

8-15-1984

Letters of Introduction

Robert E. Palmer

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Recommended Citation

Robert E. Palmer *Letters of Introduction*, 11 Pepp. L. Rev. Iss. 5 (1984)

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LETTERS OF INTRODUCTION

American Bar Association

The Editor
Pepperdine Law Review:


This special symposium issue of the *Pepperdine Law Review* represents a significant advance for victims of crime whose special needs and concerns have not received adequate attention by the legal profession throughout most of this country's history. Indeed, until recently victims were seldom the topic of even isolated law review articles. Two assumptions—that victims' problems are not "legal" problems, and that only the state and the defendant have a legitimate interest in our adversarial system of justice—went virtually unquestioned for years. Thus, few lawyers recognized a professional obligation toward victims or sought guidance from law reviews or elsewhere on how to deal with them.

There were exceptions, of course, and the American Bar Association is proud that some of its own members have spearheaded efforts to bring the power of the organized bar to bear on specific reforms to improve the plight of crime victims.

In the 1960's and 70's, as an unprecedented victim movement got underway, the ABA promoted crime victim compensation programs, rape crisis centers and domestic violence shelters. In 1976 our Criminal Justice Section created a Victims Committee to promote these policies and to develop others. Under the leadership of Judge Eric Younger of Los Angeles, the Committee prepared a model statute to reduce victim intimidation, approved by the ABA in 1980. Succeeding Victims Committee chairpersons E. Michael McCann of Milwaukee and Frank Carrington of Virginia Beach took the lead in developing a comprehensive set of "Guidelines for Fair Treatment of Crime Victims and Witnesses" which received ABA backing in 1983. These Committee chairpersons also testified for the Association in support of federal victim-oriented legislation such as the Victim Witness Protection Act signed by President Ronald Reagan in 1982.

Even as these and other reforms were receiving unprecedented attention by the legislatures and courts in the early 1980's, many lawyers remained skeptical about the true role of the victim in the justice system. Both supporters and opponents of increased victim participation were beginning to ask fundamental questions about the victim's "standing." What, for example, if anything, does the system "owe" victims? Are there legitimate historical, constitutional, philosophical or practical bases for including—or excluding—the victim from active participation in the criminal justice process? If fundamental obstacles block certain avenues of reform for the treatment of victims, are there alternative routes? And, finally, to what legal remedies are victims entitled when the system does not adequately protect them or safeguard their rights?

Recognizing that the answers to such questions were likely to have far-reaching implications for both lawyers and victims, the Criminal Justice Section, with National Institute of Justice funds, commissioned three respected attorneys to explore the potentials and limits of the victim's role in the justice system. The Association and the Section, chaired by Richard H. Kuh of New York, are extremely pleased that *Pepperdine Law Review* has published the resulting papers together as a symposium issue. We trust you will find them as thought-provoking as we have.



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Washington, D.C. 20531

The Editor

Pepperdine Law Review:

The National Institute of Justice has long been involved in research on the relationship between the victim and the criminal justice system. Much of the earlier research focused on the victim as witness in the processing of criminal cases, and the services required to enhance victim cooperation. These studies were based on the assumption that our criminal justice system cannot function effectively or efficiently if victims and witnesses fail to cooperate.

More recently, the President's Task Force on Victims of Crime and others have taken an in-depth look at the situation of victims in our criminal justice system. Their conclusion: victims essentially are not given any rights. Indeed, victims are usually simply treated as evidence.

Promoted by this conclusion, the National Institute of Justice decided that a more fundamental examination of the victim's role was in order. Accordingly, in 1982, the National Institute asked the American Bar Association to analyze the evolution of the victim's role in our criminal justice system. We posed these questions: How did a system originally designed to protect the interests of the victim and ensure the accountability of the criminal become so out of kilter? How did it happen that victims came to be treated so indifferently? How could victims be given a more responsible and dignified role in the justice system?

In response to the National Institute's interest, the American Bar Association proposed to explore these issues by commissioning a series of papers by legal scholars examining the legal history of the victim's role and the legal and practical aspects of a reconceptualized role for the victims of crime in the criminal justice system.

I am delighted that with National Institute support, these papers have now been completed and are being published as one volume in the Pepperdine University Law Review. Taken together as they are here, they represent the most comprehensive treatment of the theoretical and practical issues involved in the movement toward redefining the role of the crime victim in the criminal justice process for a legal audience. Moreover, the legal issues and innovative approaches put forth by these authors are even more thought-provoking and relevant today than when they were begun because of the forceful and articulate illumination of many of these same issues by the President's Task Force on Victims of Crime coupled with vigorous efforts at the local, state, and federal levels to implement changes in policy and practice.

Within the past year, the National Institute of Justice has provided support for a number of new research initiatives in the area of crime victims, including an examination of the recent provisions for victim appearance at sentencing and parole hearings under California law. We have provided support for and co-sponsored the First National Conference of the Judiciary on the Rights of Victims of Crime and now the first law review edition devoted exclusively to victims of crime. The judges at the National Conference of the Judiciary adopted a comprehensive set of Recommended Judicial Practices regarding victims which was based on the premise that judges should play a leadership role in ensuring that victims are treated with courtesy, respect and fairness. I sincerely hope that in a similar manner, careful reading of these law review articles will inspire practicing lawyers to reexamine their role in and responsibility for the fair treatment of victims and witnesses in our criminal justice system.

Sincerely,

James K. Stewart
Director, National Institute of Justice
U.S. Department of Justice



U.S. Department of Justice

Office of the Assistant Attorney General

Washington, D.C. 20531

The Editor
Pepperdine Law Review:

I am honored to be able to provide introductory comments to this thoughtful overview of the problems our legal system poses for the improved treatment of victims of crime, as well as some of the important strides being made to overcome these obstacles. I commend Pepperdine University, the American Bar Association, and the National Institute of Justice for their joint sponsorship of this important project.

The President's Task Force on Victims of Crime, established by President Reagan in 1982 to examine the problems victims face and to offer recommendations for improvement, concluded that the treatment of victims of crime in America is a national disgrace. We cannot expect to hold criminals accountable without the victim's cooperation, yet we have offered these innocent victims little or no support.

In fact, the system too often extends and intensifies the nightmare, which only begins with the crime itself. Once they survive the initial impact of a crime, victims are drawn into a system that treats them with indifference at best and abuse at worse. They are subjected to repeated questioning, forced to relive the experience over and over, kept uninformed about the case, required to appear repeatedly in court, often lose property and wages, and generally are treated as pieces of evidence to be manipulated by the criminal justice system. Given almost no support in many instances, the victim faces the crime and the system designed to address it alone. The victim currently has none of the procedural safeguards that the system quite properly affords the alleged victimizer. On his own, the victim must try to repair all the crime has destroyed, and what he cannot repair he must endure.

Justice requires that we no longer close our eyes to the human impact of the criminal's conduct. We must improve treatment of victims. After talking to more than 1,000 victims and the professionals who serve them, the Task Force issued its Final Report with sixty-eight recommendations for action throughout the public and private sectors.

This Task Force Report has become the guide for a major new federal initiative. A special victims unit has been created in the Justice Department to carry forward with the implementation of the Task Force's recommendations. This unit recently established the National Victims Resource Center to provide information and assistance to victim service providers across the country. It is also developing victim-oriented training guidelines for judges, prosecutors and law enforcement officials. Of particular interest is the development of model legislative proposals for possible use by the states to overcome certain legal barriers to the fair treatment of crime victims.

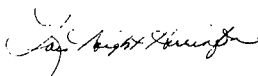
Another of the Task Force's recommendations was answered by this Administration's introduction, in March of this year, of the Victims of Crime Assistance Act of 1984. This legislation proposes federal support for state victim compensation and victim assistance programs. The revenue for this initiative would come from the fines paid by convicted federal criminals—not from the taxpayer.

We are excited by the progress we see. Throughout the country increasing attention is be-

ing paid to the victim by criminal justice professionals, and the public is taking an even more active and informed role in seeking improved treatment of victims. The Justice Department is committed to providing a permanent focus within the federal government for the interests of victims. It will continue to provide leadership at the national level, and to support the efforts of state and local agencies and organizations to provide proper treatment for victims.

Until a very few years ago, the victim of crime was the unheard voice in our criminal justice system. This year marked the fourth consecutive year in which President Reagan has established and proclaimed Crime Victims Week, in recognition of our nation's obligation to respond fairly to the innocent victim of crime. As the President noted during the 1984 Crime Victims Week Proclamation Ceremony, "For too long, America's criminal justice system has protected the rights and privileges of the criminal before the victim. In the end, society is the greatest victim."

Sincerely,

A handwritten signature in cursive script, appearing to read "Lois Haight Herrington".

Lois Haight Herrington
Assistant Attorney General
U.S. Department of Justice



UNITED STATES DEPARTMENT OF EDUCATION

THE SECRETARY

The Editor
Pepperdine Law Review:

For several years, crime and violence have been pervasive virtually everywhere in America. One tragic result has been a burgeoning population of crime victims. While efforts to directly diminish crime and violence have not always been successful, countless crime victims' programs have successfully evolved throughout the Nation.

As Secretary of Education, I am especially pleased to compliment the contributors to this special symposium edition of the *Pepperdine Law Review* and, specifically, to commend Pepperdine University and its National School Safety Center for their thoughtful contribution which focuses much-needed attention on the victims, both student and staff, of school and school-related crime and violence.

Much yet needs to be done for all crime victims, including those in and about our schools. This special symposium edition of the *Pepperdine Law Review* is an important academic advance in the pursuit of that worthy end.

Sincerely,

A handwritten signature in dark ink, appearing to read "T.H. Bell", is positioned below the word "Sincerely,".

T.H. Bell
Secretary, United States Department of Education



U.S. Department of Justice

Office of Juvenile Justice and
Delinquency Prevention

Washington, D.C. 20531

The Editor

Pepperdine Law Review:

Of the many good reasons to abhor crime—moral, ethical, legal, to name merely a few—the most immediate and the most personally compelling is the suffering it brings to its victims. Yet for this group, the legal institutions of our society have done little. A few lonely advocates have spent the past ten to twenty years pleading a case to the nation. Finally, great numbers are listening.

The quiet effort of long years has grown large, its supporters legion. President Reagan convened the leaders in his Task Force on the Victims of Crime, and its impact has been impressive. Throughout the government and increasingly through the voluntary efforts of many private citizens, the plight of victims has become a cause whose adherents have effect.

The Pepperdine University Law Review has added its prestige and influence to President Reagan's work through the issuance of this collection of important articles on the topic of victims' legal rights. In years to come, I hope it will have great influence. And I am sure that it will.

A handwritten signature in cursive script, reading "Alfred S. Regnery", is positioned below the typed name.

Alfred S. Regnery
Administrator

Office of Juvenile Justice and Delinquency Prevention

Supreme Court of California
State Building
San Francisco
94102

Rose Elizabeth Bird
Chief Justice

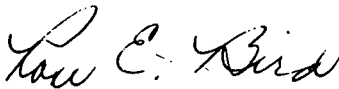
The Editor
Pepperdine Law Review:

Crime damages our social fabric, and every victim of crime suffers. As a community, we respond by apprehending the perpetrators and punishing them for their criminal acts. In California in recent years, stiffer penalties have been enacted and are being imposed every day in courts throughout this state. But the criminal justice system must do more than punish criminals. It must seek to heal the wounds—emotional, physical, and financial—caused by crime.

That is a difficult but essential goal. Difficult, because there are some losses for which we cannot possibly make the victims whole again, however hard we may try. Essential, because we live in a society that is based on principles of fairness and justice for all of its citizens. Everyone in our society has a right to life, liberty, and the pursuit of happiness, and the criminal justice system needs to find the means to ensure that these rights are honored and secured for the victims of crime.

That will not be an easy task. It will require patience, good will, and experimentation. Some ideas will work while others will not. But the important thing to note, as the following articles illustrate, is that this experiment is already well underway.

Sincerely,

A handwritten signature in cursive script, reading "Rose E. Bird".

Rose Elizabeth Bird
Chief Justice, Supreme Court of California



GEORGE DEUKMEJIAN
GOVERNOR

State of California

GOVERNOR'S OFFICE
SACRAMENTO, CA 95814

The Editor
Pepperdine Law Review:

In recent years, growing concern for the rights of crime victims has led to statutory and constitutional recognition of these rights in many states. Court decisions, including those of the United States Supreme Court, have also recognized victims' rights. Community crime prevention programs, such as Neighborhood Watch and National School Watch, have enhanced this evolving recognition of victim services.

In 1965, California established the first victims compensation program for those injured by criminals. Today, 36 states have similar programs. As a State Senator, I authored legislation to create California's first victims' rights week. Since that time, many communities throughout our country have decided to set aside time for special recognition of victims' rights.

As a principal supporter of Proposition 8, the Victims' Bill of Rights, I was pleased to see California voters provide constitutional approval for the rights of victims. This support demonstrates the clear intent of California's voters that crime victims be treated with fairness and concern.

One setting in which victims' rights and crime prevention are exceedingly important is in our school system. Regrettably, the achievement of educational excellence has been seriously impaired by the high incidence of crime in our schools. As Attorney General, I sought a judicial precedent to compel school districts to provide a violence and drug free learning environment. In addition, I created the School Safety Center, which produced publications such as *Law in the Schools* and *Campus Strife* to aid school administrators, parents and teachers in their understanding and awareness of school crime, and provide them with the tools to combat that crime. As Governor, I will continue my efforts to restore public safety in our communities and schools. But our success depends on an ongoing commitment by all our citizens to create a safer environment.

That is why publications such as this symposium by the *Pepperdine Law Review* on crime victims are so important. By bringing together individuals, organizations and government agencies committed to fostering a greater recognition of victims' rights, these efforts will help usher in a positive new era—one in which we seek to ensure the just treatment of victims and their families, while rededicating ourselves to making our communities safer for all our citizens.

George Deukmejian
Governor
State of California

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The Editor Pepperdine Law Review:

The *Pepperdine Law Review's* Special Symposium Edition on Crime Victims is a thoughtful and provocative look at one of the most compelling issues confronting the American system of justice. Its series of articles by distinguished legal scholars puts the plight of crime victims into a perspective that shows where we have been, where we are and where we can go from here.

Historically, crime victims too often were the forgotten parties in the administration of criminal justice. For too long, national, state, and local efforts to protect the rights of the criminally accused were not matched by similar endeavors to secure justice for the victims of crime.

In recent years, however, attempts to correct these inequities have been more widespread, more responsible and equally protective of both the criminally abused and the criminally accused.

Articles, studies, and books by concerned professionals in the legal and academic fields more and more command attention for victimology and victim advocacy issues. These published works serve the best interests of the legal and judicial communities and, indeed, of all citizens through a continuing public, academic, and professional dialogue on crime victims' rights and remedies.

Pepperdine University's School of Law; the American Bar Association, its Criminal Justice and its Victims Committees; the Office of Justice Assistance, Research and Statistics; the National Institute of Justice and the Office of Juvenile Justice and Delinquency Prevention—all of the United States Department of Justice; the National School Safety Center; and Mead Data Central are to be commended for their cooperative efforts in preparing, publishing and funding this special symposium edition of the *Pepperdine Law Review*. The result is a significant contribution to the cause of justice for all.

Yours truly,

Dale E. Hanst
President,
The State Bar of California



The Editor

Pepperdine Law Review:

After many years of neglect, crime victims and their rights are receiving much greater attention in the administration of justice.

Closer scrutiny has led to the realization that far too many crime victims are public school students and staff.

Leaders in both law enforcement and education must act together to reduce school crime and, at the same time, improve the quality of the educational experience.

As California's Attorney General and Superintendent of Public Instruction, we have formed a partnership to pursue the following goals:

First: To reduce crime and create more order and discipline in our schools;

Second: To reduce truancy through cooperative programs involving schools, parents, police and prosecuting attorneys;

Third: To organize good citizenship and character education in the schools, making our young people aware of their responsibilities in a society that is based on laws, rules and respect for individual rights.

We hope our efforts will interest and encourage other state attorneys general and superintendents of public instruction to address the same issues.

Law enforcement has a traditional role in crime prevention and in improving treatment for crime victims. School administrators and educators also have such a responsibility.

In its final report, published in December, 1982, the President's Task Force on the Victims of Crime declared: "School authorities should be mindful of their responsibility to make students aware of how they can avoid being victimized by crime," and "educators should develop and provide courses on the problems, needs, and legal interests of victims of crime."

While there is clearly increased public interest in these matters, it is important for academic interest to increase as well. This special edition of the *Pepperdine Law Review*, jointly sponsored by the American Bar Association, the National Institute of Justice and the National School Safety Center, is an important stride forward in promoting and broadening support for programs leading to better school security and a better educational experience.

A handwritten signature in black ink, reading "John K. Van de Kamp".

John K. Van de Kamp
Attorney General
State of California

A handwritten signature in black ink, reading "Bill Honig".

Bill Honig
Superintendent of Public Instruction
State of California