

8-15-1984

The Victims' Movement: An Idea Whose Time Has Come

Frank Carrington

George Nicholson

Follow this and additional works at: <http://digitalcommons.pepperdine.edu/plr>

 Part of the [Criminal Law Commons](#)

Recommended Citation

Frank Carrington and George Nicholson *The Victims' Movement: An Idea Whose Time Has Come*, 11 Pepp. L. Rev. 5 (1984)
Available at: <http://digitalcommons.pepperdine.edu/plr/vol11/iss5/3>

This Symposium is brought to you for free and open access by the School of Law at Pepperdine Digital Commons. It has been accepted for inclusion in Pepperdine Law Review by an authorized administrator of Pepperdine Digital Commons. For more information, please contact Kevin.Miller3@pepperdine.edu.

The Victims' Movement: An Idea Whose Time Has Come

FRANK CARRINGTON* AND GEORGE NICHOLSON**

The victims' rights movement has only recently gained national exposure. The advances in victims' rights are seen in legislation on the federal and state levels and in various victim support groups. Through the cooperative effort of victims' rights advocates in the public and private sectors, the rights of crime victims are gradually being extended to their rightful place.

I. INTRODUCTION

More than fifty years ago, United States Supreme Court Justice Benjamin N. Cardozo wrote: "Justice, though due to the accused, is due the accuser also. The concept of fairness must not be strained till it is narrowed to a filament. We are to keep the balance true."¹ Even so, crime victims have not been treated fairly since this great jurist's time. "Somewhere along the way, the system began to serve lawyers and judges and defendants, treating the victim with institutionalized disinterest."²

In recent years, however, that institutionalized disinterest has come under intense scrutiny and is rapidly giving way to a much more enlightened approach. Nevertheless, the beginning of the victims' movement remains obscure. The reason is that there is

* B.A., Hampden-Sydney College, 1956; LL.B., University of Michigan, 1960; LL.M., Northwestern University, 1970; attorney at law, Virginia Beach, Virginia; Executive Director, Victims' Assistance Legal Organization (VALOR); member, President Reagan's Task Force on Victims of Crime; Chairman, Victims' Committee, American Bar Association.

** B.A., California State University at Hayward, 1964; J.D., Hastings College of the Law, University of California, 1967; attorney at law, Sacramento, California; Director and Chief Counsel, National School Safety Center; member, Victims' Committee, American Bar Association; member, board of directors, Victims' Assistance Legal Organization (VALOR); member, advisory committee, Victims of Crime Resource Center, McGeorge School of Law, University of the Pacific.

1. Snyder v. Massachusetts, 291 U.S. 97, 122 (1934).

2. PRESIDENT'S TASK FORCE ON VICTIMS OF CRIME, FINAL REPORT (1982), at vi (statement of Lois Haight Herrington, Chairman).

no *exact* date when the victims' movement began. It is even difficult to make a rough estimation in that regard. There are, however, some "landmarks" for the movement's escalation. California, in 1965, enacted the first statute providing for state compensation for innocent victims of violent crime.³ Today, thirty-nine states, the District of Columbia, and the Virgin Islands have approved similar legislation.⁴ In Fresno, California, in 1976, the National Organization for Victim Assistance (NOVA)⁵ was founded as an "umbrella" organization to coordinate victim advocacy efforts nationwide. Currently, there are an estimated 2,000-plus government and private sponsored victim assistance organizations at the state and local level.⁶ "Crime Victims' Weeks" are now proclaimed annually by the President of the United States⁷

3. 1965 Cal. Stat. 3641, *repealed by* 1967 Cal. Stat. 3707. California's current victim compensation program is codified at CAL. GOV'T CODE §§ 13960-74 (West 1980 & Supp. 1984).

4. NATIONAL ORGANIZATION FOR VICTIMS' ASSISTANCE, VICTIMS RIGHTS AND SERVICES: A LEGISLATIVE DIRECTORY (1984).

5. *Id.*

6. *Id.* For a recently published index of contemporary victims' advances, see UNITED STATES DEPARTMENT OF JUSTICE, VICTIM AND WITNESS ASSISTANCE, BUREAU OF JUSTICE STATISTICS BULLETIN (1983).

7. *See, e.g.*, Proclamation No. 5182, 49 Fed. Reg. 15,061 (1984) (Crime Victims Week, 1984); Proclamation No. 5044, 48 Fed. Reg. 15,439 (1983) (Crime Victims Week, 1983); Proclamation No. 4929, 3 C.F.R. 41 (1983) (Crime Victims Week, 1982); Proclamation No. 4831, 3 C.F.R. 18 (1982) (Crime Victims Week, 1981). The text of the 1981 proclamation reads:

For too long, the victims of crime have been the forgotten persons of our criminal justice system. Rarely do we give victims the help they need or the attention they deserve. Yet the protection of our citizens—to guard them from becoming victims—is the primary purpose of our penal laws. Thus, each new victim personally represents an instance in which our system has failed to prevent crime. Lack of concern for victims compounds that failure.

Statistics reported by the Federal Bureau of Investigation and other law enforcement agencies indicate that crime continues to be a very serious national problem. But statistics cannot express the human tragedy of crime felt by those who are its victims. Only victims truly know the trauma crime can produce. They have lived it and will not soon forget it. At times, whole families are entirely disrupted—physically, financially and emotionally. Lengthy and complex judicial processes add to the victim's burden. Such experiences foster disillusionment and, ultimately, the belief that our system cannot protect us. As a Nation, we can ill afford this loss of faith on the part of innocent citizens who have been victimized by crimes.

We need a renewed emphasis on, and an enhanced sensitivity to, the rights of victims. These rights should be a central concern of those who participate in the criminal justice system, and it is time all of us paid greater heed to the plight of victims.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning April 19, 1981, as Victims Rights Week. I urge all Federal, state and local officials involved in the criminal justice system to devote special attention to the needs of victims of crime, and to redouble their efforts to make our system responsive to those needs. I urge all other elected and appointed officials

and by the governors and legislatures of most of the states.⁸ A World Congress of Victimology was held in August, 1980, in Washington, D.C.⁹ Professionals from all over the world attended plenary sessions, seminars, training programs, round-table discussions, and a film forum dealing with crime victims and their problems. Even the courts have begun paying specific attention to crime victims.¹⁰

Despite these "landmarks," it is still difficult to determine with any exactitude just *when* the victims' movement coalesced into a vibrant force, one to be reckoned with by the legislative, executive, and judicial branches of every level of government. For purposes of this article, historical analysis will yield to appraisal of the contemporary status of the victims' movement, with emphasis on the 1980's, the period during which the entire issue of victims' rights was elevated to its proper place in the criminal justice system.

to join in this effort to make our justice system more helpful to those whom it was designed to protect. And I urge all citizens, from all walks of life, to remember that the personal tragedy of the victim is their own tragedy as well.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of April in the year of our Lord nineteen hundred and eighty-one, and of the Independence of the United States of America the two-hundred and fifth.

3 C.F.R. 18 (1982).

8. See *supra* note 4.

9. See Viano, *First World Congress to be Held in 1980*, 4 VICTIMOLOGY: INT'L J. 410 (1979).

10. See, e.g., *Morris v. Slappy*, 103 S. Ct. 1610, 1617-18 (1983). Chief Justice Warren Burger wrote, in part, "But in the administration of criminal justice, courts may not ignore the concerns of victims." *Id.* at 1617. This observation stands in marked contrast with a statement made by California Supreme Court Justice Stanley Mosk:

I must concede there is an element of accuracy to the oft-repeated contention that "criminals have all the rights." *That is elementary constitutional law.* One will look in vain among our Bill of Rights and among its counterparts in the state constitution for guarantees to victims, or to the public, or to any person other than the accused.

Mosk, *Mask of Reform*, 10 SW. U.L. REV. 885, 889-90 (emphasis added). California voters changed that when they added Article I, Section 28(a) to the California Constitution by passing Proposition 8, the Victims' Bill of Rights, on June 8, 1982. It reads, in part:

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 safeguards in the criminal justice system to fully protect those rights, is a matter of grave statewide concern.

CAL. CONST. art I, § 28 (a). See *infra* note 15.

II. THE PHILOSOPHY OF VICTIMS' RIGHTS

Most "rights" movements in this country have grown out of discontent with the *status quo ante*. In the past thirty to forty years, advances in the causes of racial minorities, women, prisoners, and others who perceive themselves, or are perceived, as being disadvantaged within our socio-political-legal systems, have reached near-revolutionary proportions. Most of these advances have come about through the activities of those who were discontented with their treatment by the system.

The victims' movement has been no exception. In a "watershed" article on victims' rights published, appropriately enough, in this nation's bicentennial year, Georgetown University Professor William F. McDonald summed up the nature of the growing disillusionment with the system on the part of crime victims and those who were inspired to make the rights (or lack thereof) of victims their cause:

Victims and witnesses do not receive even a fraction of the protections and defenses that are accorded an accused. Typically, the interests of the victim and witnesses are subordinated to what are regarded as more important interests. A good example is the character cross-examination of a victim in rape cases. While the defendant has an interest in the introduction of relevant evidence on his behalf, the victim has important interests as well, such as freedom from intimidation, harassment, and further degradation, and the preservation of privacy. Yet, the legal profession seems remarkably willing to sacrifice such interests of the victim to those of the defendant in every instance.¹¹

Discontent with the plight of victims and witnesses¹² heightened during the same period that crime and violence in this country were rising at exponential rates.¹³ This fact alone gives some explanation for rapid advances in activity and credibility by the victims' rights movement through the 1970's and into the early 1980's. As more crimes, particularly crimes of violence, were committed, there were more *actual* victims. People increasingly began to perceive themselves as *potential* victims and *unwilling participants* in a criminal justice system which seems to impose an almost mindless permissiveness toward accused and convicted criminals with a corollary subordination of the rights of their victims to the extent that such latter rights appear to be, for all intents and purposes, ignored.

Whether the tidal wave of crime *produced* the victims' rights movement, or whether the coalescence of the movement *just hap-*

11. McDonald, *Towards a Bicentennial Revolution in Criminal Justice: The Return of the Victim*, 13 AM. CRIM. L. REV. 649, 662 (1976) (footnotes omitted).

12. Unless there is a reason to make a distinction, the word "victims," as used herein, denotes witnesses as well.

13. F. CARRINGTON, *CRIME AND JUSTICE: A CONSERVATIVE STRATEGY* 4-5 (1983)

pened to transpire fortuitously, is a matter of speculation.¹⁴ Certainly, there were other factors involved. As has been noted above, recent years have seen our society become very "rights conscious," and it may well have been that it was only a matter of time until the rights of the innocent victims of crime were seized upon and brought to the forefront. In any event, by 1980 the victims' movement began to crest on a national level.¹⁵

III. 1980-1984: THE NATIONAL LIMELIGHT

A. *The Movement Itself: Private Sector*

By 1980, the national components of the victims' rights movement in the private sector were in place. The National Organization for Victims Assistance (NOVA)¹⁶ served as a national clearing house of information for, and coordination of, the hundreds of state and local victim assistance and advocacy organiza-

14. To the credit of those involved in the victims' rights movement, it must be said that they have never resorted to demagoguery in advancing their cause. A review of the literature will demonstrate that even the most conservative, "law and order"-type victims' advocates have taken the position that victims' rights should not be elevated to the point at which criminal suspects are deprived of *fundamental* constitutional rights (e.g., the right not to have a confession extorted from a suspect by threats or force; the right not to be randomly searched for no reason; and so on). On the other hand, some victims' advocates (the authors included) have questioned what they perceive to be "technical" or "contrived" rights which serve no real purpose except to suppress the truth and protect the clearly guilty. See, e.g., Carrington, *supra* note 13, at 18.

15. See generally *Morris v. Slappy*, 103 S. Ct. 1610 (1983); *Payton v. United States*, 636 F.2d 132 (5th Cir. 1981); *Ryan v. Arizona*, 134 Az. 308, 656 P.2d 597 (1982); CAL. CONST. art. I, § 28 (Proposition 8, the Victims' Bill of Rights, discussed *supra* note 10 and *infra* note 27); Victim and Witness Protection Act of 1982, Pub. L. No. 97-291, 96 Stat. 1248 (codified in scattered sections of 18 U.S.C.); M. BARD & D. SANGREY, *THE CRIME VICTIMS BOOK* (1979); G. DEUKMEJIAN, *REMEMBERING FORGOTTEN VICTIMS* (1980); G. NICHOLSON, T. CONDIT & S. GREENBAUM, *FORGOTTEN VICTIMS: AN ADVOCATE'S ANTHOLOGY* (1977); PRESIDENT'S TASK FORCE ON THE VICTIMS OF CRIME, *FINAL REPORT* (1982); Carrington, *Victims Rights: A New Tort?*, Trial, June, 1978, at 39; Carrington, *Victims Rights Litigation: A New Tort—Five Years Later*, Trial, Dec. 1983, at 50; Condit & Nicholson, *The Ultimate Human Right: Governmental Protection from Crime and Violence*, 52 L.A.B.J. 314 (1977).

The victims' rights movement is not without its critics. See, e.g., Palmer, *The Rights of Victims: A Differing View*, Wash. Star-News, July 8, 1975, § 1, at 1, col. 1; Kiesel, *Crime and Punishment: Victim Rights Movement Presses Courts, Legislatures*, 70 ABA J. 25, 26 (1984).

The victims' rights movement has also experienced setbacks in the courts. See, e.g., *Martinez v. California*, 444 U.S. 277 (1980); *United States v. Weldon*, 568 F. Supp. 516 (N.D. Ala. 1983); *Thompson v. County of Alameda*, 27 Cal. 3d 741, 614 P.2d 728, 167 Cal. Rptr. 70 (1980).

16. See *supra* note 4.

tions. In addition, various national organizations had been established, which operated full-time in the victims' area,¹⁷ or had added a victims' component to their overall activity.¹⁸ These organizations were becoming more and more visible as the news media began taking an interest in the phenomenon.

Effective as the national organizations were becoming, the groundswell of support was provided by organizations, often formed by victims themselves, on the state and local level. State-wide victims "networks," city and county based victim assistance and advocacy projects, rape and sex-crime crisis centers, child sexual abuse projects, victim/witness programs in prosecutors' offices, and victim intake programs in police and sheriffs' departments were becoming fully and firmly established. These were the people who dealt with the victims of crime first-hand, on a day-to-day basis, and they had been regularly taking their clients' cause to the state courts and legislatures. Indeed, until 1980, far more constructive actions on behalf of crime victims—compensation, restitution, rape testimony shield laws, and so on—were taken at the state level than were even considered at the national level. Leadership was lacking at the highest level of government.

B. A National Impetus

In 1981, the California Department of Justice published the *Crime Victims Handbook*. The handbook advised crime victims and witnesses of their rights and identified relevant national, state, and local services to help citizens cope with the labyrinthine criminal justice system.

The preface to the handbook, written by the President, read in part:

For most of the past thirty years, the administration of justice has been

17. *E.g.*, Parents of Murdered Children, Cincinnati, Ohio, is concerned with assisting and counselling parental survivors of homicide victims; Mothers Against Drunk Driving (MADD), Fort Worth, Texas, lobbies for stricter laws against driving while intoxicated; Students Against Driving Drunk (SADD), Marlboro, Massachusetts, promotes a "contract for life," which families sign to encourage one another not to drink and drive; National Victims of Crime, Washington, D.C., is a "grass roots," anti-crime, pro-victim national organization; the Victims' Assistance Legal Organization (VALOR)/McGeorge School of Law Victims of Crime Resource Center, Sacramento, California, and Virginia Beach, Virginia, serves, among other things, as a clearinghouse of legal information and research for attorneys who represent victims in the civil courts; the Washington Legal Foundation, Washington, D.C., represents selected victims in civil cases; and Society's League Against Molesters (SLAM), Bakersfield, California, concentrates its efforts on cases and laws dealing with sex crimes against children. The foregoing list is not definitive.

18. *E.g.*, the National District Attorneys Association, Alexandria, Virginia, has a very effective victim/witness component within its overall operations and, in fact, pioneered the concept of placing victim/witness resources in prosecutors' offices.

unreasonably tilted in favor of criminals and against their innocent victims. This tragic era can fairly be described as a period when victims were forgotten and crimes were ignored. We hope that things are now beginning to change for the better.¹⁹

In 1981, the week of April the 19th was proclaimed "National Victims' Rights Week" by President Reagan. Following the suggestion of the President, a number of states have also proclaimed Victims' Rights Weeks. Similar Presidential Proclamations were issued in 1982, 1983, and 1984.²⁰ During the latter three "Victims' Rights Weeks," NOVA, in cooperation with other national, state, and local victims' organizations, presented forums in Washington, D.C. to discuss major issues of interest to victim advocates.

These Presidential Proclamations were of great importance because they placed the imprimatur of the highest office in the land on the cause of victims and their rights. In April, 1982, the President's Task Force on Victims of Crime was established under the chairmanship of Lois Haight Herrington, a former prosecutor from Alameda County, California. The Task Force held hearings in Washington, D.C., Boston, San Francisco, Denver, St. Louis, and Houston, and heard from hundreds of crime victims describing their stories first-hand, along with criminal justice professionals and victim advocates from every discipline.

In January, 1983, the Task Force formally presented its *Final Report* to the President.²¹ The *Final Report* contained some sixty specific recommendations for improving the plight of crime victims addressed to, *inter alia*, the federal and state governments, police, prosecutors, the judiciary,²² parole boards, hospitals, the Ministry, the Bar, schools,²³ the mental health community, and

19. While some have questioned use of the word "forgotten," many writers have commonly used it to describe the condition of crime victims. See, e.g., Bradley, *The Forgotten Victim*, CRIME PREVENTION REV. 1 (1975); Mead, Knudten, Doerner & Knudten, *Discovery of a Forgotten Party: Trends in American Victim Compensation Legislation*, 1 VICTIMOLOGY: INT'L J. 421 (1976). For a collection of articles pertinent to this point, see G. NICHOLSON, T. CONDIT & S. GREENBAUM, FORGOTTEN VICTIMS: AN ADVOCATE'S ANTHOLOGY (1977).

20. See *supra* note 7 for the full text of President Reagan's proclamation of National Victims' Rights Week, 1981.

21. See PRESIDENT'S TASK FORCE ON THE VICTIMS OF CRIME, FINAL REPORT (1982).

22. In November, 1983, a judicial conference on victims' rights was held at the National Judicial College, Reno, Nevada. Funded by a grant from the National Institute of Justice of the United States Department of Justice, the conference invited two judges from each of the fifty states to attend. Experts in the field discussed the problems victims encounter in the courts.

23. One of the Task Force recommendations declares: "Educators should de-

the private sector. Subsequently, the President appointed the chairperson of the Task Force, Mrs. Herrington, as Assistant Attorney General of the United States to oversee the Office of Justice Assistance, Research and Statistics (OJARS), United States Department of Justice, and charged her specifically with the implementation of the Task Force's recommendations. This work is currently in progress and is moving rapidly and successfully.

On March 13, 1984, the Administration sent to Congress a victims' compensation bill providing for \$75,000,000 to be raised from federal fines and bail forfeitures. The fund would be used to compensate federal crime victims, assist state crime victim compensation programs, and help fund public and private victim assistance efforts.²⁴

On the federal legislative side, the Congress passed and President Reagan signed into law, the Omnibus Victim and Witness Protection Act of 1982.²⁵ The bill received bi-partisan support in both houses. The Act states: "The Congress finds and declares that: Without the cooperation of victims and witnesses the criminal justice system would cease to function; yet with few exceptions these individuals are either too ignored by the criminal justice system or simply used as tools to identify and punish offenders."²⁶ It provides, *inter alia*, for: (1) victim impact statements at sentencing; (2) protection of federal victims and witnesses from intimidation; (3) restitution from offenders to victims of federal crimes; (4) guidelines for fair treatment of victims and witnesses in federal criminal cases; and (5) a general tightening of bail laws. This is the single most important and comprehensive piece of federal legislation on behalf of crime victims to ever come out of Congress.

Many states, including California with its Proposition 8, the Victims' Bill of Rights,²⁷ have enacted major statutory and constitu-

velop and provide courses on the problems, needs, and legal interests of victims of crime." THE PRESIDENT'S TASK FORCE ON THE VICTIMS OF CRIME, FINAL REPORT, at 101. Another recommendation states: "School authorities should be mindful of their responsibility to make students aware of how they can avoid being victimized by crime." *Id.* Victim advocacy thus has a major role to play in our nation's schools. See FOX, VIOLENCE, VICTIMIZATION AND DISCIPLINE IN FOUR BOSTON PUBLIC HIGH SCHOOLS, REPORT TO THE SAFE SCHOOLS COMM'N (1983); CENTER FOR URBAN EDUCATION, BOARD OF EDUCATION, CITY OF CHICAGO, CONDUCTING A VICTIMIZATION STUDY IN YOUR SCHOOL DISTRICT (1982).

24. See *Administration Plan Would Aid Victims With Money Collected From Criminal Fines*, CRIME CONTROL DIG., March 19, 1984, p.5, col. 1. Attempts have been made to pass a federal crime victims compensation bill in each of the last eight sessions of Congress. All have been defeated.

25. PUB. L. No. 97-291, 96 Stat. 1242.

26. *Id.* at § 2(a)(1).

27. Proposition 8 provides for: (1) recognition of a victim's important role in the criminal justice system; (2) a victim's right to restitution; (3) an inalienable

tional reforms, despite occasional, although unsuccessful, resistance by some who view such changes in the criminal justice system as "anti-accused."²⁸ Such legislation provides an actual legal presence, both state and federal, for crime victims.

To vigorously promote the crime victims' legal presence, an ambitious new crime victims' effort has been undertaken in a private sector legal services delivery system. The system, being created cooperatively by the University of the Pacific's McGeorge School

right to safe schools for students and staff; (4) an abolition of the judicially created state exclusionary rule and doctrine of independent state grounds, *see generally* *People v. Norman*, 14 Cal. 3d 929, 531 P.2d 1099, 119 Cal. Rptr. 109 (1975); *People v. Cahan*, 44 Cal. 2d 434, 282 P.2d 905 (1955); (5) an improved bail system to better protect the public from violent accuseds by attempting to abolish *Van Alta v. Scott*, 27 Cal. 3d 424, 613 P.2d 210, 166 Cal. Rptr. 149 (1980) and *In re Underwood*, 9 Cal. 3d 345, 508 P.2d 721, 107 Cal. Rptr. 401 (1973); (6) an unrestricted admissibility of prior felony convictions: (a) impeachment of any witness, including the defendant; (b) enhancement of sentences; and (c) proof to the trier of fact in any case wherein the prior felony conviction is an element of a charged offense by abolishing *People v. Beagle*, 6 Cal. 3d 441, 492 P.2d 1, 99 Cal. Rptr. 313 (1972) and its progeny; *see also* *Nicholson & Condit, Barking Back at Beagle*, 53 CAL. ST. B.J. 326 (1978).

In addition, Proposition 8 mandates: (1) an abolition of the diminished capacity defense judicially promulgated in *People v. Wells*, 33 Cal. 2d 330, 202 P.2d 53 (1949), and *People v. Gorshen*, 51 Cal. 2d 716, 336 P.2d 492 (1959); (2) a restoration of a toughened M'Naughten Rule in insanity cases, CAL. PENAL CODE § 25 (West Supp. 1984); (3) an enhancement of punishment for the habitual criminal, CAL. PENAL CODE § 667 (West Supp. 1984); (4) a limitation on plea bargaining, CAL. PENAL CODE § 1192.7 (West Supp. 1984); (5) a prohibition of adult commitments to the California Youth Authority (CYA) in serious felony cases, CAL. WELF. & INST. CODE § 1732.5 (West Supp. 1984); (6) an abolition of the mentally disordered sex offender law to better protect the public, CAL. WELF. & INST. CODE § 6331 (West Supp. 1984); and (7) a right of victims to appear at sentence and parole proceedings, CAL. PENAL CODE §§ 1191.1, 3043 (West Supp. 1984); CAL. WELF. & INST. CODE § 11767 (West Supp. 1984).

The mandatory right to appear, reasonably express views about the crimes and the criminals, and have decision makers consider those views, both at sentencing and parole proceedings, are critical parts of Proposition 8. Such appearances are often the only times victims, their survivors, or their counsel, get the opportunity to be formally heard. Evaluations, reports, and, especially, pre-sentence reports, must be supplied to victims, or their survivors, prior to relevant sentencing and parole proceedings. Commenting on law enforcement and prosecutorial input into probation reports, Justice Herndon stated: "Certainly the opinion of these agencies are as relevant to the decision making process as are the favorable communications submitted by [criminals] on [their] own behalf." *People v. Gelfuso*, 16 Cal. App. 3d 966, 972, 94 Cal. Rptr. 535, 537 (1971). That reasoning applies equally to any analysis of the sentencing and parole views and appearances of crime victims, their survivors, or their counsel.

28. *See* *Brosnahan v. Eu*, 31 Cal. 3d 1, 641 P.2d 200, 181 Cal. Rptr. 100 (1982); *Brosnahan v. Brown*, 32 Cal. 3d 236, 651 P.2d 274, 186 Cal. Rptr. 30 (1982); *see also* *Lowenstein, California Initiatives and the Single Subject Rule*, 30 UCLA L. REV. 936 (1983).

of Law in Sacramento, California, and the Victims' Assistance Legal Organization (VALOR) in Virginia Beach, Virginia, will use volunteer lawyers and law students enrolled in crime victims' assistance legal clinic programs to counsel crime victims throughout California by use of a statewide hotline. Both the California Governor's Office of Criminal Justice Planning and the State Attorney General's Office have worked out cooperative agreements to use the McGeorge/VALOR hotline for the victims' programs.

From the foregoing, it can be seen that the efforts of victim advocates are having their desired effect as all elements of federal, state, and local governments, and the private sector, begin to address crime victims' rights in a realistic and constructive manner. The Symposium for which this article has been written clearly affirms this new, long-overdue reality.

IV. A COOPERATIVE VENTURE ON BEHALF OF CRIME VICTIMS: THE INSTANT SYMPOSIUM

The four articles which constitute the principal part of this Symposium were commissioned by the National Institute of Justice, United States Department of Justice, and written in order to present the reader, lawyer and layman alike, with a comprehensive overview of the law as it currently applies to crime victims' rights, and perhaps, to give a preview of possible future developments in the law. The Symposium, however, did not spring into existence by itself. It is the culmination of several years of cooperative effort among several government agencies, including the National Institute of Justice; the Office of Juvenile Justice and Delinquency Prevention; a government-funded project, the National School Safety Center, which is concerned with, among other things, school children, teachers, and other school staff, as victims of crime; the private legal sector; the American Bar Association; the California State Bar; and the Pepperdine University School of Law. A chronology of how the Symposium came about is instructive as an example of how cooperation on behalf of victims by various sectors of our society can effectively succeed.

In 1975, for the first time in the history of the American Bar Association, a Victim's Committee was created within the Association's Criminal Justice Section. Since its inception, the ABA Victims' Committee has been very active. It has been responsible for publications concerning victim intimidation, bar leadership in victim/witness assistance, and guidelines for fair treatment of crime victims. Members of the Victims' Committee have often appeared before Congress in support of various victim assistance

bills and the Committee has systematically attempted to educate the legal profession on relevant matters involving victims.

In 1982, the Victims' Committee received a grant from the National Institute of Justice²⁹ to commission four papers on victims' rights *vis-a-vis* the legal system. Four distinguished, nationally recognized experts in the field, Associate Professor Richard Aynes of the University of Akron School of Law, Paul Hudson, Esq., General Counsel to the New York State Crime Victims Commission, Professor Josephine Gittler of the University of Iowa School of Law, and Professor Deborah Kelly of American University, were chosen to write the papers which were completed late in 1983.

Furthermore, in late 1983, the Office of Juvenile Justice and Delinquency Prevention began preparations to form the National School Safety Center to provide technical assistance and research services, and operate a computerized clearing house of legal information dealing with crime, violence, and discipline in all our nation's schools.³⁰ Statistics, although ominous, are inadequate to convey the magnitude of school safety problems in America. Suffice it to say they are now so pervasive as to require the sustained personal attention of the President, the Attorney General, and the Secretary of Education of the United States.

One particular provision of Proposition 8, the Victims' Bill of Rights, is highly pertinent to this discussion because it demonstrates, at least in the view of the voters of the state of California, that the issue of safe schools is definitely a *victims' issue*. The California Constitution, as amended by Proposition 8, now provides: "Article 1, Section 28 (c) *Right to Safe Schools*. All students and staff of primary, elementary, junior high and senior high schools have the inalienable right to attend campuses which are safe, secure and peaceful."³¹

The National School Safety Center will manifest, in part, a vic-

29. Hon. James K. "Chips" Stewart, director.

30. The Center will make use of the latest communications and computer technologies, assisted in large measure by Mead Data Central, a corporation internationally known for its comprehensive legal and general computerized research systems, LEXIS and NEXIS.

31. CAL. CONST. art. I, § 28(c). For an enlightening analysis of this provision and its potential effect, see Comment, *The Right to Safe Schools: A Newly Recognized Inalienable Right*, 14 PAC. L.J. 1309 (1983) (author correctly observes that

tims' orientation. As to school children this is especially true, because to the extent crime and violence invade our campuses, school children are twice-victimized: (1) when they become actual victims of school-related crime, violence, and lawlessness; and, (2) when they are, thereby, denied their rights to a quality education in a tranquil learning environment. By the sustained presence or potential of campus crime, that essential, tranquil learning environment is transformed into an onerous and threatening atmosphere of fear and the reality of criminal harm.³²

V. CONCLUSION

The movement to establish the rights of crime victims is as much an integral part of the criminal justice system as the movement to extend the rights of accused and convicted criminals. Establishment of victims' rights has long been "an idea whose time has come." It has just taken a rather long time getting there.

Nevertheless, today, due to energetic leadership by policy makers at the federal, state, and local levels, and a great deal of hard work at the same levels by private parties devoted to victims' rights, an effective inexorable and cooperative national endeavor is underway to guarantee crime victims their rightful places everywhere in America's legal system. The instant Symposium, made possible by the efforts of a number of parties, both public and private with a common-denominator of a devoted concern for victims' rights, is strong evidence of this.

The Symposium hereafter consists of four comprehensive papers. Together, these papers lucidly and convincingly provide readers with the current status of what are, and, to a certain extent, what should be, the legal rights of crime victims. This introductory article has been written to give perspective to the main articles and add an historical context.

It has also been written to strongly encourage the legal profession to do more. Another has already said it far more eloquently than can we. In April, 1980, then-California Attorney General Deukmejian addressed the Glendale Bar Association. The title of the speech was "Lawyers Must Do More for Crime Victims." His concluding comments were:

I cannot think of a more fitting group of people to be helped by lawyers

art. I, § 28(c) is mandatory and self-executing); see also G. DEUKMEJIAN, *LAW IN THE SCHOOL* (3d ed. 1980).

32. The National School Safety Center was formally funded in April, 1984, by a \$3.95 million grant from the Office of Juvenile Justice and Delinquency Prevention to Pepperdine University. The *Pepperdine Law Review* offered to publish the instant Symposium because of the close, victim-related relationship between the center and the subject matter of this Symposium.

and the law than the victims of crime . . . victims who ask very little from us . . . victims who ask only that they not be forgotten. *You as lawyers must do more. You must not remain silent. Crime victims need your help. Give it to them.*³³

Need we say anything more?

33. Address by Attorney General George Deukmejian, Glendale Bar Ass'n (Apr. 1980) (emphasis added). The performance of lawyers, as advocates of victims' rights, has not been all it might have been. Thus, the need for this latest encouragement for lawyers. There are more than 80,000 lawyers in California and more than 622,000 in the nation. They provide a massive pool of potential victims' advocates if properly motivated. The leadership of the American Bar Association is doing its part by supporting its Criminal Justice Section's Victims' Committee. There are many bar associations, however, which have acted hesitantly, if at all. Hopefully, that will soon change.

Development of active and visible victim advocacy programs could help improve public perceptions of the legal profession. Such an improvement would be very helpful. The California Opinion Index ranked judges and courts 24th among the professions, immediately behind state legislatures and immediately in front of the CIA. The legal profession itself trailed the CIA. Field, *Poll Says Scientists Are Respected Most*, San Francisco Chronicle, § 1, at 4, col. 1 (Nov. 18, 1981). In a later Gallup Poll, only 25% of those surveyed believed lawyers were high or very high in ethics. Shearer, *Intelligence Report*, Sacramento Bee, (Parade Magazine), at 10 (January 17, 1982).

