students have an inalienable right to attend schools which are safe, secure and peaceful.

### ADMITTING EVIDENCE

makes it easier to collect and use evidence against criminal defendants by reforming the state's exclusionary rule to the U. S. Constitution.

### PUBLIC SAFETY BAIL

declares public safety the main concern when setting bail or granting release.

### PROHIBITION ON CONVICTIONS/HABITUAL OFFENDERS

prohibits the use of prior felony convictions for impeachment or enhancement sentences, and provides longer prison terms for serious, habitual offenders.

### DIMINISHED CAPACITY/INSANITY

abolishes the diminished capacity or "twinkie" defense, and limits the use of insanity pleas.

### VICTIM'S STATEMENTS

grants victims the right to appear and testify at sentencing and parole hearings for both juvenile and adult offenders.

### PROHIBITION ON PLEA BARGAINING

prohibits plea bargaining for most serious felony offenses.

### STRICT SENTENCING FOR HABITUAL OFFENDER

cracks down on violent & habitual juvenile offenders, and declares that for serious felony convictions, only minors may be sent to C.Y.A.

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Supporting

THE "VICTIMS' BILL OF RIGHTS"



MENTALLY DISORDERED SEX OFFENDERS

Protects children and adults against sex offenders by sending convicted offenders to prison.



Tuesday, November 16, 1982

Civic Center

Atlanta, Georgia

International Association of Chiefs of  
Police (IACP) Convention

9 A.M.

My name is Connie Francis, and I'm a victim of crime. Aside from President Reagan, it's a dubious distinction to be called America's most famous victim of crime. That's why I'm here today. I'm here to make a positive difference in two major areas.

The first is to finalize a Victims' Bill of Rights which will be disseminated to all precincts, boroughs, station houses throughout the country. Lord knows, we victims need that. And the second is to begin a concerted and a well-planned effort to alter and to improve the lusterless image of the policeman in America today. You fellas know better than anyone else, that you've had rotten press - real bad. And it's really time we turned it around.

I was having dinner last night with Jim and a few people, and I heard a policeman refer to himself as a cop. I don't like that word. I don't let my little boy use it. And I believe that in order to improve your image, you have to start at home first. Think of yourselves as I was brought up

PRESERVATION COPY



to think of you. I was never allowed to say the word 'cop'. It has a derogatory connotation to it. Let's scratch it from our vocabulary.

Of course, 'cop' is one of the nicer words that we've been called for many years. (I've made myself one of you. I've made myself a partner.) That you've been called. Anyway, I think it's about time we turned it all around. All of life is public relations, really. You're either selling yourself, or a product, or a business, or an idea or an image. And life is P.R.

In November of '74, I was the victim of a rape. Incidentally, I want to thank the gentlemen of the police department in Nassau County, because you were wonderful to me.

I was once a very visible, public figure - all my life, really - until that eventful night which irrevocably changed the course of my entire life. I didn't grant an interview for seven years. I couldn't say the word 'rape' until a year and a half ago. And I felt very much like being a most private citizen. Nonetheless, over those past seven years, I became somewhat of a symbol, receiving thousands and thousands of letters from the victims of crime in America. All the while, I was feeling so helpless, because I couldn't do anything at all for these poor unfortunates, due to the fact that I was



such a lost soul myself.

So lost, in fact, that for one year after the rape, my mother would have to put the clothes on the bed for me that I would be wearing that particular day, because I couldn't attend to the even simplest details of daily living. One month after the rape I was unable to diaper my own newly adopted baby son, because at age 34, I was as helpless as a baby myself. I am not a retiring, or easily-frightened woman. Really, I'm not. I'm a fighter! Or I'd always been that way, at least. I couldn't believe my own reaction to this crime. Where was my mind, my spirit, my confidence, and my guts? I don't know where they were. They disappeared.

Well, that's history now. I'm strong again, back to myself, and I'm not helpless anymore. I'm not confused by statistics, or bi-partisan politics which is causing so much misery to so many Americans. And that, ladies and gentlemen, makes me infinitely more qualified - to speak for the victims of crime than most other people.

As law enforcement officers - the laws of the land coerce you - they compel you to safeguard the rights of the criminal, the wrong-doers of our society. But there are virtually no laws on the books that compel you, as officers, to safeguard



the rights of the innocent and often powerless law-abiding citizen who, through usually no fault of his own, is reduced to being a most ordinary victim. And this is such a sad and distorted state of affairs!

Of course we care about civil rights in this country, but who's civil rights first? For far too many years now, the only outrage, the only outcry, the only civil rights legislation passed in this country have been those laws enacted to protect the civil rights of the offenders, these blights on our beautiful country. And the criminal, above everyone else, knows the odds are with him. If I had his odds, I'd take them every day at the racetrack. There simply is no effective deterrent to the commission of a crime today in this country.

Former Governor Byrne of New Jersey is a good friend of mine for many, many years. I campaigned for him. I like him very much. He's a nice man. A couple of times he vetoed the death penalty. When he did that, he vetoed the mandate of the people because they wanted it. He didn't do his job. He wasn't acting as the public servant he was elected to be. (I'm sorry, Brendan.)

He wrote to me that these were his personal convictions, which



he could not repudiate in all good conscience. I suggested to Brendan that in that case, he become a columnist or an author, and then he could say and do whatever he pleased and didn't have to be accountable to the people.

The overriding responsibility of our elected officials is to the people. They are public servants. And there is no accountability to us, anymore. People have to be accountable for the wrongs that they do. We learn this when we are two years old. If you do something wrong, you get punished. Except, of course, if you live in America and are so fiercely protected by so many misguided souls.

What's it like to be a victim of violence if you haven't experienced it? All of you fellows see it everyday - but no amount of reading or hearing about it will help you to understand the mental and physical anguish of it. The disbelief that this really happened to you.

The fear, the nightmares, the violation, the disruption of your life and the lives of the ones you love, the withdrawal, the depression that follows, and sometimes leads to a nervous breakdown, as it did in my case. And I'm not a nervous girl.

The dehumanization, the loss of faith in government, in



God, and in mankind. Often a total loss of motivation and concentration, the futility and the hopelessness, the staggering financial burdens, the permanent disabilities, the terror, the injuries and the death.

The knowledge that, not unlike a child, you are no longer in control of your own life anymore. Those wounds that will never heal. And the knowledge that you will never feel safe again (I know I won't) or be quite the same person again.

And if that weren't enough, then the victim goes through what we call the "second injury". The apathy, the callousness, and the knowledge that you are just another case number. The total injustice of "justice" as it exists in this country today. The discovery of that elaborate, and very effective wall of protection, that has been successfully erected around the criminal in this country, through artificial and contrived loopholes in the law. It's a joke. The constant fear of retaliation, the shock when one realizes just what the American criminal justice system has become. And what a misnomer that is! The delays, the postponements, the loss of wages and sometimes one's job, as a result of serving under a subpoena as a witness. The unpleasantness of being fingerprinted. The humiliation of a rape examination. I remember it well.



I'm writing my autobiography right now, and rather than talk about it, I'll just read to you from the pages of my book which has not been published yet. It was after the rape when I was taken to the, I believe, Nassau County Medical Center. I'm really not sure where I was taken.

"In the examining room at the hospital, I lay on a metal table. It felt cold through my thin robe." (This was, ladies and gentlemen, following a performance one night at the Westbury Music Fair, when I went back to the Howard Johnson's Motel). The door was in locked position, and with slight maneuvering, (as the people from the Nassau County Police Department can tell you), the door was able to be opened. With a court order six months later, in 50% of the rooms that were examined, the same thing could be done. In the room I had stayed, the door had never been repaired. The slash in the screen door was still there - six or seven months after the fact." The room was Spartan-bare, except for a sink with a pedal, a clock, the metal table and me. I waited for one hour and five minutes. I shall never forget that feeling - that devastating isolation - so completely shut off from the rest of the world.

At that moment, I never felt less like Connie Francis. But then again, I never felt less like a human being either.



I was just another ordinary victim - reduced to some statistic you read about every day in a newspaper. But always, it's about someone else, isn't it - some faceless, formless person you never meet.

I realized for the first time that I was covered in blood. I observed the cuts and bruises all over me - disassociatedly - as if my body belonged to another person. On my elbows, the skin was so abraded, it's never healed. I felt dirty, defiled, so ashamed, so violated. I just wanted someone kind to hold me.

Finally the doctor came in. Wordlessly, he examined me. Then he spoke. "I'm giving you DES so you won't get pregnant and here, take these antibiotics- make sure you take them - so you won't get syphillis," he said. And then without another word, he left. This was nothing new to him. I was shocked! Neither of these two things had even occurred to me!

I will always recall the degradation I felt - so absolutely and fundamentally impure and unclean. I still had that sperm in me. No one suggested I wash, even after the doctor took the slide, and I didn't have the presence of mind to realize it until the next morning.



At the police station lying there in my yellow robe and in my misery, one thought consumed me. "I'll make things normal again! I'll just do my show! Of course! I'll go right back on that stage tonight."

Everytime when bad things happened in my life, singing on stage always seemed to make them better. For me a stage or recording booth, is the single most natural place to be." (I don't know how to be nervous with people.)" Every single one of those nights, I did my show! Why can't I do it now - just one more time? Why should tonight be any different?.... But it was. A stage wasn't something I wouldn't see for several thousand nights to come.

Clinging desperately to my plan, it was the only thing that got me through that day. I don't remember how I got to the police station. I was taken to a room - still wearing that yellow robe, still unwashed - and questioned by two male police officers. When they asked me to tell them what happened, I just stared at them blankly ." (I think the officers said in court that I was rocking back and forth. I cried hysterically, rocking back and forth in my seat like a baby.)

"During this time, while I alternated between periods of



lucidity and periods of hysteria, I was fingerprinted - so that the police would be able to tell my prints from any others they might find in the room. Only later did it strike me as odd that I, the victim, was fingerprinted like a criminal.

How can I talk to these men? How could any man know the self-loathing - the disgust I feel right now... they couldn't, it's impossible. I won't - I just can't - I can not talk to them. Finally, thank God, they left and two women entered the room - two very gentle police-women. I wanted to throw my arms around them and embrace them. I felt a bit of relief, and I told them sketchily, as much as I could bear to think of at this point.

For months - years afterwards - I would wake up in cold sweats, shattered by the graphic memories, the horrifying, chilling details of those hours; these thoughts I will surely live with the rest of my life - the ones I'll never be able to block from my mind. And some of these things I knew, even then, I'd never tell another living soul. And I never have.

"Did he say anything to you during the act itself, Connie?" Donna Alden, the nice policewoman on the rape squad, wanted to know.



I nodded embarrassed. "What did he say to you, dear?" I looked into her kind eyes and then away. "He told me to move more," I barely whispered.

They took me into a room with a one-way mirror. I could see six or seven men, black men, in a lineup.

"Tell us something the rapist said to you, Connie," the policeman asked me.

"He said...he asked me, "How old do you think I am?"

Each of these men, in turn, repeated the sentence: "How old do you think I am?"

Then suddenly, I heard that voice! Slightly New England, incongruous, not black. "That's him! Oh God, I'm sure that's him!" I screamed. As the door to the corridor flung open, (I understand that this is not police practice. It's just something that occurred - part of the group of men filed out, and I saw him there. There's no doubt about it! I'll kill him!

I flung myself at him, mindlessly screaming words I have never said before in public or in private. I pounded



his back with both fists! In each fist, there was a knife. And with each blow, I was stabbing him!

Someone pulled me gently away. Someone took both my hands in his. 'Connie, stop it honey...he's a policeman... he's one of our people.'

"I thought it was him."

For many, many nights and days I saw that face.

Rape is the least reported crime in America. That's what the FBI says, am I right Director Webster? Why?

Because what sane woman - really, when you come to think of it - wants to undergo the humiliation, the dehumanization, the public disclosure of a sexual crime, especially with male attitudes in this country, which are, thankfully, changing gradually.

The ordeal of a trial of this sort along with the disclosure of her past, personal life in some jurisdictions, the effects on her personal relations or marriage. I had a very, very happy marriage up until Westbury. Four months after that, my husband was seeing a psychiatrist because he didn't "like being married anymore." And we were divorced. Upwards of 60% of all rape victims who are married eventually divorce.



Because of the unusual and delicate aspects of this crime, this victim, above all, should be treated with dignity and sensitivity at a time when she feels ashamed, vulnerable, violated, intimidated and very often in shock. It took me only seven years to recover.

One depressing 1971, New York statistic - 2,415 founded rapes. 1,085 arrests. 100 cases went to the Grand Jury. You got 34 indictments, 18 convictions. That's like 1%. Don't check me on math. I'm lousy at math.

While a woman's sexual history may be trotted out before a jury and all the world to know, the man's sexual history, including 50 previous rape convictions for rape, may not be introduced.

Rape carries in it the fear among males of false accusation. A New York City female Rape Squad found that only 2% of all rape complaints were false - 2% - about the same false report rate that is usual for other kinds of felonies.

As a well-known individual I have absolutely no right to complain. As a human being, I have every right to complain. I was treated quite royally all the way down the line by our "Criminal Injustice system" as I called it. Let's make no mistake about it - that's exactly what it is--just what it says--a system of justice for the criminal.



But I am Connie Francis and a VIP. From the thousands of letters I've received over the years, I know that this special treatment is not accorded most victims. Not so much by the boys in blue, as by the "system" itself...It just doesn't work that way.

You law enforcement officials see so many more victims than you do criminals, and after a while even the most well-intentioned of you becomes hardened and inured to their plight. I guess you have to for your own sanity. But where exactly does that leave the victim? And who is to be his champion? I have yet to sing songs, but for now I guess, it's me.

This is my proposed Bill of Rights. I'd like to, first of all, leave this convention, have a press conference and tell the American people that you're good guys. You're not the public enemy. You're a friend. Let's face it, you've had awful press. Why? Forget 'why'.

Look at the movies that come out of Hollywood. Hollywood fare like Serpico, The Seven-Ups, The Choirboys. You won't win friends and influence people with those movies. So you had better go out, and be your own best PR firm.

I'm speaking to - who's the gentleman last night, Jim, who



was speaking with us at dinner in the public relations department? Doug.....He puts out newsletters on a monthly basis, and I asked him if he features police men and he said "Yes. Once a year." I said, "Why? Why don't you feature a policeman throughout the country a month? That's not so difficult. It's important."

And Jim, you said, "The press doesn't want to print that." You're wrong. America's a country with a great big kind heart. You all should know that. And the press is not just interested in negative stories. The press is a reflection of what's happening in the country. They report it as it is.

Why do you keep the good things you do a closely-guarded secret? You don't get any points for modesty, gentlemen. The press is always interested in a good, human interest story because we have big hearts. We love to hear human interest stories. We love to cry. Go out and tell the people about the good things that you do - the many altruistic and unheralded services you do for the public. (I wish I could work for you guys for a year).

This is the Bill of Rights:



1. THE RIGHT OF THE VICTIM TO BE TREATED WITH DIGNITY AND CONSIDERATION AND TO RECEIVE CORDIAL ASSISTANCE FOR THEIR COOPERATION.
2. FOR THE FAMILY TO BE NOTIFIED IMMEDIATELY OF HOSPITALIZATION OR EMERGENCY ROOM TREATMENT.
3. TO CALL IN HIS OWN COUNCIL.
4. TO BE GIVEN INFORMATION AS TO THE PROGRESS OF A CASE FROM THE INITIAL POLICE INVESTIGATION OF THE CASE TO ITS FINAL DISPOSITION.
5. TO CONFER WITH THE PROSECUTOR OR DISTRICT ATTORNEY AND TO HAVE HIS CASE EXPLAINED IN LAY LANGUAGE.
6. TO BE INFORMED OF ANY DECISIONS REGARDING HIS CASE ON BAIL, PLEA BARGAINING OR SENTENCING.
7. TO BE INFORMED WHEN HIS OFFENDER HAS BEEN RELEASED FROM BAIL, PAROLE OR PRISON SENTENCE.
8. TO BE NOTIFIED OF ANY DELAY OR POSTPONEMENT OF HIS APPEARANCE IN COURT.

I know this is hard for you fellas, because very often you don't know - you're not notified. And the criminal decides to show up when he's in good voice, like the first Monday in October, or whatever, and you don't know either, so you can't notify the victim. But when you can, you should, because victims and witnesses miss



their pay. They can lose their jobs.

9. THE RIGHT OF THE VICTIM TO HAVE HIS MEDICAL, EMOTIONAL AND EMERGENCY NEEDS TAKEN CARE OF BEFORE BEING QUESTIONED.

(The offender's defense attorney will see to it that you do at least this for his man, and at the taxpayer's expense.)

10. THE RIGHT OF THE VICTIM TO BE NOTIFIED OF WHAT CRIME VICTIMS ADVOCATE GROUPS AND RAPE CRISIS CENTERS CAN HELP AND FOR THE POLICE TO WORK CLOSELY WITH THESE GROUPS AS SOON AS THE VICTIM IS BROUGHT INTO THE STATION.

(And, if you do, then you will see an immediate turn around in public attitude toward the police department. This is a sensitive area, and I feel that perhaps you and I together can help to generate a spirit of cooperation and unity with these groups. They're usually selfless people.

I am sure many police consider these groups meddlesome, but many of these agencies do help immensely. I know they've prevented many girls from committing suicide that I've sent there, and they can relieve you of many burdens and make life easier for you.)

11. ARRANGE FOR A FEMALE OFFICER TO INTERVIEW A VICTIM OF RAPE.

12. TO HAVE INVESTIGATORS AND FIELD OFFICERS FAMILIAR WITH THE CASE, LEAVE CALLING CARDS SO VICTIMS CAN CONTACT THEM EASILY - 24 HOURS A DAY, IF NECESSARY - AN



16. THE RIGHT OF THE VICTIM TO HAVE A VICTIM IMPACT STATEMENT PRESENTED PRIOR TO SENTENCING BY THE JUDGE.

Just what effect, (don't you think it should be taken into consideration) did this crime have upon the victim and his family? Psychologically, financially, emotionally?

17. THE RIGHT OF THE VICTIM TO HAVE HIS EMPLOYER CONTACTED, SO THAT HE DOESN'T LOSE HIS DAY'S PAY OR HIS JOB WHEN HE RESPONDS TO A SUPOENA.

18. THE RIGHT TO BE FREE FROM INTIMIDATION.

Or as much as you can give us, and that isn't much, is it? Very difficult. A tall order at best.

19. TO BE INFORMED OF POST-SENTENCING HEARING AFFECTING THE PAROLE OF THE OFFENDER.

I'd sure want to know if the fellow who raped me was in the neighborhood.

20. FOR THE POLICE TO PRESENT THE VICTIM'S CONCERN IN CHARGING IN BAIL DECISION WHEN THE VICTIM FOR SOME REASON, PROBABLY HIS HEALTH, CANNOT BE PRESENT.

Rape is the only crime in this country where a victim in most jurisdictions, has to prove her innocence, - where the burden of proof automatically shifts to the Victim.

It is accepted without question that a Robbery victim need not prove he resisted, - that by handing over his money he "consented to the act" and therefore, there



was no crime. Indeed, Police usually advise citizens not to resist a Robbery. Successful resistance to a robbery these days is considered heroic. Up until a few weeks ago, (I went up to Albany and spoke to the gentlemen up there) they had a law called the "Earnest Resistance" law in New York. You had to show real resistance to a rape in order to prosecute.

I told the gentlemen up there that if I had abided by their law, (which incidentally, is contrary, to what the New York City Police Department tells victims and what the rape crisis groups tell victims) that if I had listened to them, I would be dead now. I wouldn't be here speaking with you.

Even if your assailant isn't armed, a woman is just physically weaker, and she does run the risk of death. The man doesn't need a weapon. You're stronger, you big guys out there. Well, we went up there and finally ... (They've been trying since '74 to get this law repealed) and they did, thank goodness, a few weeks ago.

Why is it in some jurisdictions rape is tantamount to murder? Dallas County, we love you. I'm taking a film crew down to Dallas County, and we're filming a show called "Rape Spotlight on Dallas." I found out that



Billy Prince, (Hi Billy, if you're out there)  
Dr. Pette, Steve Wade, the prosecutor or the DA,  
(whatever it's called in Dallas) and the judges -  
(our judges - that's a subject for a whole other conference) - all of them in Dallas County work together,  
and there's a 50% conviction rate on rape. That's  
very, very high.

For a first rape conviction in Dallas County, I think,  
the sentence is seventy some odd years. I think  
in most counties (it works for Dallas, so whatever works  
for you is fine) but in most counties, it would be too  
steep a sentence. And in many cases when people say,  
"Lets use the death penalty. Let's cut off his arms" -  
It's not gonna happen, folks. We live in America. We're  
not in Salem, you know. If the sentence is too strict,  
too rigid, it will militate against a conviction. The  
jury or judge will be reluctant to impose that sentence. There  
has to be certain guidelines that are realistic. If you men of  
the law saw some of the heartbreaking letters I receive (I  
wanted to bring some of them with me) the everlasting fear  
and of the shattered lives of the victims of this crime,  
you might greatly change your attitude. So many were close  
to suicide because "no one cared".

How would you men feel to have your bodies thus violated



against your will? Male rape these days incidentally, is on the rampage. It's more prevalent that you can possibly imagine, and far less reported than female rapes, because of the shame that a young boy practically has to endure among his peers. Most families who've written me about this dilemma had to move away from their homes. So it happens often, and you don't even know of it. I do, because I get the letters. They don't report it. How can they? It's just another manifestation that there're some sick people out there.

The American public has had it. They're not interested in statistics, unless they happen to be one of them. They're not interested in the wasted years and the millions and millions of dollars you hear about every day that are spent on the sociological, psychological and socio-economic reasons why people kill and maim other people.

They're not interested. There isn't time for that anymore. They're interested in the freedom from fear for themselves and their families. They want to make it for to the Seven Eleven( see, I gave you guys a plug) or to the supermærkæt or to the subway or to work



without getting maimed, raped, mugged, or killed.

The problem of violent crime today is a gigantic one.

There's a bill in Washington (this was true a few months ago, I don't know if it's still true).

It's a complete rewrite of the criminal justice code.

And it's been sitting in front of the desk of a Representative, I believe it is Michigan, named Conyers.

I don't know who he is. For two years. I asked

"Why aren't you working on this bill?" Well, he

seems to think he has a better bill, just a little

bit better. It really isn't very far different. And,

while he's contemplating his bill for two years,

19,000 people are getting killed out in the streets.

Really, it's a shame. Bi-partisan politics are destroying this country.

Most federal crimes - we just had this Heinz-Laxalt Victims Bill passed. We really tried with this bill out in Washington.

And it finally got past the House Judiciary a few weeks ago. It's a good bill and I wrote a few of the clauses in it.

However, most federal crimes (the federal laws that are passed) are not crimes of violence. They're crimes



of greed and money, and I'm really not interested in that. I'm interested in the people. It takes a special kind of person to go out and hurt and kill somebody else. That's what I'm interested in. And it's the citizens of the states that suffer the horrors of violence. And changing the laws in each and every state, it's very time consuming. But we're working on it.

A man from California (he ran for the U.S. Senate and lost), by the name of Paul Gann - he's just an average American guy - called me at the beginning of the summer. He said he needed my help in getting an anti-crime bill passed in California. A very strong anti-crime bill. He was just an average American citizen. There were no self-serving interests involved, no politics, no axes to grind. I checked out his past stand on crime with an organization called ALEC in Washington. They come up with the voting record on any issue of any politician within half an hour - local, federal, state, whatever. And as you boys say, I guess, he "checked out".

In Sacramento, he proposed the toughest, most comprehensive anti-crime bill ever. Even stronger than Attorney General William French Smith's bill, and I'm familiar with that. This is really a comprehensive bill. Of course, it would be



difficult to get past federally; the constitutionality of it will be questioned.

On a trip to California, I took this bill to the people, through the media - the best way to do it. There wasn't 4½¢ to spend on a campaign to publicize this bill. But on June 8th Proposition 8 became law in California. It isn't a perfect bill; it has its flaws. But it is a clear and cogent mandate from the people about how they feel about crime. And it should be heard in state capitols across the land. Proposition 8 won by a 12% margin. Very high, indeed, for a crime bill so dramatic and so comprehensive.

Of course, it was challenged - by people whom you would expect to challenge it. I called California last night. I didn't want to say anything inaccurate here. I spoke with Paul Gann. And he told me that the California Supreme Court has declared Proposition 8 to be constitutional and would not even consider the repeal of it. Whooppee do, folks! Here's what it says. Here are some of the provisions of Proposition 8 currently in the state of California. (Let's hear it for California!)



It greatly expands the evidence prosecutors can introduce in court. The most important rule - the rules of evidence. The exclusionary rule got thrown right out the window in California, folks! How about that? It greatly diminishes insanity pleas!

If any of you people out there have any suggestions about this bill - if you have someone to propose it in your particular state. - please call Jim Damos. Jim will call me, and we'll go out to your state; and we'll make it law. You just propose it; and we'll make it law. It abolishes the defense of "diminished capacity," resulting from the use of drugs or alcohol. It adds five years, not three to the sentences of persons convicted of serious felonies. It says that a judge must consider the public safety in setting bail. HALLELUJIA! There's a victim impact statement that's given to the judge. Now, in California - I lost it, but I know what the provisions are anyway. In California, the prosecutor is now allowed to introduce the past, criminal history of the defendant. It's a wonderful, wonderful bill. It closes up aaaaall the little loopholes that we get fed-up with, - all those little bugaboo rules. Oh, yeah! And it calls for



mandatory sentencing of convicted felons of serious crimes, over the age of 18 - taking as much of the discretion away from our judges. Because Lord knows, they have not done right by us - many of them.

I gave this speech in Washington in May, Jim, at the National Forum on Victims. I want to tell the people about the good things that you do. Let me know about them so that I can tell the people. I said this in Washington that day: "It's difficult for me to understand why, in this day and age, anyone would want to become a police officer. These individuals, generally, are hard working, responsible people. After years of repeated exposure in the "front lines", so to speak, they are emotionally depleted, frustrated and burnt out. And they too, feel most betrayed by the criminal injustice system and its turnstile "justice".

There are so many minuses to their job. The inherent stress...the resulting family problems...the reluctance of prosecutors to take cases to trial...the leniency of the judges...the verbal abuse and negative attitude of the public... (which we're going to try to change) the isolation...the low pay, the arbitrary rules and procedures...the excessive paper work which really should be done in large part, by clerical workers... (we need you out on the streets)



few opportunities for advancement or recognition.... constant work overload, the ever-present fear of repeated exposure day in and day out to injury and death. The months, and sometimes years, spent on a case, and the ensuing trial which so often results in seeing (because of those technical loopholes I spoke of) the criminal leave the courtroom smiling, happy and free. What frustration! What futility!

And to the people that we voted into office, I said to them that day:

"I receive upwards of 1000 letters a week from victims of violent crime. Hopefully, with your help, gentlemen, if you respond to the outrage of the American people, whose very lives are in your hands, you have the power to make America safer again. It's not an easy task, Mr. Congressman, but you are extravagantly rewarded in prestige and all the trappings of your position of power for your labors. It isn't as complicated or as impossible as everyone leads us to believe. And it does not have to be done "in due time". How often I've heard the old cry "Things can't be done overnight". Well, work a little harder, fellas. You owe us!"



I am here today because I happen to love my country. And I feel that I can make a positive difference. I'll do everything in my power to achieve this. I won't mince words with you or the media. It's a nice feeling of freedom to be able to say what you really feel and not have to worry about whom you're offending. Because my only concern is the people. I view crime only in terms of human suffering, that's all.

I'm not running for office. I'm not here as a Republican or a Democrat, or anything else. I'm not a spokesman for the Administration. I'm not a fanatic, or a person seeking revenge for a crime that was perpetrated on me. (I just happened to be at the wrong place at the wrong time.) I'm not here to gain publicity. I've had far too much of that already (unfortunately, very often, the wrong kind.) Nor am I here to make friends of the people in government - our law-makers. If I do make friends - that would make me very happy. If I don't, it won't make me unhappy at all.

I have no obligation - no accountability to anyone. The only accountability due us as Americans is that accountability of the people who make the laws of this



country— the law enforcers, and those judges, our administrators of justice, — for each of you owes us, and has not given us, the American people, answers or solutions. Each of you in your own way, has failed to protect the citizens of this most glorious country.

I hope that we'll finally have our day in court - we the victims of crime and violence in America - 1.5 million of us a year, (not to mention all of those people in our lives who are affected) which has irrevocable changed the course of our lives. Some of us, you see, will never be quite the same.

I hope that we'll be heard by at least some of you out there - NOW!

Let's do a good job. OK, everybody? And let's get together, and do something for the people. And I will go out there, and do my best to do something for you, fellas. Thank you very much for sitting so long and quietly.



November 16, 1982  
Advisory Board  
National Institute of Justice

Chip, (assistant to Attorney General William French Smith)  
I'd like to make a couple of statements before, and I'll be happy to answer anything. First of all, I don't know who is here today. I don't know which gentlemen are here, and I may say some things that may offend some of the people here. I'm very sorry if I do. My first and only concern are the victims of violence in America.

Chip, first of all, Attorney General William French Smith seems to be the best-kept secret in Washington. The people don't know who he is. How are they going to back his programs if they don't know his name or his face. He's not visible enough. Why isn't he more visible?

Voice: I'm glad you asked that question. We're trying to get authority to get a handle on fifty-five thousand people...

Hire a P.R. firm! It's real easy. He doesn't have to get a handle on fifty-five, just on himself, so that he builds an image. Everything's public relations, Chip. That's to begin with, really. If you ask the average American - I'm not talking about retarded people, I'm talking about people who read the newspaper - they still don't know who the man is. They don't see him on TV. Now how can they back his programs



if they can't even identify with him. That's number one.

I came here today to this organization, as a spokesman to try to develop and implement a Victims' Bill of Rights and to try to assist the police departments' across the country in building a more positive image with the public, and that means the press. If you're going to regain the confidence of the public and get more fiscal appropriations, you're going to have to get better press. The police are going to have to take advantage of the good things - and there are so many of them - that they do do, but nobody knows about it. So what good does it do if nobody knows about it?

As I said this morning, I view crime only in terms of human suffering. That's all I'm interested in. I've come here at my own expense. I make \$3,700 a month, average, in phone calls to victims all over the country. I've donated the proceeds of my concerts, as you know, to Valor and other victims organizations. I'm not here to get my picture in the paper. My time is very limited. I deal only in realities. I don't even attempt those things which I know don't even have a chance of succeeding. I don't waste precious time, effort, resources or money on pursuits that are dead-end streets.

Today, both the director of the FBI and Attorney General William French Smith announced some rather grandiose government



plans to dramatically eliminate drug trafficking and wipe out organized crime. Well, I am certain that they are very well-intentioned. Incidentally, I'm no stranger to organized crime. My brother was gunned down in front of his house a year ago and died. My only brother. So I have no love for organized crime. However, although I'm certain that the Justice Department and the FBI are very well-intentioned - I'm sure that they are - their plans seem to me to be quixotic, at best naive, and it is a no-win situation for the following reasons: If the force doesn't succeed, still another time, another force doesn't succeed in that area; (and the public won't be surprised) they're used to it. But you're not going to regain their confidence. You're going to lose more credibility and the American people will believe it's just more Washington rhetoric. If you do succeed, I'll be sure to visit you in Forest Lawn; and/or half of our elected officials will probably be imprisoned.

Let's just deal with things we can really deal with, and not pie-in-the-sky issues. If we're going to wipe out drugs - first of all, Chip, there's too much money involved and too many so-called legitimate people involved to really do a job. So if you want to do a job and people argue with me and they say, "Well, if you're going to dramatically reduce crime, then you've got to wipe out drugs." I don't think you're gonna do it that way. I think you're gonna do it just the way California did it, by swift disposition of cases, the



prosecution and conviction of cases, by stiff and mandatory sentencing. Then you'll see how quickly crime will be reduced to the street. When people know for sure, in front, that they're going to go jail. There's no deterrent. It's not only extremely profitable, but it's pretty safe too.

Give it to the police. Give it to - build more jails and in the meantime we all know there are other stop-gap measures like the relocation of prisoners to different states - to other states that are not overcrowded. The use of military barracks we've heard fifty times and everyone just talks about it, but they don't do it. The use of military barracks for minimum security prisoners, white collar criminals who are not dangerous to the people. The number one concern of the American public in every urban area is not the subject of the economy, it's the subject of violent crime. People want to be able to get up and go out of their houses without being killed.

I think many of the people in Washington live in ivory towers. I wish they would find out what the real world is, and spend a week in a precinct some time and see what goes on.

Appoint more judges who implement the law, build more courts, and in the meantime, until you build more courts, utilize your



courts twenty-four hours a day. Hire more judges. Appoint more judges, and have them work twenty-four hours a day. If that sounds dramatic, so is crime. Crime is dramatic too. I think it's cheaper in the long run, if anyone looked at the bottom line, at the incalculable costs of crime in this country. It's cheap. It's money very well spent. It seems that the interest of the people comes last. As always, the police are treated like step-children. The last appropriation is the police. And those are the people who are saving our - should be saving our lives. How can they do it if they're over-worked and if there aren't enough of them?

If you don't take into consideration the fact that this country is a country in crisis, we're living in the scariest country in the free world, except for a nation besieged by war, and we're at war. We really are. Make no mistake about it. And if you don't address yourself to the first concern of the American people, then you should not be in government. You are elected to government to be servants. That's the real world.

You're going to begin to have victims institute law suits against parole boards or institutions. And it should be so. It's long overdue. For indiscriminate and premature release of prisoners. It should happen. The public has a right to do that. Because you have not done your job - you haven't taken care of us. And the poor police are the people



who get all the brunt of it. They don't get the money to do their job. They don't get the support to do their job. They just get the flack.

That's about it, gang. That's all I have to say.

Voice: We'd like to ask a couple of questions.

Sure. Of course.

Q: I'd like to ask a question about the number of times a victim is required as a witness. I'm talking about the number of times a victim has to appear. Is that a problem?

A: Well, not if there's mandatory sentencing there won't be. You'll see how quickly everything will go speeding right along. Mandatory sentencing would just - a lot of problems would evaporate from that. I think this new California bill has to be proposed in every state. You cannot do it in Washington. The laws in Washington do not affect the victims of violence in the streets. They're crimes of greed and money, and I'm interested in people. I don't care about banks. Just people.

Q: I have a question about speedy trials (inaudible)

A: Hire more people. It's cheap. It's money very well spent. No plea bargaining. And also the fact that there won't be backroom deals will also expedite trials. You know, this



whole plea-bargaining thing is an out in the minds of criminals. That, well, I'm gonna get out because I'm gonna get a sharp lawyer. And I can pay him, and he's gonna make a deal in the back room. It can't be. If a prisoner knows that when he commits a crime he's going to go to jail, that's how you're going to reduce crime in this country. I want to take this to the people, really.

Q: (inaudible) Something about press exposure.

A: All you had to do was ask me, and I would have had the press here. See, the press won't come to listen to Congressmen and political figures, because they don't have any faith in them and they don't believe what they say. And rightfully. You talk about the treatment of victims, Mr. Collins, if you're going to have - if you're going to prosecute more criminals, you're going to have to start treating victims and witnesses better. That's the only way you're going to put people away. One of the things I really wanted to discuss, but we didn't get a chance to is to develop a sort of uniform police policy throughout the country. Kind of an attitude that we have to have. To put it into law would take years. I've been working with those fellas in Washington. You know, they're all interested in their self-interest - self-aggrandisement. And the people are always the last to be thought of. A uniform police policy and, one other thing, it's just a suggestion. I don't know whether it's feasible. I don't see why not. I think anything's possible. I think there should be a watch-



dog committee on judges.

I had gotten a few death threats in March because I had gone on the Regis Philben Show in January. I had breakfast with the producer of the show. And he showed me an article that appeared in the Los Angeles Herald. It was an article on Judge Reineke, our friend in Plattsville, Wisconsin who did not send a man to prison for the rape of a five-year-old child. He sent the man to prison for thirty days. And he said the only reason why he went to prison was because he lied to him on some minor point. If he hadn't lied to him, he wouldn't have sent him to prison at all. Because, (and this is right from the trial transcript) "This was a sexually promiscuous young lady." A five-year-old baby. So I got several letters from mothers who formed a committee to save the children. And they asked me if I would come in the next couple of days to Plattsville, Wisconsin. Well, I looked at the map. That was a trip. It was to Atlanta, then to Madison, then a couple of hundred miles in a car over to Plattsville where they didn't have a hotel or a motel - I hadn't stayed in a motel since. But I'd never been there, and it was kind of a dangerous trip to make. But I decided to go, anyway. To try to get enough signatures (they needed 8,000 and they had a couple of hundred) to recall Judge Reineke. Incidentally, all forty-one lawyers of the county came out for the judge. He was a most powerful man. Most influential. And all of the seven local newspapers came out. So I decided to by-pass those newspapers and went up



to Milwaukee to the newspapers where we could get a more unbiased account. And a couple of days before I was to leave, I received death threats. I don't care for myself, but one of them mentioned my child, and at that point I thought we'd had enough sorrow and tragedy in our family to subject my parents and my child to any unnecessary danger, so I cancelled that trip. However, I garnered a tremendous amount of publicity, and Judge Reineke was recalled.

There are several other cases. You see, I receive the letters from the people. I'd like to see the Chief of Police of Birmingham while I'm here, because I've gotten at least thirty letters from victims of rape in Birmingham, and they sure don't treat their people well. In particular one police officer.

Q: (inaudible)

A: I sent the Victims' Bill of Rights which, incidentally, and I'm very proud of this, was entered into the Congressional Record by Senator Heinz, and that's about the second time that was done. This Bill of Rights was written in April. It is now November, and it's still not in the precincts. I would like it to be implemented. Really, there's no harm that can come from this. It doesn't require additional federal expenditures or state expenditures. It's just a courtesy and dignity that the victims want. And it should be done, because it will help the image of the police. If the people feel that the police are really interested



don't feel that now. How could they feel that way? The police are good guys. They've gotten bad press and a bad rap, and I think we should rectify that. It's not their fault, really.

Q: You've visited a number of police departments.....

It's so difficult. Imagine being brought into a police precinct. You've been hurt. Your medical needs have not been taken care of. You're questioned immediately. My wounds weren't even cared for until the next day. The defense attorney for the criminal will make certain that his man gets some kind of consideration, but the victim does not have the benefit of counsel at this point.

There should be a private room. How would you like to be the victim of a crime and be afraid and vulnerable and scared to death? You've just had the living daylight scared out of you. To sit in a precinct and have all kinds of derelicts and people surrounding you. Maybe the person who perpetrated the crime may be sitting there and being questioned. And particularly a rape victim - it's awful. It's inhumane. There should be a tiny room. Not a big room. Just a little room in which we could yell and scream and curse or anything that we want to do in private. That's giving the victim of



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this country some dignity and he doesn't have that now.

Q. Are there any more questions? Does anybody have any questions?

Q. I certainly appreciate your comments and I agree with you 100%.....

A: I know but you guys don't make the decisions. They do it up in Washington. And then you have to abide by those decisions that they make. Unfortunately.

Q: Miss Francis, I know that the attempts, mainly on your part, about handling the victims.....Do you feel that you have advanced the cause of the victims? Any at all?

A: Despite the politicians, yes. To a small degree and I hope to do it more. The only way I'm going to do it is to take it to the people. The same thing that President Reagan did. He couldn't get anywhere with the government so he took it to the people. And that's where it counts. And that's what I'm going to do as soon as I get back to New York.

Voice: O.K. We certainly appreciate your taking the time with your busy schedule.....



Connie: Just let me say one more thing before I leave. Bipartisan politics are destroying this country. As you know Chip, you know the instance. Why I get calls from congressmen every week. "Come to my state and help me promote a bill." So the first thing I do, particularly in this election year, is to check out who this person is. Maybe he wants to get elected and he thinks Connie Francis will take a nice picture and he will get elected. I don't want to be used so there is an organization called ALEC - American Legislative Exchange Council. Why don't more people know about ALEC. It's an organization in Washington which within half-an-hour to forty-five-minutes will give you the voting record of every elected official in this country. Local, State and Federal on any given issue. I check the person out and then call back and if I am going to be near their state I go in and do it as I did with the "Ernest Resistance Law". But in Washington, that is really a joke. I get calls from Republicans asking me to call Democrats to try to get bills passed because these people don't speak to each other. I mean, really! You know that Chip. I should call congressmen because they can't, or don't, or won't speak with one another. Come on. I'm not interested in that. In personalities. I'm only interested in the people.

Thank you very much. Thank you for listening to me.



CHAPTER 20. KIDNAPPING AND FALSE IMPRISONMENT

Section	
20.01.	Definitions.
20.02.	False Imprisonment.
20.03.	Kidnapping.
20.04.	Aggravated Kidnapping.

§ 20.01. Definitions

In this chapter:

(1) "Restrain" means to restrict a person's movements without consent, so as to interfere substantially with his liberty, by moving him from one place to another or by confining him. Restraint is "without consent" if it is accomplished by:

- (A) force, intimidation, or deception; or
- (B) any means, including acquiescence of the victim, if he is a child less than 14 years of age or an incompetent person and the parent, guardian, or person or institution acting in loco parentis has not acquiesced in the movement or confinement.

(2) "Abduct" means to restrain a person with intent to prevent his liberation by:

- (A) secreting or holding him in a place where he is not likely to be found; or
- (B) using or threatening to use deadly force.

(3) "Relative" means a parent or stepparent, ancestor, sibling, or uncle or aunt, including an adoptive relative of the same degree through marriage or adoption.

[Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974.]

§ 20.02. False Imprisonment

(a) A person commits an offense if he intentionally or knowingly restrains another person.

(b) It is an affirmative defense to prosecution under this section that:

- (1) the person restrained was a child less than 14 years of age;
- (2) the actor was a relative of the child; and
- (3) the actor's sole intent was to assume lawful control of the child.

(c) An offense under this section is a Class B misdemeanor unless the actor recklessly exposes the victim to a substantial risk of serious bodily injury, in which event it is a felony of the third degree.

(d) It is no offense to detain or move another under this section when it is for the purpose of effecting a lawful arrest or detaining an individual lawfully arrested.

[Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974.]

§ 20.03. Kidnapping

(a) A person commits an offense if he intentionally or knowingly abducts another person.

(b) It is an affirmative defense to prosecution under this section that:

- (1) the abduction was not coupled with intent to use or to threaten to use deadly force;
- (2) the actor was a relative of the person abducted; and
- (3) the actor's sole intent was to assume lawful control of the victim.

(c) An offense under this section is a felony of the third degree.

[Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974.]

§ 20.04. Aggravated Kidnapping

(a) A person commits an offense if he intentionally or knowingly abducts another person with the intent to:

- (1) hold him for ransom or reward;
- (2) use him as a shield or hostage;
- (3) facilitate the commission of a felony or the flight after the attempt or commission of a felony;
- (4) inflict bodily injury on him or violate or abuse him sexually;
- (5) terrorize him or a third person; or
- (6) interfere with the performance of any governmental or political function.

(b) An offense under this section is a felony of the first degree unless the actor voluntarily releases the victim alive and in a safe place, in which event it is a felony of the second degree.

[Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974.]

CHAPTER 21. SEXUAL OFFENSES

Section	
21.01.	Definitions.
21.02.	Rape.
21.03.	Aggravated Rape.
21.04.	Sexual Abuse.
21.05.	Aggravated Sexual Abuse.
21.06.	Homosexual Conduct.
21.07.	Public Lewdness.
21.08.	Indecent Exposure.
21.09.	Rape of a Child.
21.10.	Sexual Abuse of a Child.
21.11.	Indecency with a Child.
21.12.	General Provisions.
21.13.	Evidence of Previous Sexual Conduct.

§ 21.01. - Definitions

In this chapter:

- (1) "Deviate sexual intercourse" means:

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(b) The intercourse is without the other person's consent under one or more of the following circumstances:

(1) the actor compels the other person to submit or participate by force that overcomes such earnest resistance as might be reasonably expected under the circumstances;

(2) the actor compels the other person to submit or participate by any threat, communicated by actions, words, or deeds, that would prevent resistance by a person of ordinary resolution, under the same or similar circumstances, because of a reasonable fear of harm;

(3) the other person has not consented and the actor knows the other person is unconscious or physically unable to resist;

(4) the actor knows that as a result of mental disease or defect the other person is at the time of the deviate sexual intercourse incapable either of appraising the nature of the act or of resisting it;

(5) the other person has not consented and the actor knows the other person is unaware that deviate sexual intercourse is occurring;

(6) the actor knows that the other person submits or participates because of the erroneous belief that he is the other person's spouse; or

(7) the actor has intentionally impaired the other person's power to appraise or control the other person's conduct by administering any substance without the other person's knowledge.

(c) An offense under this section is a felony of the second degree.

[Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1975, 64th Leg., p. 477, ch. 203, § 2, eff. Sept. 1, 1975.]

Subsection 7(a) of the 1975 amendatory act provided:  
 "Sections 1, 2, and 4 of this Act apply only to offenses committed on or after the effective date of this Act, and except as provided in Subsections (b), (c), and (d) of this section, a criminal action for an offense committed before the effective date of this Act is governed by the law existing before the effective date, which law is continued in effect for this purpose as though this law were not in force."

**§ 21.05. Aggravated Sexual Abuse**

(a) A person commits an offense if he commits sexual abuse as defined in Section 21.04 of this code or sexual abuse of a child as defined in Section 21.10 of this code and he:

(1) causes serious bodily injury or attempts to cause death to the victim or another in the course of the same criminal episode; or

(2) by acts, words, or deeds places the victim in fear of death, serious bodily injury, or kidnapping to be imminently inflicted on anyone; or

(3) by acts, words, or deeds occurring in the presence of the victim threatens to cause death, serious bodily injury, or kidnapping to be inflicted on anyone; or

(4) uses or exhibits a deadly weapon in the course of the same criminal episode; or

(5) the victim is younger than 14 years.

(b) The defenses enumerated in Subsections (b) and (c) of Section 21.10 of this code shall not apply to this section.

(c) An offense under this section is a felony of the first degree.

[Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1981, 67th Leg., p. 203, ch. 96, § 2, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 471, ch. 202, § 2, eff. Sept. 1, 1981.]

Acts 1981, 67th Leg., p. 203, ch. 96, § 4, provides:  
 "(a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

"(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose."

Acts 1981, 67th Leg., p. 472, ch. 202, § 5, provides:  
 "This Act applies only to offenses committed on or after its effective date. A criminal action for an offense committed before this Act's effective date is governed by the law in existence before the effective date, and that law is continued in effect for this purpose as if this Act were not in force. For the purposes of this section, an offense is committed on or after the effective date of this Act if every element of the offense occurs on or after the effective date."

**§ 21.06. Homosexual Conduct**

(a) A person commits an offense if he engages in deviate sexual intercourse with another individual of the same sex.

(b) An offense under this section is a Class C misdemeanor.

[Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974.]

**§ 21.07. Public Lewdness**

(a) A person commits an offense if he knowingly engages in any of the following acts in a public place or, if not in a public place, he is reckless about whether another is present who will be offended or alarmed by his act:

- (1) an act of sexual intercourse;
- (2) an act of deviate sexual intercourse;
- (3) an act of sexual contact;
- (4) an act involving contact between the person's mouth or genitals and the anus or genitals of an animal or fowl.

(b) An offense under this section is a Class A misdemeanor.

[Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974.]

**§ 21.08. Indecent Exposure**

(a) A person commits an offense if he exposes his anus or any part of his genitals with intent to arouse or gratify the sexual desire of any person, and he is reckless about whether another is present who will be offended or alarmed by his act.

(b) An offense under this section is a Class C misdemeanor.

[Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974.]



### § 21.09. Rape of a Child

(a) A person commits an offense if he has sexual intercourse with a female not his wife and she is younger than 17 years.

(b) It is a defense to prosecution under this section that the female was at the time of the alleged offense 14 years or older and had, prior to the time of the alleged offense, engaged promiscuously in sexual intercourse or deviate sexual intercourse.

(c) It is an affirmative defense to prosecution under this section that the actor was not more than two years older than the victim.

(d) An offense under this section is a felony of the second degree.

[Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1975, 64th Leg., p. 914, ch. 342, § 8, eff. Sept. 1, 1975.]

For saving provisions see note set out under Section 1.07.

### § 21.10. Sexual Abuse of a Child

(a) A person commits an offense if, with intent to arouse or gratify the sexual desire of any person, he engages in deviate sexual intercourse with a child, not his spouse, whether the child is of the same or opposite sex, and the child is younger than 17 years.

(b) It is a defense to prosecution under this section that the child was of the opposite sex, was at the time of the alleged offense 14 years or older, and had, prior to the alleged offense, engaged promiscuously in sexual intercourse or deviate sexual intercourse.

(c) It is an affirmative defense to prosecution under this section that the actor was of the opposite sex and was not more than two years older than the victim.

(d) An offense under this section is a felony of the second degree.

[Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974.]

### § 21.11. Indecency with a Child

(a) A person commits an offense if, with a child younger than 17 years and not his spouse, whether the child is of the same or opposite sex, he:

(1) engages in sexual contact with the child; or

(2) exposes his anus or any part of his genitals, knowing the child is present, with intent to arouse or gratify the sexual desire of any person.

(b) It is a defense to prosecution under this section that the child was at the time of the alleged offense 14 years or older and had, prior to the time of the alleged offense, engaged promiscuously in:

(1) sexual intercourse;

(2) deviate sexual intercourse;

(3) sexual contact; or

(4) indecent exposure as defined in Subsection (a)(2) of this section.

(c) It is an affirmative defense to prosecution under this section that the actor was not more than two years older than the victim and of the opposite sex.

(d) An offense under Subsection (a)(1) of this section is a felony of the second degree and an offense under Subsection (a)(2) of this section is a felony of the third degree.

[Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1981, 67th Leg., p. 472, ch. 202, § 3, eff. Sept. 1, 1981.]

Section 5 of the 1981 amendatory act provides:

"This Act applies only to offenses committed on or after its effective date. A criminal action for an offense committed before this Act's effective date is governed by the law in existence before the effective date, and that law is continued in effect for this purpose as if this Act were not in force. For the purposes of this section, an offense is committed on or after the effective date of this Act if every element of the offense occurs on or after the effective date."

### § 21.12. General Provisions

The exclusion of conduct with a spouse from the definitions of offenses in Sections 21.02 through 21.05 of this code (Rape, Aggravated Rape, Sexual Abuse, Aggravated Sexual Abuse) extends to the conduct of persons while cohabiting, regardless of the legal status of their relationship and of whether they hold themselves out as husband and wife. [Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974.]

### § 21.13. Evidence of Previous Sexual Conduct

(a) Evidence of specific instances of the victim's sexual conduct, opinion evidence of the victim's sexual conduct, and reputation evidence of the victim's sexual conduct may be admitted under Sections 21.02 through 21.05 of this code (rape, aggravated rape, sexual abuse, and aggravated sexual abuse) only if, and only to the extent that, the judge finds that the evidence is material to a fact at issue in the case and that its inflammatory or prejudicial nature does not outweigh its probative value.

(b) If the defendant proposes to ask any question concerning specific instances, opinion evidence, or reputation evidence of the victim's sexual conduct, either by direct examination or cross-examination of any witness, the defendant must inform the court out of the hearing of the jury prior to asking any such question. After this notice, the court shall conduct an in camera hearing, recorded by the court reporter, to determine whether the proposed evidence is admissible under Subsection (a) of this section. The court shall determine what evidence is admissible and shall accordingly limit the questioning. The defendant shall not go outside these limits nor refer to any evidence ruled inadmissible in camera without prior approval of the court without the presence of the jury.



(c) The court shall seal the record of the in camera hearing required in Subsection (b) of this section for delivery to the appellate court in the event of an appeal.

(d) This section does not limit the right of the state or the accused to impeach credibility by showing prior felony convictions nor the right of the accused to produce evidence of promiscuous sexual conduct of a child 14 years old or older as a defense to rape of a child, sexual abuse of a child, or indecency with a child. If evidence of a previous felony conviction involving sexual conduct or evidence of promiscuous sexual conduct is admitted, the court shall instruct the jury as to the purpose of the evidence and as to its limited use.

[Added by Acts 1975, 64th Leg., p. 477, ch. 203, § 3, eff. Sept. 1, 1975.]

Subsection 7(b) of the 1975 amendatory act provided:  
 "Sections 3 and 6 of this Act apply to the prosecution of criminal offenses committed but not brought to trial before the effective date of this Act."

**CHAPTER 22. ASSAULTIVE OFFENSES**

Section	
22.01.	Assault.
22.02.	Aggravated Assault.
22.03.	Deadly Assault on a Peace Officer or Court Participant.
22.04.	Injury to a Child or an Elderly Individual.
22.05.	Reckless Conduct.
22.06.	Consent as Defense to Assaultive Conduct.
22.07.	Terroristic Threat.
22.08.	Aiding Suicide.

**§ 22.01. Assault**

(a) A person commits an offense if he:

- (1) intentionally, knowingly, or recklessly causes bodily injury to another, including his spouse; or
- (2) intentionally or knowingly threatens another with imminent bodily injury, including his spouse; or
- (3) intentionally or knowingly causes physical contact with another when he knows or should reasonably believe that the other will regard the contact as offensive or provocative.

(b) An offense under Subsection (a)(1) of this section is a Class A misdemeanor unless the offense is committed by the owner or an employee of an institution described in Subsection (a), Section 2, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes), or a person providing medical or psychiatric treatment at an institution described in that subsection, and the offense is committed by causing bodily injury to a patient or resident of an institution described in that subsection, in which event the offense is a felony of the third degree.

(c) An offense under Subsection (a)(2) of this section is a Class C misdemeanor unless:

(1) the offense is committed by the owner or an employee of an institution described in Subsection (a), Section 2, Chapter 413, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4442c, Vernon's Texas Civil Statutes), or a person providing medical or psychiatric treatment at an institution described in that subsection, and the offense is committed by threatening a patient or resident of an institution described in that subsection with bodily injury, in which event the offense is a Class B misdemeanor; or

(2) the offense is committed against a classroom teacher, counselor, principal, or other similar instructional or administrative employee of a primary or secondary school accredited by the Texas Education Agency while engaged in performing his educational duties, in which event the offense is a Class B misdemeanor.

(d) An offense under Subsection (a)(3) of this section is a Class C misdemeanor unless the offense is committed against a classroom teacher, counselor, principal, or other similar instructional or administrative employee of a primary or secondary school accredited by the Texas Education Agency while engaged in performing his educational duties, in which event the offense is a Class B misdemeanor. [Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1977, 65th Leg., 1st C.S., p. 55, ch. 2, §§ 12, 13, eff. July 22, 1977; Acts 1979, 66th Leg., p. 260, ch. 135, §§ 1, 2, eff. Aug. 27, 1979; Acts 1979, 66th Leg., p. 367, ch. 164, § 2, eff. Sept. 1, 1979.]

**§ 22.02. Aggravated Assault**

(a) A person commits an offense if he commits assault as defined in Section 22.01 of this code and he:

- (1) causes serious bodily injury to another, including his spouse;
- (2) causes bodily injury to a peace officer when he knows or has been informed the person assaulted is a peace officer:

- (A) while the peace officer is lawfully discharging an official duty; or
- (B) in retaliation for or on account of the peace officer's exercise of official power or performance of official duty as a peace officer; or
- (3) causes bodily injury to a participant in a court proceeding when he knows or has been informed the person assaulted is a participant in a court proceeding:

- (A) while the injured person is lawfully discharging an official duty; or
- (B) in retaliation for or on account of the injured person's having exercised an official



power or performed an official duty as a participant in a court proceeding; or  
(4) uses a deadly weapon.

(b) The actor is presumed to have known the person assaulted was a peace officer if he was wearing a distinctive uniform indicating his employment as a peace officer.

(c) An offense under this section is a felony of the third degree.

[Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1979, 66th Leg., p. 367, ch. 164, § 2, eff. Sept. 1, 1979; Acts 1979, 63th Leg., p. 1521, ch. 655, § 2, eff. Sept. 1, 1979.]

#### § 22.03. Deadly Assault on a Peace Officer or Court Participant

(a) A person commits an offense if, with a firearm or a prohibited weapon, he intentionally or knowingly causes serious bodily injury:

(1) to a peace officer where he knows or has been informed the person assaulted is a peace officer:

(A) while the peace officer is acting in the lawful discharge of an official duty; or

(B) in retaliation for or on account of the peace officer's exercise of official power or performance of official duty as a peace officer; or

(2) to a participant in a court proceeding when he knows or has been informed that the person assaulted is a participant in a court proceeding:

(A) while the injured person is in the lawful discharge of official duty; or

(B) in retaliation for or on account of the injured person's having exercised an official power or performed an official duty as a participant in a court proceeding.

(b) The actor is presumed to have known the person assaulted was a peace officer if he was wearing a distinctive uniform indicating his employment as a peace officer.

(c) An offense under this section is a felony of the first degree.

[Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1979, 66th Leg., p. 1521, ch. 655, § 3, eff. Sept. 1, 1979.]

#### § 22.04. Injury to a Child or an Elderly Individual

(a) A person commits an offense if he intentionally, knowingly, recklessly, or with criminal negligence, by act or omission, engages in conduct that causes to a child who is 14 years of age or younger or to an individual who is 65 years of age or older:

- (1) serious bodily injury;
- (2) serious physical or mental deficiency or impairment;
- (3) disfigurement or deformity; or
- (4) bodily injury.

(b) An offense under Subsection (a)(1), (2), or (3) of this section is a felony of the first degree when the conduct is committed intentionally or knowingly. When the conduct is engaged in recklessly it shall be a felony of the third degree.

(c) An offense under Subsection (a)(4) of this section is a felony of the third degree when the conduct is committed intentionally or knowingly. When the conduct is engaged in recklessly it shall be a Class A misdemeanor.

(d) An offense under Subsection (a) of this section when the person acts with criminal negligence shall be a Class A misdemeanor.

[Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1977, 65th Leg., p. 2067, ch. 819, § 1, eff. Aug. 29, 1977; Acts 1979, 66th Leg., p. 365, ch. 162, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 472, ch. 202, § 4, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 2397, ch. 604, § 1, eff. Sept. 1, 1981.]

Acts 1981, 67th Leg., p. 472, ch. 202, § 5, provides:

"This Act applies only to offenses committed on or after its effective date. A criminal action for an offense committed before this Act's effective date is governed by the law in existence before the effective date, and that law is continued in effect for this purpose as if this Act were not in force. For the purposes of this section, an offense is committed on or after the effective date of this Act if every element of the offense occurs on or after the effective date."

#### § 22.05. Reckless Conduct

(a) A person commits an offense if he recklessly engages in conduct that places another in imminent danger of serious bodily injury.

(b) Recklessness and danger are presumed if the actor knowingly pointed a firearm at or in the direction of another whether or not the actor believed the firearm to be loaded.

(c) An offense under this section is a Class B misdemeanor.

[Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974.]

#### § 22.06. Consent as Defense to Assaultive Conduct

The victim's effective consent or the actor's reasonable belief that the victim consented to the actor's conduct is a defense to prosecution under Section 22.01 (Assault), 22.02 (Aggravated Assault), or 22.05 (Reckless Conduct) of this code if:

- (1) the conduct did not threaten or inflict serious bodily injury; or
- (2) the victim knew the conduct was a risk of:
  - (A) his occupation;
  - (B) recognized medical treatment; or
  - (C) a scientific experiment conducted by recognized methods.

[Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974.]



(A) any contact between any part of the genitals of one person and the mouth or anus of another person; or

(E) the penetration of the genitals or the anus of another person with an object.

(2) "Sexual contact" means any touching of the anus, breast, or any part of the genitals of another person with intent to arouse or gratify the sexual desire of any person.

(3) "Sexual intercourse" means any penetration of the female sex organ by the male sex organ.

[Acts 1973, 63rd Leg., p. 833, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1979, 66th Leg., p. 373, ch. 168, § 1, eff. Aug. 27, 1979; Acts 1981, 67th Leg., p. 203, ch. 96, § 3, eff. Sept. 1, 1981.]

Section 4 of the 1981 amendatory act provides:

"(a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

"(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose."

§ 21.02. Rape

(a) A person commits an offense if he has sexual intercourse with a female not his wife without the female's consent.

(b) The intercourse is without the female's consent under one or more of the following circumstances:

(1) he compels her to submit or participate by force that overcomes such earnest resistance as might reasonably be expected under the circumstances;

(2) he compels her to submit or participate by any threat, communicated by actions, words, or deeds, that would prevent resistance by a woman of ordinary resolution, under the same or similar circumstances, because of a reasonable fear of harm;

(3) she has not consented and he knows she is unconscious or physically unable to resist;

(4) he knows that as a result of mental disease or defect she is at the time of the intercourse incapable either of appraising the nature of the act or of resisting it;

(5) she has not consented and he knows that she is unaware that sexual intercourse is occurring;

(6) he knows that she submits or participates because she erroneously believes that he is her husband; or

(7) he has intentionally impaired her power to appraise or control her conduct by administering any substance without her knowledge.

(c) An offense under this section is a felony of the second degree.

[Acts 1973, 63rd Leg., p. 833, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1975, 64th Leg., p. 476, ch. 203, § 1, eff. Sept. 1, 1975.]

Subsection 7(a) of the 1975 amendatory act provided:

"Sections 1, 2, and 4 of this Act apply only to offenses committed on or after the effective date of this Act, and except as provided in Subsections (b), (c), and (d) of this section, a criminal action for an offense committed before the effective date of this Act is governed by the law existing before the effective date, which law is continued in effect for this purpose as though this law were not in force."

§ 21.03. Aggravated Rape

(a) A person commits an offense if he commits rape as defined in Section 21.02 of this code or rape of a child as defined in Section 21.09 of this code and he:

(1) causes serious bodily injury or attempts to cause death to the victim or another in the course of the same criminal episode; or

(2) by acts, words, or deeds places the victim in fear of death, serious bodily injury, or kidnapping to be imminently inflicted on anyone; or

(3) by acts, words, or deeds occurring in the presence of the victim threatens to cause death, serious bodily injury, or kidnapping to be inflicted on anyone; or

(4) uses or exhibits a deadly weapon in the course of the same criminal episode; or

(5) the victim is younger than 14 years.

(b) The defenses enumerated in Subsections (b) and (c) of Section 21.09 of this code shall not apply to this section.

(c) An offense under this section is a felony of the first degree.

[Acts 1973, 63rd Leg., p. 833, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1981, 67th Leg., p. 203, ch. 96, § 1, eff. Sept. 1, 1981; Acts 1981, 67th Leg., p. 471, ch. 202, § 1, eff. Sept. 1, 1981.]

Acts 1981, 67th Leg., p. 203, ch. 96, § 4, provides:

"(a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

"(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose."

Acts 1981, 67th Leg., p. 472, ch. 202, § 5, provides:

"This Act applies only to offenses committed on or after its effective date. A criminal action for an offense committed before this Act's effective date is governed by the law in existence before the effective date, and that law is continued in effect for this purpose as if this Act were not in force. For the purposes of this section, an offense is committed on or after the effective date of this Act if every element of the offense occurs on or after the effective date."

§ 21.04. Sexual Abuse

(a) A person commits an offense if, without the other person's consent and with intent to arouse or gratify the sexual desire of any person, the actor:

(1) engages in deviate sexual intercourse with the other person, not his spouse, whether the other person is of the same or opposite sex; or

(2) compels the other person to engage in sexual intercourse or deviate sexual intercourse with a third person, whether the other person is of the same sex as or opposite sex from the third person.



# Editorial Comment

San Francisco Chronicle

Richard T. Thieriet, Editor and Publisher  
Charles de Young Thieriet, Publisher 1955-77  
George T. Cameron, Publisher 1925-55  
Founded 1865 by Charles and M.H. de Young

## Yes on Prop. 8

WE URGE THE voters of California to vote "Yes" on proposition 8. Prop. 8 is not without its faults, but these faults are greatly outweighed by the series of much-needed reforms which it would spread throughout the California criminal law system.

This proposition is largely the result of a great deal of justified citizen frustration with, and anger at, the California Supreme Court. It is not the best way to write important law. But it seems the only way, given some startlingly bad judicial decision, and prevailing legislative indifference and inability to act. Certain provisions of Proposition 8 may be subject to constitutional challenge, but majority passage of this initiative will help bring a better perspective to the state courts and give them a powerful message of citizen concern.

The initiative was sponsored by Paul Gann, co-sponsor of Proposition 13, the property tax reform act. Gann and his associates, alarmed at the increase in violent crime, and at a seemingly-unending series of state Supreme Court decisions which have appeared to place the rights of criminals first, set out to change some Supreme Court decisions which had laid down new law not enacted by elected legislators. Here are some major provisions of the proposition:

It provides for restitution to victims by convicted criminals, an idea of merit but of minimal practicality since most criminals lack meaningful assets.

It adds a section to the state Constitution

spelling out the right of public school students to a safe and secure environment.

It would allow introduction of unlimited evidence about the past felony record of a defendant, a provision which clarifies and makes consistent some contradictory and seemingly illogical court decisions of the past which prohibit or sharply limit such evidence.

Proposition 8 would prohibit plea bargaining, a form of negotiation between prosecution and defense to obtain a guilty plea to a lesser offense. Some attorneys feel that the practice would still continue, but simply not be recorded or acknowledged in open court.

It would make it mandatory to sentence convicted murderers and rapists to the state prison system, and not the Youth Authority, if they were 18 when the offense happened.

The proposition would restore to California courts the same rules of exclusion of evidence that apply in federal courts under United States Supreme Court decisions and allow judges to consider the safety of the public in setting the amount and granting freedom on bail.

It is the imperative and urgent nature of these provisions which outweigh our qualms about Proposition 8. They are imperative and urgent because the Rose Bird Supreme Court, time after time, has shown more interest in fine points relating to the propriety of police conduct than in the interest of justice.

\* \* \*

IT RULED, FOR INSTANCE, that a car thief had a "right" to expect privacy which would prevent police from searching the car he was in even though the police knew the car was stolen. It threw out two confessions of an Alameda County man to the murder of his father, his mother and his grandmother even though he had twice been warned of his right to remain silent and to have counsel. In a robbery case, it threw out the conviction of a group of youths found with a car full of stolen property because a policeman approached the group in belief they were loitering and had no legal reason to approach them — because you can not "loiter in a car". It ruled that another arrest was not legal because a bag of heroin would not have been thrown away had not the suspect become frightened of arrest. The policeman had no legal right to make his approach, the court said, because he did not know the suspect had heroin.

Under federal law, evidence can be excluded only if it can be shown that the police deliberately misbehaved, which was not the case in any of the instances just cited.

Under a Bird court decision, bail may be denied only if the prosecutor can show that there is likelihood a defendant will flee. Proposition 8 will restore judicial discretion and enable the judge to consider community safety in making a bail decision.

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# CITIZEN'S COMMITTEE TO STOP CRIME

3385 Arden Way • Sacramento, CA 95825 • (916) 482-6220

PAUL GANN  
Chairman

WALL STREET JOURNAL MARCH 26, 1982

## The Gann of Worms

Paul Gann, the co-drafter of Proposition 13, has a new cartoon taped up by the side of his desk. It shows a jagged tin can spilling over with night-crawlers. Each worm is labeled something like "exclusionary rule," "plea bargaining," "crime victims" compensation" and so on, for each plank in Mr. Gann's latest California constitutional initiative, the "Crime Victims' Bill of Rights." The cartoon, of course, is captioned "Gann of Worms."

Mr. Gann really has popped the lid on a tangle of ugly, squirmy issues. He wants to let the people vote directly on the greatest controversies in current criminal procedure. By changing both the constitution and the penal code, he would:

- abolish the defense of diminished capacity
- limit the insanity plea
- raise the requirements for bail
- abolish the exclusionary rule (by establishing a constitutional Right to Truth-in-Evidence)
- limit plea bargaining
- stiffen sentencing procedures
- declare a right to safe schools and more. The state's civil liberties lawyers are beside themselves.

Nasty as these issues are, Mr. Gann is merely reflecting a widespread disillusionment with criminal procedure, and the legal profession isn't helping matters by the way it's reacted to him.

Mr. Gann's measure had been certified for the June ballot by the California Secretary of State when civil liberties lawyers launched a drive to keep it off. California law allows initi-

atives to go automatically on the ballot when random sampling of petitions shows they have at least 110% of the required signatures. Mr. Gann had a margin of 109%, which a lower court said was enough. But the State Supreme Court said no, and ordered the measure off the ballot until each county went through the lengthy process of checking each signature.

The court didn't reckon with the public emotion, however. The state legislature quickly changed the petition law to lower the automatic cutoff point, and made it retroactive to apply to Mr. Gann. The Republican State Central Committee, with a score to settle on reapportionment, voted to launch a recall of Chief Justice Rose Bird (although it later backed off). Mr. Gann's opponents kept the pot boiling by promptly taking the new petition law to court.

The fight has been wearing for the combatants. (Mr. Gann subsequently suffered a heart attack.) But the real damage has been to the prestige of the courts, and it has largely been self-inflicted. The California courts have dogmatically extended pro-defendant procedures like the exclusionary rule well beyond the bounds of common sense, equity and sound jurisprudence.

Then, faced with a popular challenge, they have appeared to try to shunt it off with technicalities and pettifoggery. The truth may not be so blunt. There are features of Mr. Gann's measure that could stand more careful thought. But the public can hardly be expected to show infinite patience while its judges seem lost in a dream world of ideology. Mr. Gann has indeed let the worms out of the can, but it was the extremism of the bench that created them in the first place.

Supporting

THE "VICTIMS' BILL OF RIGHTS"

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8/82

EDITORIAL #E25-82

"VICTIMS' BILL OF RIGHTS"

*Lead, call MEC in  
D.C. List of M. J. Chapman  
Consistently tough on crime - crime  
legislators in top 18 crime  
States - make sure  
they never vetoed  
death penalty. See  
interview then personally  
decide on one & would  
get the lovely thing*

EDITORIAL

*passed in every  
state.*

*D.J.*

KABC-TV regularly presents editorials on topics of public interest which are delivered by Vice President and General Manager, John C. Severino. Your comments on these editorials are appreciated and the station welcomes requests for broadcast time from responsible representatives of contrasting views.

Gene Webster  
Editorial Director

It's now official. The "Victim's Bill of Rights" will appear on the June Ballot as Proposition 8. By a 4-to-3 vote, the California Supreme Court issued the order.

Through weeks of haggling over whether the anti-crime initiative should be put before the voters, the real story has been overlooked.

The fact is that approximately 665,000 Californians signed the initiative demanding stronger action against criminals. If Sacramento lawmakers had been more responsive to the public's outrage against crime, that initiative wouldn't have been necessary.

More and more citizens, unhappy with lack of legislative action, have been turning to the initiative process. In the last ten years, 23 initiatives have been qualified through voter signatures and placed on the ballot. Six have been voted into law. According to the California Secretary of State's office, 18 official initiatives are right now being circulated.

Sacramento officials are often not pleased with initiatives. Even if the "Victims' Bill of Rights" is approved by voters in June, it will be challenged in court. A group of California attorneys claim it violates a rule limiting initiatives to a single subject. The backers claim it is limited to one crime.

Some criminal lawyers may well have a personal interest in seeing the measure defeated because it makes certain penalties mandatory.

We think Proposition 8 deserves your "yes" vote in June.

I'm Tom Vam Amburg.

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AN ABC OWNED TELEVISION STATION

The above editorial was telecast on April 13, 14 and 15, 1982.



# CITIZEN'S COMMITTEE TO STOP CRIME

3385 Arden Way • Sacramento, CA 95825 • (916) 482-6220

PAUL GANN  
Chairman

## The San Diego Union Editorials

PAGE B-6

TUESDAY MORNING, JUNE 1, 1982

### YES On Prop. 8

The preferred way to write state law in California is via the Legislature, whose members are elected for just that purpose. But what happens when the Legislature cannot or will not do its job?

Four years ago, the Legislature all but ignored the popular clamor for relief from skyrocketing property taxes. The result was Proposition 13, a rough-hewn hallo initiative that slashed property taxes but also diminished local control in the process.

Sadly, the Legislature has reacted to the rising tide of violent crime in California with much the same head-in-the-sand resistance to reform that marked its earlier stand on tax relief.

The predictable result is a ballot initiative designed to enact the reforms that have been bottled up year after year in the California Assembly's Criminal Justice Committee. Proposition 8, the so-called Gann anti-crime initiative or victim's bill of rights, would amend the constitution and enact several new criminal justice statutes.

Like Proposition 13, it is flawed in some respects and its passage in next Tuesday's primary election could well have some unintended consequences. Nevertheless, we have concluded after careful reflection that the passage of Proposition 8 is likely to do far more good than harm.

As Attorney General George Deukmejian noted in endorsing Proposition 8, crime in California has reached intolerable levels. Yet, only 5.5 percent of all persons arrested for felonies end up in prison. And of those convicted of felonies, two-thirds manage to avoid even a brief period of incarceration in the state prison system.

How can this be? One reason is a criminal justice system that imposes extraordinary, and at

times impossible, burdens on police and prosecutors while creating a myriad of loopholes through which criminals escape just punishment.

The now-commonplace abuse of plea bargaining, for example, permits far, far too many criminals to manipulate the system and escape with punishment that bears little relation to the seriousness of their actual crimes.

The widespread resort to so-called "diminished capacity" or insanity defenses has likewise allowed too many criminals to avoid the consequences of their acts. Who was not outraged when former San Francisco Supervisor Dan White received only seven



years in prison for the cold-blooded murder of two public officials in that city?

The excessively liberal interpretations by California courts of the exclusionary rule governing the admissibility of evidence has long handcuffed police and prosecutors to the detriment of citizens who deserve better protection against crime and criminals.

Or, consider California's current bail law. The law permits no weighing of public safety in setting bail for those accused of even the most violent crimes. The recent murder of a San Diego woman by a convicted felon out on bail was a chilling,

tragic reminder of what can happen when the law does more to protect the rights of violence-prone criminals than those of their potential victims.

Proposition 8 would close these and other loopholes that have made a sieve of California's criminal justice system. And it would go one step further. Proposition 8 would grant the victims of crime a constitutional right to receive restitution. Judges would be required to order those convicted of crimes to make financial restitution to their victims.

There are portions of the Gann initiative that trouble us. Chief among them is the language enacting a constitutional right to "safe, secure, and peaceful" schools, an ill-defined standard that may have unintended fiscal consequences for local school districts.

We also tend to agree with those critics of Proposition 8 who argue that lumping all these disparate elements in a single ballot initiative leaves the measure vulnerable to constitutional challenge. But given the alternative of doing nothing at all to reform this state's criminal justice system, the risk of having Proposition 8 weakened by the courts seems well worth running.

As for the other legalistic criticism of Proposition 8, we defer to the considered judgment of Attorney General Deukmejian.

California's highest law enforcement official said this about the Gann initiative: "There is absolutely no question that the passage of this proposition will result in more criminal convictions, more criminals being sentenced to state prison, and more protection for the law-abiding citizenry."

We strongly urge voters to cast a YES vote for Proposition 8 on the June primary ballot.



# BULGARIA'S ASSASSINS

A number of Italian publications have provided detailed stories linking Bulgarian government officials and Bulgarian citizens suspected of being intelligence service operatives with the attempted assassination of the Pope in May 1981.

The conservative Italian newspaper *Il Tempo* and Italy's largest newspaper, *Corriere della Sera*, have published articles stated to be based on the recent confession of Mehmet Ali Ajca, that link Bulgarian government functionaries directly to Ajca's effort to assassinate Pope John Paul II in St. Peter's Square on May 13, 1981.

The articles state that in his confession of more than a hundred pages, Ajca admits that his escape from a Turkish prison where he was serving a life sentence for a political murder was engineered by the Bulgarian secret service through one of their Turkish agents, Oral Celik. On his arrival in Sofia, Bulgaria, Ajca described how he was introduced by another Turk, Bekir Celenk, an arms smuggler shipping weapons from Bulgaria to Turkish terrorist organizations under the supervision of the Bulgarians, to three Bulgarians whom Italian authorities say played key roles in the plot to kill the Pope.

The Bulgarians were identified as Teodorov Ayvazov, who worked as a cashier with diplomatic immunity in the Bulgarian Embassy in Rome and returned to Bulgaria at the end of November; Jelio Kolev Vassiliev, for a number of years the secretary to the Bulgarian military attache in the Rome Embassy until his recall to Sofia in September 1982; and Sergei Ivanov Antonov, 35, Rome station chief for Bulgarian Airlines. Antonov is believed by Italian investigators to be an agent for the Bulgarian secret police.

Antonov, who did not have diplomatic immunity, was arrested in Rome at the Balkan Tourist Office, the Bulgarian Airline's travel agency, on November 25, 1982, by the anti-terrorist investigative police (Digos) acting on a warrant issued by Judge Ilario Martella, the chief Italian investigator of the assassination attempt. He is being held on complicity charges.

The three Bulgarians reportedly offered Ajca the equivalent of \$1.25 million in West German currency if he would agree to kill the Pope. Ajca agreed.

After spending several months in a good hotel in Sofia, Ajca was given a forged passport and told to travel to West Germany where he was in contact with Musa Cedar Celebi, who ran a Turkish cultural center in Frankfurt which was a center for extremists

File



## ASSASSINS (CONT.)

and individuals linked to Bulgarian arms smuggling operations. Celebi was arrested early in November after Italy filed an extradition request.

Early in May, Ajca received instructions to enter Italy and register as a student. In Milan, Ajca met another Turk operating as a Bulgarian agent, Omer Bagci, who was arrested in Switzerland last summer and has been extradited to Italy. Bagci was said to have provided Ajca with the pistol he used to shoot the Pope. The pistol allegedly was smuggled into Italy by Antonov who, as an airline executive, was exempt from ordinary security searches.

In Rome, Ayvazov gave Ajca detailed instructions regarding the assassination. Antonov reportedly has been identified as the man who paid the rent on Ajca's apartment. Both Antonov and Ayvazov went with Ajca to St. Peters Square on May 11 and May 12 in order to determine the best place from which to shoot.

On May 13, Ayvazov and Antonov collected Ajca and parked near St. Peters Square. All three were armed with pistols: in addition, Ayvazov was carrying a hand grenade. It is not clear whether either or both Bulgarians also fired shots. Apparently the grenade was to be used if it seemed that additional confusion and terror would help Ajca escape. But Ajca was seized immediately and the two Bulgarians fled. On a slip of paper in Ajca's pocket, police found the telephone numbers of the Bulgarian Embassy and consulate, the Balkan Tourist Office where Antonov managed Bulgarian Airways, and Ayvazov's home.

Ajca remains in prison serving a life sentence. His decision to cooperate reportedly was due to the failure of the Bulgarians to arrange a jail break which Ajca said was promised as part of the inducement to carry out the attack.

Media speculation in recent months links the shooting of Pope John Paul II to his strong support for the Solidarity free trade union movement in Poland, and a reported threat contained in a letter to Soviet President Brezhnev to resign the Papacy, return to Poland and lead the resistance should the USSR use military force to crush Solidarity.

On the question of why, if guilty of planning the shooting, the Bulgarians and Soviets would have left Antonov, Ayvazov and Vassiliev "in place" for months and not immediately moved them to Sofia, veteran intelligence analysts note that Ajca was a disciplined professional assassin who had shown in Turkey he could keep silent until a jailbreak could be arranged, and did in fact keep silent through his trial and fifteen months of incarceration. Thus it would be less suspicious to leave his accomplices in Italy.



CD PROFILE:

# REAGAN'S RABBI

file

Seymour Siegel spearheads drive to organize conservative Jews.  STEVE MASTY

John H. Popper



Reagan's Rabbi, Seymour Siegel, thinks liberal Jews are misguided.

**C**onservatives know him simply as Seymour; respected theologians and students of ethics refer to him as Rabbi Siegel; but to many he is Reagan's Rabbi, the highest-ranking rabbi in the Reagan administration, indeed in the history of American government.

When conservatives, either Jew or Gentile, say that Seymour Siegel wears many hats, they are referring neither to the orthodox yarmulke he wears at mealtimes nor to the natty straw boater he sports on summer afternoons. Seymour Siegel holds a presidential appointment as chairman of the United States Holocaust Memorial Council, which is establishing a permanent memorial in our nation's capital to the more than 6 million innocent Jews who fell victim to Hitler's National Socialism.

It is a demanding task, but only a small facet of the versatile Siegel. He is also a widely respected lecturer on morality and ethics, in part specializing in the complex world of medical ethics. As a medical ethicist, Siegel appears to commute between two worlds: that of the Talmud and the Bible, probing into complicated moral decisions; and that of near-science fiction, applying the Judeo-Christian ethic to problems generated by cloning, genetic engineering and other high-tech developments of the present or the future.

Siegel, around his tight schedule of

*Steve Masty is a regular CD contributor*

seminars and lectures, spent 20 years as chairman of the department of philosophies of Judaism in New York City's Jewish Theological Seminary, and has served as professor of humanities and medicine at the Medical College of Pennsylvania, and as a senior research fellow at the Kennedy Institute of Bioethics. The list of publications in which he has written or was written about is too long to read.

But this, too, is a small part of Siegel, who is launching a major campaign to bring mainstream conservatism to American Jewry.

*New York Daily News* headlines query: "Can Rabbi Seymour Siegel unite the liberal Jewish community with Ronald Reagan's conservative agenda?" Other headlines call him the "Rabbi of the New Right." Siegel continues to ignore the labels and express the unexpected: "We Jews are allied with the wrong people," he announces to the press. "The views of Jerry Falwell are in general much more amenable to Jewish values and the future of Jews than the views of Rev. Andrew Young or the Rev. William Sloane Coffin."

Siegel readily admits that his politics were not always conservative. Raised in Chicago by what he calls a "non-observant Orthodox family," educated at the University of Chicago and the Jewish Theological Seminary, Siegel went to Selma, Alabama, during the '60's civil rights struggles and campaigned for Hubert Humphrey in 1968.

In *Present Tense* magazine, Siegel cited issues that led him to oppose lib-

eral politics. Referring to 1960s student upheavals at Columbia University, Siegel said: "We all saw it every day, walking to the seminary and back. To me, it symbolized very dramatically that liberals who are permissive, who don't have firm principles . . . make barbarism—which I think the students exhibited—almost inevitable. That's how they acted. It was shocking to a person like me."

On a massive urban housing project built in the middle of a quiet Jewish neighborhood, Siegel remarked, "There, Jewish safety, interests, institutions were being called upon to sacrifice for the sake of some bogus universalism. You further the cause of everybody by doing away with yourself."

The New York City school strike was the last straw: "Though other factors were involved, there was a racial problem . . . even the blacks admitted that. Here it was clear that people like [Mayor] Lindsay and others—a lot of Jews, too, Jews were not exempted—were willing to sacrifice Jews for the sake of some ideal, or for other people, in this case, blacks. And it didn't even help the blacks, which was the worst part of it. As a result of that, and maturing and reading, I changed my political allegiance," said Siegel.

In 1970, Siegel worked in conservative Republican James Buckley's New York Senate race, and campaigned for Nixon in 1972, later reading a prayer at Nixon's second inauguration.

By 1979, Siegel was taking an active role, supporting Ronald Reagan in the



Republican primaries, briefing the candidate before campaign stops in New York, and serving as chairman of East Coast Scholars for Reagan, mobilizing academics on the candidate's behalf.

Today, Siegel is founder and prime mover of the American Jewish Forum, a growing group with more than 1,000 members, dedicated "to organize Jews who are interested in or committed to conservative politics." He is an active long-time member of the conservative Philadelphia Society, and a fellow at the Heritage Foundation, the prestigious conservative think-tank.

"A sea of change has taken place in the political life of the country, signaling a new era in American politics," Siegel tells audiences. "There is a receptivity to traditional conservative religious and moral precepts that I have not experienced in the past 20 or 30 years."

Reagan's social policies, says Siegel, "are in keeping with the Jewish tradition . . . the highest charity is to make it possible that another person will become self-sufficient and not need philanthropy."

Siegel is a natural diplomat: His gentleness and visible sense of purpose make him welcome in all camps of conservative opinion, from the New Right and Christian right to neoconservatives and other groups. But Siegel hardly shuns conflict, or more accurately, conflict seems to seek him out, especially when he is talking to non-conservative Jewish audiences.

"There is not a country with a socialist government in which the Jewish community is flourishing," he says, adding, "whatever else the communist world disagrees about, on one thing they are united: They hate and oppose Israel and they hate and oppose the Jewish religion. It follows that non-accommodation with communism and non-recognition of communist-leaning regimes, which seems to be the policy of this administration, should be a cardinal principle of any Jewish policy. We should be the first ones to be the strongest anti-communists and to be for a strong defense budget."

The *New York Daily News* quotes his equally tough stands on social issues: "I believe very strongly that the Jewish community has been absolutely wrong on the whole church-state issue. The so-called separation of church and state is a myth," he says. "I also believe the fight against prayer in public schools is totally misdirected. Anyone interested in Jewish interests, values and the future should welcome with open arms the new developments. We should join together

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with those who want to return the values of family, religion, stability and discipline and what people mistakenly call the Protestant work ethic. It's really the Jewish work ethic."

His conservative views are capable of arousing strong dissent from entrenched liberals as the *Daily News* reports. "'This man is a menace to freedom in this country,' one woman begins hissing audibly from the back of the room. She marches forward. 'The B'nai B'rith women have taken a position in favor of freedom of choice for women,' she tells Siegel.

"'If the B'nai B'rith holds these points of view I would hope they don't have any influence in this country,' Siegel snaps.

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**"Whatever else the communist world disagrees about, on one thing they are united: they hate and oppose Israel . . ."**

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"Another decries the Reagan budget's meat cleaver approach to trimming programs for the elderly and handicapped. 'I know of \$500,000 worth of school lunch program money in this city that is being stolen by Jewish agencies,' the Rabbi answers. Suddenly the meeting is out of control. The gloves are off. The women are ready to begin taping their knuckles, many of the men seem ready to drop-kick Siegel into the East River."

But Siegel does not get drop-kicked, either by the hostile audience or by unsympathetic *Daily News* reporters. Siegel may not look much like a fighter, but he's quick on his feet with heavyweight answers ready, criticizing what he calls the liberals' "superficial analyses of complex problems."

Prior to Siegel's recent appointment as chairman of the U.S. Holocaust Memorial Council he held another presidential appointment, on a White House commission on bioethics. In his new position, he assumes leadership of a council established in 1980 and passed unanimously by Congress, creating a permanent memorial to the victims of the Holocaust.

The council, under Siegel's leadership, plans to restore two historic 19th Century red-brick buildings on Washington's Constitution Avenue, near the Smithsonian and adjacent to the Washington and Jefferson memorials. The buildings will house historical exhibits on the Holocaust, as well as research and library space.

For this, the private sector has to come up with nearly \$100 million, and it's Siegel's job to raise it.

He pushes aside the issue of fundraising, never able to suppress his philosophical side for long. "For we conservatives," he remarks, "this is an exceptionally important project. As conservatives, we believe that man is imperfect, that there is both a good and a bad side to mankind, and that tradition, religious values, order and the rule of law are conservative institutions which help to keep men from doing evil, such as the evil performed by a totalitarian government, the Nazis, against the Jewish people. This is a memorial to timeless values as much as to one particularly ugly historical event."

Siegel's council also puts him in a key position to work with Jewish and Gentile leaders, conservative and non-conservative, building philosophical bridges as well as a Holocaust memorial. In his office, one never knows if a phone call is from a Jerry Falwell, a Midge Decter, a Norman Podhoretz, a Lewis Lehrman, a prominent member of the non-conservative Jewish community or a senior White House official.

Seymour Siegel puts on his yarmulke and sits down to lunch in Washington's only kosher restaurant, on the fading second floor of a fading Washington townhouse. "The best thing about this place is it's kosher," says Siegel, gingerly dipping into too-salty beef soup.

He is reminded of his few disagreements with the Reagan administration, most notably over the AWAC sales to the Saudis, and he is asked what complaints he has now. In the best rabbinical fashion, he responds with an anecdote.

"An old Jewish woman took her grandson to the beach, and as he played on the beach, a big wave slapped down and dragged him out into the ocean," he muses. "As everybody panicked, the woman lifted up her arms to Heaven, asking God why this had to happen. She said that, all her life, she had kept God's commandments, she had observed the holidays, given to charities and loved the boy as her own." Siegel pushes his soup away and sits back in his chair. "At that moment," he says, "there is a peal of thunder, the wave returns, and deposits the boy, sputtering, on the beach. As the people rush over to him, the old woman stares at him, then looks back to heaven with a petulant look in her eye. She says to the heavens, 'I seem to remember he was wearing a hat!'" Siegel shrugs and calls for the bill. □